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Date: 20 October 2014

Dear Councillor,

Planning Committee

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, on **Tuesday, 28 October 2014 at 18:00**. You are requested to attend.

Yours faithfully,



Chief Executive

To:- **Conservative Group**

Councillor Ford (Chairman), Councillor Mrs. Brown (Vice-Chairman) and Councillors Bale, Mrs. Hall, Jones, Stanton and Watson.

Labour Group

Councillors Bell, Dunn, Pearson, Richards, Shepherd and Southerd.

AGENDA

Open to Public and Press

- 1 Apologies and to note any substitutes appointed for the Meeting.
- 2 To note any declarations of interest arising from any items on the Agenda
- 3 To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 4 REPORT OF THE DIRECTOR OF COMMUNITY & PLANNING SERVICES **3 - 137**
- 5 TREE PRESERVATION ORDER **138 - 140**

Exclusion of the Public and Press:

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

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.

Reference	Item	Place	Ward	Page
9/2014/0417	1.1	Melbourne	Melbourne	1
9/2014/0431	1.2	Overseal	Seales	27
9/2014/0300	1.3	Swadlincote	Swadlincote	52
9/2014/0301	1.4	Swadlincote	Swadlincote	66
9/2014/0557	1.5	Woodville	Woodville	68
9/2014/0615	1.6	Swarkestone	Aston	85
9/2014/0810	1.7	Hartshorne	Woodville	91
9/2014/0249	2.1	Mickleover	Etwall	102

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. **9/2014/0417/RSD**

Applicant:
Mr George Breed
Persimmon Homes
Meridian East
Meridian Business Park
Leicester
LE19 1WZ

Agent:
Mr George Breed
Persimmon Homes
Meridian East
Meridian Business Park
Leicester
LE19 1WZ

Proposal: **THE ERECTION OF 66 DWELLINGS WITH ACCESS ON**
 LAND AT SK3826 4705 KINGS NEWTON LANE
 MELBOURNE DERBY

Ward: **MELBOURNE**

Valid Date: **12/05/2014**

Reason for committee determination

This major application is brought before the Committee as it is not in accord with the Development Plan and more than two objections have been received.

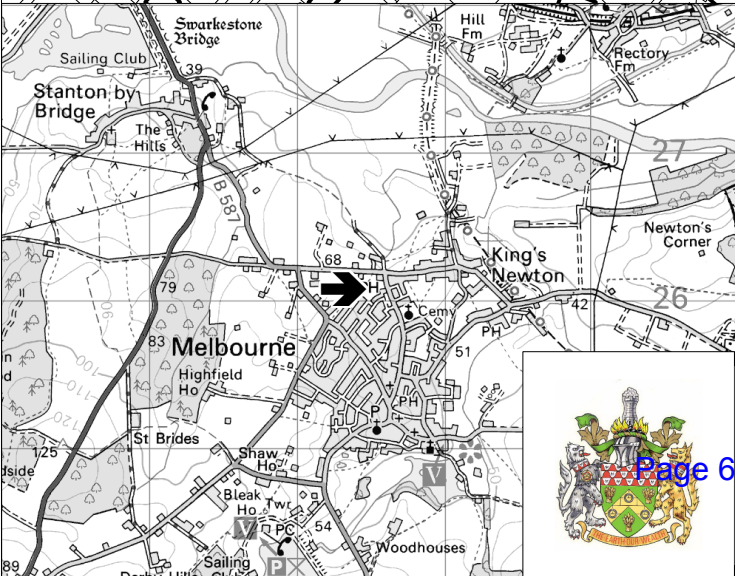
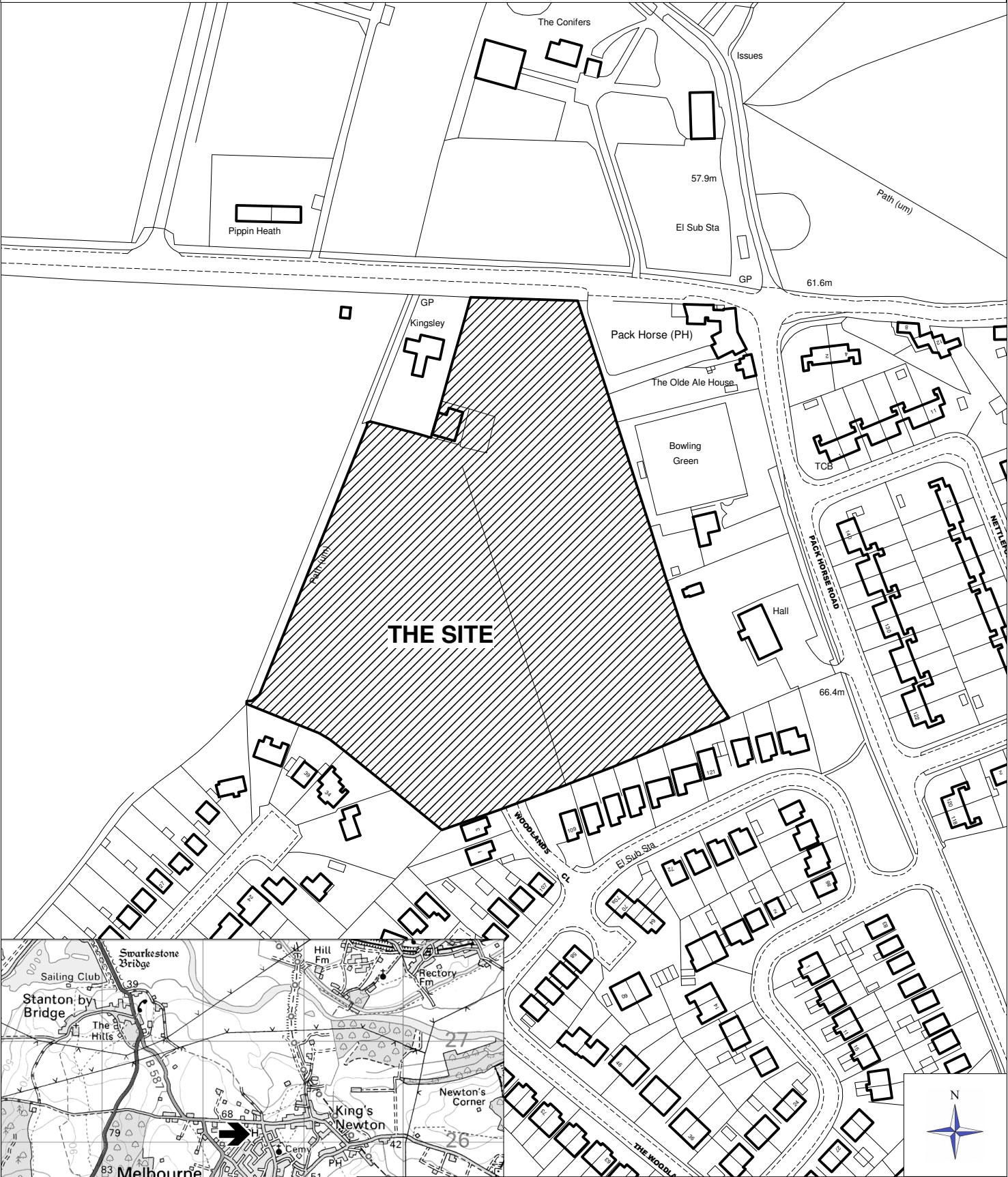
Site Description

This 2.3 hectares site is located to the north west edge of Melbourne and to the west of Kings Newton, comprising two fields, demarcated by hedgerows. One field is long and narrow and the other is broadly triangular in shape. The site's frontage measures 43m along Kings Newton Lane. To the east of the site is the Pack Horse Public House, which is a Grade II Listed Building and a private dwelling. A bowling club and Guide and Scout Hall also share the eastern boundary. The southern boundary is adjacent to the rear gardens of properties in The Woodlands, Woodlands Close and Melton Avenue with farmland to the west and to the north over Kings Newton Lane. A bungalow in a large plot is adjacent to the north western corner of the site. Melbourne Public Footpath 7 abuts the western boundary of the site with fields adjacent. There is a detached bungalow adjacent to the north west corner of the site

There is a row of 5-7m high trees on the Kings Newton Lane frontage and existing hedgerows on the eastern and southern boundaries together with one running through the centre of the site. The site slopes gently from the north down to the southern boundary with existing residential properties.

The Kings Newton Conservation Area abuts the site to the north east as it includes the curtilage of the Park Horse Public House.

9/2014/0417 - Land at SK3826 4705, Kings Newton Lane, Melbourne, Derby
(DE73 8DD)



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South Derbyshire District Council. LA 100019461. 2014

Proposal

Full planning permission is sought for the erection of 66 dwellings, comprising a mix of terraced, semi-detached and detached houses, along with a pair of one bedroom flats. 21 affordable dwellings are proposed equating to 30%.

The access to the site would be off Kings Newton Lane and would be adjacent to the western boundary with the existing bungalow, which would be provided with vehicular access off the new street. The frontage properties would be set back some 30m from the road beyond a landscaped balancing pond. Two rows of terraces either side of the access would provide the gateway to the site, with the remainder of the site served by culs-de-sac and private drives beyond.

The majority of the existing field hedgerow in the centre of the site would be retained and swales are proposed adjacent to the play area and in the centre of the site. There would be pedestrian links with Public Footpath No.7. The layout also facilitates the continued use of an informal link on foot between the public footpath and Woodlands Close.

Following various minor amendments to the scheme, the total number dwellings would be 66, reduced from 68.

Applicants' supporting information

The Planning Statement describes the site context, considers the relevant NPPF and Local Plan Policies and contains an assessment of the presumption in favour of sustainable development and the housing land supply together with details of the Developer's community involvement.

The Design and Access Statement includes a site appraisal together with an assessment of local facilities and services. Local character is explored with photographs of designs and features from properties in the immediate area. The planning policy context is outlined and then diagrams and descriptions of constraints and opportunities are provided to highlight the evolution of the scheme and layout. A breakdown of the accommodation is provided and the design concept in terms of gateway buildings and corner turners are described. The street hierarchy is identified and the design of dwellings with local character features highlighted. A Building for Life 12 assessment concludes the majority of questions score green.

The Ecological Appraisal surveyed the site for evidence of protected species and hedgerows. There are 10 Local Wildlife Sites within 1km of the site. No protected species were found on the site and the Local Wildlife Sites are a sufficient distance away not to be affected by the proposed development. The majority of the Priority Habitat hedgerows present are to be retained. The Herpetofauna Survey Report conducted in July 2014 concluded there was no evidence of reptiles or Great Crested Newts and thus no ecological constraint to development.

The Tree Survey categorises the quality of trees and hedgerows within the site, identifying five high or moderate quality specimens. The best quality hedgerow is the southern part of the central hedgerow, the majority of which would be retained.

The Archaeological Desk Based Assessment and Heritage Statement found little evidence of archaeology as ridge and furrow was recorded within the eastern part of the site which confirms it was outside the settlement core.

The Phase I Environmental Risk Assessment assesses the site as having a low risk from potential contaminated soils. There are backfilled ponds and infilled ground in the area.

The Phase II Ground Investigation carried out drilling, excavation of trial pits and installation of gas/water monitoring standpipes. Some properties may require ground gas protection measures but, overall, the potential risk of contamination was low.

The Transport Statement describes the surrounding highway network and identifies local services and catchment areas. Road safety analysis data, the access strategy, sightline requirements, parking provision and refuse collection and servicing discussed are assessed. Person trip generation at peak times is assessed against traffic impact and it is concluded that the increase in traffic levels would not have a significant impact on the operating capacity of the Pack Horse Road and Kings Newton Lane roundabout junction or have an adverse impact on highway safety.

The Flood Risk Assessment states the site lies within Flood Zone 1 and is not at risk of fluvial flooding in storm events up to 1 in 1000 years. Surface water would be discharged to an attenuation pond in the northern part of the site. Diversion of an existing surface water sewer on site is proposed and there is capacity for disposal of foul sewerage to the existing network.

Landscape and Visual Appraisal considers views from within the adjacent Conservation Areas and concludes the proposed development would not have a significant impact on the setting of either Kings Newton or Melbourne Conservation Areas. It identifies Assessment Character Zones and their susceptibility to change. It concludes the effects are localised in the main with no significant adverse impacts on long distant views.

Planning History

None

Responses to Consultations

The Highway Authority has no objection subject to conditions, including improvements to the Pack Horse Lane junction mini roundabout.

The Environment Agency has no objection subject to a condition requiring details of a suitable SuDS scheme to maintain surface water run-off at existing rates.

East Midlands Airport has no safeguarding objection.

Derbyshire Wildlife Trust considers the survey work to be adequate and advise that that there are unlikely to be any protected species issues arising with the proposed development, subject to conditions.

Natural England advises that the proposal is unlikely to affect any statutory protected species.

The Development Control County Archaeologist states the site contains a record for medieval ridge and furrow earthworks and a Roman quernstone was found close to the Pack Horse Inn. The wider landscape south of Kings Newton has records of the Portable Antiquities scheme suggestive of Roman and Saxon activity. The site therefore has some archaeological potential which would be safeguarded by further investigation pursuant to a planning condition.

The County Rights of Way Officer states that Melbourne Public Footpath No.7 abuts the western boundary and a claimed footpath is present running through the south western corner of the site which provides a link from FP no.7 and Woodlands Close. The proposed development appears to accommodate this route therefore there are no objections subject to an informative.

The County Council's Developer Contributions Officer states that the local County Councillor has strongly objected to the application due to the impact on local infrastructure. Melbourne Infant School is at capacity.

In relation to Section 106 contributions it is considered the following are necessary:

- £1,888.26 (£28.61 per dwelling x 66 dwellings) towards the provision of a new Household Waste Recycling Centre to provide additional waste management Capacity (as Newhall is over capacity);
- Access to high speed broadband services for future residents (in conjunction with service providers);
- £68,394.06 towards the provision of 6 infant school places at Melbourne Infants School;
- £91,192.08 towards the provision of 8 junior school places at Melbourne Junior School);
- £188,937.87 towards the provision of 11 secondary school places;
- £74,511.60 towards the provision of 4 post-16 places; and
- New homes designed to Lifetime Homes standards.

The Education Authority has commented that funds from a site for 22 houses at Station Road would be combined with the contributions from this site towards the necessary capital investment to deliver places thorough classroom space at Melbourne.

Severn Trent Water has no objections subject to a condition requiring details of a scheme to provide a satisfactory means of drainage to reduce the risk of creating or exacerbating flooding and to minimise the risk of pollution.

The Contaminated Land Officer has no objection in principle.

The Council's Strategic Housing Manager is satisfied that the proposed affordable housing provision and mix is in accord with identified need.

Derbyshire Constabulary Crime Prevention Design Advisor has made various detail comments which have been taken into account through Design Excellence Officer advice.

In response to local concern raised about noise from the adjoining Scout and Guide premises, the Environmental Health Manager has no objection in principle,

recommending appropriate condition to ensure the new dwellings incorporate noise attenuation measures.

Melbourne and Chellaston Medical Practice comments that the premises at Melbourne has reached full capacity. Therefore the practice would need to extend the premises to accommodate more health care professionals. This would need to be pursued through the NHS England premises team. The practice considers that there is enough space in front of the surgery to accommodate the necessary additional accommodation, but no design scheme has been formulated or costed as yet.

Responses to Publicity

Melbourne Parish Council objects to the application because:

- a) It would overstretch the facilities in the parish.
- b) The site is adjacent to Kings Newton Conservation Area and there are concerns about the Conservation Area being changed by the development.
- c) The increase in population of Melbourne is a concern as recent housing developments are close together leaving little 'breathing space'.
- d) Traffic volumes would increase and would exacerbate the traffic problems on Swarkestone Causeway.
- e) There is no pavement on the south side of Main Street and the stretch next to the Pack Horse is already subject to rainwater flooding from overflowing drainage. Primary and Secondary schools in the area do not have the capacity.
- f) There would be overshadowing of properties on The Woodlands.
- g) The affordable housing is all in a row and it should be better integrated.

Kings Newton Residents Association objects as follows:

- a) The site is clearly in Kings Newton.
- b) The proposal would connect Melbourne with Kings Newton harming the open character of the land around the village.
- c) The development would damage the small close knit community of the village.
- d) The Kings Newton conservation area character assessment notes that walls, trees and verges flow together in a long linear form and making a striking and unusual first impression. This character would be harmed by the proposed urban development.
- e) There is a statutory requirement for decision makers to pay special attention to the desirability of preserving the character of conservation areas.
- f) The conservation area history for Kings Newton identifies the open land around the village as essential to its identity.
- g) The historic distinctiveness of the village, identified in the character statement, would be damaged.
- h) The Inspector's report on the last draft local plan identified development of the site as harmful to the rural setting of both Melbourne and Kings Newton, not well related to the existing settlement pattern. This remains the case.
- i) The Inspector considered major expansion to Melbourne and Kings Newton to be inappropriate.
- j) Local services, including schools, are already inadequate and there would be adverse impacts on existing residents. Infrastructure should be in place before development takes place.

- k) The site is high quality agricultural land and should be retained for food production.
- l) Housing should be built on brownfield sites and on strategic sites identified in the emerging local plan.
- m) The proposal would further increase traffic over Swarkestone Bridge, exacerbating congestion issues and damage to the historic structure.
- n) There would be a dramatic increase of the junction of Kings Newton Lane with the A514 at peak times. It is already subject to lengthy delays.
- o) There would be increased risk of accident as a consequence of additional vehicles passing through the village.
- p) The developer has already undertaken reports for a second phase of development to the west.
- q) Many other landowners are considering planning applications for housing in the area.
- r) The community feels it is about to be swallowed up and overwhelmed.

Melbourne Civic Society objects for the following reasons:

- a) The proposal would be contrary to the adopted and emerging local plans.
- b) The proposal would be a major extension to the village framework, contrary to planning policy, and to the long standing policy of keeping Melbourne and Kings Newton separate.
- c) The application is premature pending the local plan.
- d) Any new housing should only be considered after the local plan is adopted and should be small scale.
- e) There is inadequate education provision.
- f) The drainage swales are undesirable, creating safety and maintenance issues. All surface water should be collected in the balancing pond, which should be maintained by the Council.
- g) The house types are not well designed and would not enhance the appearance of the village nor the character of the neighbourhood.

Melbourne Scouts and Guides objects for the following reasons:

- a) There is no capacity to accommodate any further children at the premises.
- b) No consultation has been undertaken with the group.
- c) The site generates considerable noise and activities carry on into late evening.
- d) The site is used for functions attracting many people.
- e) The site is used at weekends.
- f) There is a gas canister store near the rear boundary

Letters of objection have been received from 206 residents and the comments are summarised below:

Sustainability & Infrastructure

- a) There is already significant impact on local services, healthcare and schools. These are not adequate for the existing or proposed increased population.
- b) Emergency vehicles would be delayed due to extra traffic on already congested roads.
- c) There would be no recreation provision for older children.

- d) More development is planned. Permitting this application would make it more difficult to resist.
- e) The development is not needed to meet housing targets.
- f) There is no evidence that local shops would benefit.
- g) There no local employment opportunities for the new residents, resulting in the need to commute.
- h) Facilities should be provided before new housing is allowed.
- i) Development should be directed to brownfield sites.
- j) The development is contrary to planning policy.
- k) The affordable housing would not be truly affordable.
- l) No decision should be taken pending the local plan.
- m) The 'Planning for Places' document seeks to protect and enhance the rural character and heritage assets of the area, taking advantage of the presence of the National Forest, whilst maintaining the role of Melbourne as a Key Service Village. Housing – no strategic growth proposed in Melbourne. Environment – Enhance and expand green infrastructure, taking advantage of the location of part of the area within the National Forest.
- n) Development should be directed elsewhere – Melbourne has had more than its fair share of new houses and has become an increasingly incohesive neighbourhood.
- o) There would be loss of good quality agricultural land. Kings Newton developed as farming community.
- p) The affordable housing would be concentrated at the southern boundary and not dispersed as normally required. This would not create an integrated community.
- q) Increasing the size of the local schools would reduce their quality.
- r) Infrastructure should be in place before development takes place.
- s) The development would damage the small close knit community of the village.
- t) The Council should resist the NPPF's drive more houses.
- u) Development should meet the needs of the community.
- v) Police presence is inadequate.

Character & Heritage

- a) The village is becoming urbanised – Melbourne has already had significant new housing development, which has caused detrimental impacts on services and road infrastructure.
- b) Kings Newton would become joined to Melbourne losing its separate identity.
- c) The historic character of Kings Newton, a conservation area, would be harmed, contrary to the local plan and NPPF.
- d) Previous planning decisions have sought to maintain the distinctive separate character of Kings Newton. The development would destroy this distinctive character.
- e) The character of the countryside would be harmed, contrary to the local plan and NPPF.
- f) The layout is too dense, with not enough green space, and the house types not respectful of local distinctiveness.
- g) The site is in Kings Newton, not Melbourne.
- h) Increased traffic would increase instances of damage to Swarkestone Bridge.
- i) Part of the site is listed on environment records as a ridge and furrow field of historic value.
- j) The site has high archaeological potential.
- k) The village will become a suburb of Derby.

- l) The green belt should be protected in accord with ministerial policy.
- m) The site is clearly in Kings Newton, which does not have any large scale housing estates as a character attribute.
- n) The site would be more densely developed than the surrounding housing areas.

Traffic and Highway Safety

- a) The road network, including Swarkestone Bridge, cannot cope with additional housing.
- b) Congestion and parking issues in the village would be worsened.
- c) There would be increased risk of road accidents, particularly at the Kings Newton Lane/Derby Road 'black spot'.
- d) The access and nearby Pack Horse Road junction would be hazardous.
- e) There would be increased traffic through Kings Newton.
- f) Kings Newton Lane already experiences long queues of traffic.
- g) There is no bus service to the airport or Loughborough as stated by the applicant. There is only a one hourly service between Derby and Swadlincote.
- h) There would be adverse traffic impacts on surrounding villages.
- i) The proposed cycle route through Woodland Close would emerge at a dangerous junction.
- j) Local school children would be put at road safety risk.
- k) There would be inadequate parking.
- l) Traffic calming would be needed at the Pack Horse Road roundabout.

Water, Flood risk & sewerage

- a) The development would exacerbate flood risk at lower lying parts of the village.
- b) The local sewers are not adequate and there have been instances of raw sewage surcharging from the system.
- c) The water supply may not be adequate.
- d) The sewer for the bowls club runs along the boundary.
- e) The pond and swales could be a drowning hazard for children.

Ecology & Countryside

- a) Wildlife would be threatened by the loss of countryside.
- b) Trees and buildings do not mix – the proposed planting along the boundary would suit neither ground conditions nor proximity to dwellings.
- c) Passive enjoyment of the countryside would be spoilt.
- d) The site contains protected species.
- e) There may have been breaches of wildlife legislation and hedgerow legislation following works undertaken on the land earlier in the year. This may have affected the wildlife survey.
- f) 20% of the site should be National Forest planting.

Amenity

- a) There would be loss of privacy and light to adjoining neighbours.
- b) Proposed tree planting on the southern boundary would create overshadowing to gardens.
- c) It is unlikely that the trees would be properly maintained, or retained, as they would be in individual gardens.

- d) Locating a parking area adjacent to existing houses would lead to increased instances of crime and general disturbance.
- e) The footpath link to Woodlands Close would increase risk of crime to children playing in the street.
- f) New residents would experience undue noise from air traffic.
- g) New residents would experience noise and disturbance from the very el used Scouts and Guides HQ.
- h) New residents would be adversely affected by the bowling green floodlights.

Other matters

- a) The lack of post code means that people may not be aware of the application.
- b) The development would prevent existing local people from continuing to use the informal footpath behind The Woodlands.
- c) The site is directly beneath the flight path to the airport, which continues to expand.
- d) Consultation has been inadequate.
- e) The adjoining bowls club could be affected, for example by being required to turn off floodlights.
- f) There is no right of way over Woodlands Close an unadopted road.
- g) The footpath across the southern boundary connecting to Woodlands Close should be maintained on its existing line.
- h) A claim has been made to DCC to make the footpath definitive.
- i) The footpath across the southern boundary connecting to Woodlands Close should not be maintained on its existing line, as it would increase risk of crime thorough additional usage.
- j) There could be damage to private services by cars parking in Woodlands Close.
- k) There is no street lighting in Woodlands Close.
- l) There is very little current use of the informal footpath. There would be a huge increase in use of Woodlands Close by pedestrians.
- m) The application supporting documents do not accurately represent site characteristics.
- n) The pond would increase risk of bird strike to aircraft.
- o) The certificate of ownership may be wrong.

One letter of support has been received. Although the site is greenfield it has little aesthetic value. The retention of existing hedgerows, new landscaping and locally inspired houses is supported.

Development Plan Policies

The relevant policies are:

Adopted Local Plan:

Saved Housing Policies H5, H8, H9 & H11
 Saved Environment Policies EV1, EV9, EV11, EV12, EV13 & EV14
 Saved Transport Policy T6 & T7
 Saved Recreation and Tourism Policy 4

Emerging Local Plan:

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

Supplementary Planning Guidance and other local guidance:

Housing Design and Layout SPG, Better Design for South Derbyshire, Historic South Derbyshire, Kings Newton Conservation Area Character Assessment.

National Guidance

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)
Paras 11-14 (The presumption in favour of sustainable development)
Para 17 (Core principles)
Chapter 3 (Supporting a prosperous rural economy)
Chapter 4 (Promoting sustainable transport)
Chapter 6 (Housing)
Chapter 7 (Requiring good design)
Chapter 8 (Healthy Communities)
Chapter 10 (Meeting the challenge of climate change, flooding etc.)
Chapter 11 (Conserving and enhancing the natural environment)
Chapter 12 (Heritage Assets)
Paras 186 & 187 (Decision-taking)
Para 193 (Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.)
Para 196 & 197 (Determining applications)
Paras 203-206 (Planning conditions and obligations)
Annex 1 (Implementation)

National Planning Practice Guidance (NPPG) 2a, 3, 8, 18a, 23b, 26, 30 and 37, 42

Planning Considerations

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

- The Principle of Development and General Sustainability
- Landscape Impacts
- Heritage Assets
- Urban Design
- Residential Amenity
- Ecology & Trees

- Highways Issues
- Planning Contributions

Planning Assessment

The Principle of Development and General Sustainability

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

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

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

In the context of Paragraph 14 it is necessary, as a preliminary issue, to determine whether the proposed development is sustainable. The recent ruling in *William Davis & Jelson v. SSCLG* [2013] confirms this approach is correct. Paragraph 6 of the NPPF states that "the policies in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development...means in practice...". Paragraphs 7 and 8 go further to split sustainable development into three roles: economic, social and environmental, whilst highlighting that these dimensions are mutually dependent (i.e. they should be sought jointly and simultaneously).

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

In terms of the current Adopted Local Plan, Saved Housing Policy 5 defines a village confine within which none of the site lies. As such residential development is not supported by the development plan. This policy is complemented by Saved Environment Policy 1 and Housing Policy 8, both of which apply restrictive policies to general development outside established settlements.

Nevertheless the National Planning Policy Framework indicates that Local Plans should meet the full objective need for market and affordable housing in the housing market area. Paragraph 49 of the NPPF states:

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

There are two arms to this paragraph: (1) that the application should be considered in the context of the presumption in favour of sustainable development (para. 14 of NPPF

and a point returned to below), and (2) SDLP allocations policies for the supply of housing should not be considered to be up-to-date if a 5-year housing supply cannot be demonstrated. In regard to point (2), paragraph 47 of the NPPF seeks "to boost significantly the supply of housing". It is therefore clear there is considerable emphasis on bringing forward significant housing provision as soon as possible. This is achieved through a rolling supply of deliverable sites sufficient to provide five-years' worth of housing against requirements at any given point. The Council cannot currently demonstrate a 5-year supply. The Council has submitted its Local Plan to the Planning Inspectorate and an Inspector has been appointed and examination dates have been indicatively set for the end of November this year. The suggested allocations within the Plan will provide a 5 year supply but due to the Plan not having yet been examined the relevant policies carry limited weight.

Because of the aforementioned housing supply issues the proposal must be considered in the context of the presumption in favour of sustainable development.

The site lies adjacent to the built framework of Melbourne and Kings Newton. Melbourne is classed as a Key Service Village in the emerging Local Plan's Settlement Hierarchy (Policy H1). To qualify as a Key Service Village, settlements must have a bus service and/or convenience store plus at least 7 other services. Such settlements are envisaged to be capable of providing appropriate scale developments up to and including small strategic sites. Whilst the proposed development is of a scale envisaged for a Key Service Village, the hierarchy currently carries limited weight.

Based on the aforementioned policy considerations alone, which acknowledge the particular the weight that the NPPF gives to the delivery of housing, the proposal is acceptable in principle.

The remainder of this report, through analysis of material considerations, focuses on whether the three roles of sustainability (economic, social and environmental) are satisfied by reference to the NPPF's policies as a whole and those development plan policies that are consistent with it.

By providing housing the development would promote social sustainability. There is no evidence that the proposal would generate unacceptable levels of traffic and there would be opportunities to travel by means other than the private car. Furthermore the village has a good range of services and facilities. It is therefore not the case that the occupiers of the new dwellings would be wholly reliant on the private car. Paragraph 29 of the NPPF recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. In the context of a vibrant village, acknowledged in the emerging local plan as a key service settlement, the location has good location based sustainability credentials.

Landscape Impacts

The site encroaches beyond the extent of the main built-up area of Melbourne. The impact on landscape is an environmental criterion that has implications for sustainability. In the case of the application proposal the southern boundary would be contiguous with existing built development. Whilst development the east, including the Scout HQ and Bowling Green is less densely developed it is nonetheless distinguished, in character, from the open countryside to the west. The western boundary, being

defined by an existing public right of way, presents a reasonably defensible boundary in landscape terms. The present open setting to the Kings Newton Lane frontage would be respected by setting the new housing back, thus reasonably maintaining the rural character of the approach to Kings Newton. Existing and proposed screen vegetation would further soften the impact of built development upon Kings Newton Lane.

Whilst the development would bring built development nearer to the street, views across the site from Kings Newton Lane are presently curtailed by housing at Melton Avenue and The Woodlands. A similar effect would occur from the public right of way, albeit at closer quarters. However the important consideration, from both of these main vantage points, is that the development would not be seen to encroach in to the more open countryside to the west. Views across the site from Pack Horse Road, over the Scout HQ and Bowing Green, would be interrupted although these vantage points are perceived in the context of an already built-up area and do not involve vistas of any previously acknowledged importance.

Long distance views would be in context with the existing built development to the south and east and retained and proposed screen planting would mitigate impact on the landscape character, in accordance with Saved Environment Policy 9.

Although Saved Environment Policy 1 is not capable of being sustained in this particular case, when applied to the principle of housing development on this particular site, its objectives to minimise landscape impact remain consistent with the core principle in paragraph 17 of the NPPF, to recognise the intrinsic character and beauty of the countryside. Given the confines of the site, and its setting, the development does not conflict with these policies, particularly when balanced against the strong weight of policy in favour of new housing.

Heritage Assets

The front of the site is next to The Pack Horse Inn (Grade II listed building) and the Kings Newton Conservation Area. By reference to the Kings Newton Conservation Area Character Statement the road leading into Kings Newton from the west largely follows the ridge, with occasional glimpses over the hedgerows of the Trent valley to the north. The ridge road descends as it enters the village and the ground levels off at The Pack Horse Inn. This is where impacts on the setting of the listed building and conservation area potentially occur. By setting the buildings away from the street the application has acknowledged the generally open nature of the approach to the first historic building at the western extremity of Kings Newton.

The Pack Horse sits in a prominent position abutting the street. Due to the proposed new buildings being set well back from the street the development would not be really apparent on leaving the village until the Pack Horse is passed. The Pack Horse Public House would remain the dominant feature when entering or leaving the Kings Newton Conservation Area. The position and design of the houses facing the street and the landscape context to the frontage were evolved following specialist heritage input, specifically to preserve the setting of the adjoining heritage assets. The design of the frontage pair of terraced houses reflects characteristics that are found in Kings Newton, in particular the heavily overhanging eaves and verge details, the small gables, and the transverse roof form at the ends of the blocks. The applicant has acknowledged the need for particular attention to be paid to detail design and material for these frontage blocks. The dwellings behind the frontage units would have indiscernible impact on the

setting of the heritage assets. For these reasons the setting of the historic building and the conservation area would be preserved in accordance with Local Plan Saved Environment Policies 12 & 13 and Chapter 7 of the NPPF.

The Development Control Archaeologist is satisfied that archaeological interests can be safeguarded by condition, in accordance with Local Plan Saved Environment Policy 14.

Urban Design

The design has evolved following input by the Council's Design Excellence Officer, applying the 20 Building for Life criteria set out in 'Better Design for South Derbyshire'. In social terms the site is located close to community facilities and has easy access to public transport. It would provide an accommodation and tenure mix to meet the needs of the community. In environmental terms the development would retain natural features on site and responds reasonably well to the local distinctiveness of the area in its design and house types. The layout is legible such that people would be able to find their way around. The buildings would relate well to the spaces around them.

Subject to satisfactory fine detail and materials being approved by condition the scheme would score 14.5 (good) on the Building for Life Assessment, in accordance the local guidance and Chapter 7 of the NPPF.

Residential Amenity

Where the development would abut existing housing ground levels are generally similar and the housing would be two-storey, with two plots having steeper roofs to include habitable loft accommodation. The proposed development has been assessed in relation to the adopted supplementary planning guidance and the relevant minimum separation distances would be achieved, thus protecting neighbours from unreasonable loss of light or privacy.

The amenity of the existing bungalow in the north western corner would not be significantly affected as the nearest properties would be over 30m away and the hedge and trees would be retained on the boundary. The occupiers would experience some noise from traffic entering and leaving the site, although not to an unreasonable level.

The occupiers of the new dwellings along the eastern boundary could potentially experience noise from the Scout and Guides site. However the Environmental Health Manager considers that appropriate internal noise levels can be achieved by noise attenuation measures incorporated in the fabric of the new houses.

The site therefore provides ample scope for reasonable amenities in terms of light, air and privacy for both existing and new dwellings; safe, functional and convenient layouts; private amenity space, and space for landscaping in accordance with Local Plan Saved Housing Policy 11.

Ecology and Trees

The Ecological Appraisal and Herpetofauna Survey Report surveyed the site for evidence of protected species and hedgerows. Derbyshire Wildlife Trust considers the survey work to be adequate and advise that there are unlikely to be any protected species issues arising with the proposed development as no evidence has been found.

The majority of the Priority Habitat hedgerows present are to be retained, the central hedgerow will have gaps but this loss is mitigated by the creation of new green links through the site. The Wildlife Trust suggest the recommendations of the Ecology report be secured by condition, including a lighting scheme in order to reduce impacts on foraging bats, and the retention of hedgerows with buffer zones.

The tree survey identified the moderate and good quality trees on the boundaries of the site and the majority of which shall be retained. Trees will be retained on the Kings Newton Lane frontage and within the eastern hedgerow. There is an unmaintained hedgerow between the field parcels to the west adjacent to the footpath that is considered to be unsuitable for retention and new tree planting is proposed along this boundary.

Attention will need to be paid, thorough discharge of conditions, to the species and extent of planting in rear gardens to ensure that existing and future occupiers of dwellings do not experience tree related amenity issues.

Highway and Footpath Issues

Person trip generation at peak times was assessed against traffic impact and it was concluded that the increase in traffic levels would not have a significant impact on the operating capacity of the Park Horse Road and Kings Newton Lane roundabout junction or have an adverse impact on highway safety. Safe access would be provided for all users, including pedestrians and people with disabilities.

The proposal is considered, therefore, to be in accord with Local Plan Saved Transport Policies 6 & 7 and Chapter 4 of the NPPF. With regard to the wider highway network, the CHA has not raised any objections to the proposal with regard to increased traffic and therefore it is considered that the development would accord with Saved Transport Policy T6 Emerging Policy INF2 and the NPPF.

Section 106 Contributions

From a planning point of view legislation states that there are legal tests for when a S106 agreement can be utilised and these are set out in regulation 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 as amended (and as set out in para. 204 of the NPPF). S106 agreements, in terms of developer contributions, need to address the specific mitigation required by the new development. The tests are that they must be:

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

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

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

- £145,000 for provision of Public Open Space

- £1,888.26 (£28.61 per dwelling x 66dwellings) towards the provision of a new Household Waste Recycling Centre to provide additional waste management Capacity (as Newhall is over capacity);
- £68,394.06 towards the provision of 6 infant school places at Melbourne Infants School;
- £91,192.08 towards the provision of 8 junior school places at Melbourne Junior School);
- £188,937.87 towards the provision of 11 secondary school places;
- £74,511.60 towards the provision of 4 post-16 places; and
- £36,366 contribution towards an extension to Melbourne Medical Centre.
- Recreation outdoor facilities £44000
- Recreation built facilities £24400
- Provision of on-site open space and play equipment. Commuted sum for maintenance at £7.50 per sq m. or transfer to a management company Maintenance of drainage pond approx. £70,000 (depending on further engineering design).

Conclusion

Although the application site represents previously undeveloped land outside the built framework of Melbourne / Kings Newton, the Council is currently unable to demonstrate a five year supply of housing land. Given the scale of the development it is likely that it could contribute to the early delivery of homes, helping the Council meet its requirement of a five year supply of deliverable housing.

Subject to conditions there are no constraints in respect of transport. Environmental, ecological and heritage considerations would similarly be safeguarded by conditions.

By reference to the NPPF's (Para 7) three sustainability dimensions (economic, social and environmental):

- The provision of new housing would support economic growth, ensuring an attractive place to live for South Derbyshire's economically active population as well as helping to supporting the vitality and viability of Melbourne. Construction jobs would be created. The development would also provide financial contributions for associated infrastructure. This is supported by the site's accessibility to public transport.
- The proposed scheme would have a significant positive impact on local communities by providing new homes (market and 30 % affordable). In terms of healthy communities there would be adequate green infrastructure and open space. Pedestrian/cycle links would help to support active lifestyles and encourage alternatives to the car for accessing local facilities and employment opportunities. Developer contributions would also be made towards healthcare, education and local built facilities and outdoor recreation provision.
- The application's supporting documents explain how a range of environmental factors have been taken into account to ensure sustainable development (including landscape, ecology, archaeology, and water). Mitigation has been included within the scheme to ensure the conservation and enhancement of key features. The scheme also helps to mitigate future climate change through

reducing CO2 emissions by building new homes in an accessible location and reducing the need to travel by car. In terms of resilience to climate change impacts, the scheme has been designed to take this into account, notably through provision of a sustainable drainage strategy.

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 and subject to the applicant entering into a Section 106 Agreement with the Council to secure the contributions referred to in the Planning Assessment above:

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. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

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

3.
 - A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
 - B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
 - C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
 - D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: 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.

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

B. No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under 'A' above.

C. The development shall not be occupied 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 'A' above 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.

5. Before being incorporated in the development, details of the materials proposed to be used on the surfaces of the roads, footpaths, car parking areas and courtyards along with samples of the materials to be used on the external surfaces of the buildings and boundary wall shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials unless otherwise agreed in writing with the Local Planning Authority.

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

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

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

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. Large scale drawings to a minimum Scale of 1:10 of eaves and verges, decorative string courses, chimneys, porches, and external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before being incorporated in the development. The eaves and verges, decorative string course, chimneys, porches and external joinery shall be constructed in accordance with the approved drawings.

Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, dwellings on plots 16-24 and 31 - 40 hereby permitted shall not be enlarged or extended 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 interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene.

10. Prior to the first occupation of the development hereby permitted, measures to minimise the risk of crime to meet the specific security needs of the application site and the development shall be implemented in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area pursuant to the Council's powers under Section 2 of the Local Government Act 2000 and to reflect government guidance set out in PPS1.

11. Notwithstanding any submitted details, no dwellings shall be occupied until there has been submitted to and approved by the Local Planning Authority 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. The scheme shall include tree planting to the west of Public Footpath No 7.

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

12. Prior to the commencement of the erection of the dwelling to which it relates, details of the finished floor levels of the dwelling and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in

writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

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

13. 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.

14. Prior to the commencement of the development the developer shall submit a scheme highlighting details of the likely resultant noise and dust levels from activities during the construction phase of this development. The investigation shall address the impact that the activities will have, in terms of noise and dust, on nearby residential properties. This assessment and mitigation measures shall be submitted for the approval of the local planning authority prior to commencement of the development. Once agreed, all identified noise and dust control measures shall be implemented and thereafter retained for the duration of the works.

Reason: To protect the health of the public.

15. Prior to the construction of any dwellings above floor slab level, the applicant shall submit for written approval an assessment of noise likely to affect the application site. The assessment shall identify all noise attenuation measures that may be determined appropriate to reduce the impact of noise on the residential properties on the site and achieve the requirements of BS8233 for internal noise levels. Consideration shall also be given to achieving adequate summer cooling. If deemed necessary, alternative ventilation measures shall be identified and incorporated into the noise assessment report. This assessment and mitigation measures shall be submitted for the approval of the local planning authority prior to commencement of the development. Once agreed, all identified noise control measures shall be implemented and thereafter retained.

Reason: To protect occupiers of the development from noise.

16. No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy shall demonstrate that 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 approved details before the development is completed.

The scheme shall include:

- details of how the scheme shall be maintained and managed after completion.

- sustainable drainage techniques or SuDS incorporated into the design.
- details to show the outflow from the site is limited to the maximum allowable rate, i.e. greenfield site run-off.
- details to show that the surface water drainage system will deal with the surface water run-off from the site up to the critical 1% Annual Probability of Flooding (or 1 in a 100 year flood) event, including an allowance for climate change (i.e. for the lifetime of the development). Drainage calculation shall be included to demonstrate this (e.g. MicroDrainage or similar sewer modelling package calculations which include the necessary attenuation volume).
- detail designs of the proposed balancing pond, including cross-sections and plans.

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

17. Prior to any other works commencing, a detailed design based on a topographical survey shall be submitted to and approved in writing by the local planning authority in consultation with the County Highway Authority for the new access into the site from Kings Newton Lane, the new footway fronting the entire application site and adjacent public house site and the realignment of the footway, footway provision and redesign of the mini roundabout at Kings Newton Lane/Pack Horse Road/Main Street junction, generally in accordance with application drawings 13077/02 rev B and 13077/03.

Reason: In the interests of highway safety.

18. No other development shall be commenced until a temporary access for construction purposes has been provided in accordance with a detail design first submitted to and approved in writing by the local planning authority. The access shall have a minimum width of 5.5m and be provided with 2.4m x 43m sightlines in the easterly direction and 2.4m x 120m to the west; and the area forward of the sightlines shall be cleared and maintained thereafter clear of any obstruction exceeding 600 mm in height relative to the nearside carriageway edge.

Reason: In the interests of highway safety.

19. No development shall take place until a construction management plan or construction method statement has been submitted to and approved in writing by the local planning authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for the storage of plant and materials, site accommodation, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto the highway, pedestrian and cyclist protection, proposed temporary traffic restrictions and arrangements for turning vehicles.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

21. The sustainable drainage scheme required by Condition 16 shall include specific measures to dispose of highway surface water.
Reason: In the interests of highway safety.
22. The gradient of the new estate street accesses shall not exceed 1:30 for the first 10m into the site from the highway boundary and 1:20 thereafter.
Reason: In the interests of highway safety.
23. Notwithstanding the submitted drawing, carriageway widening shall be provided on the new estate street adjacent to Plot 57, in accordance with a detailed design first submitted to and approved in writing by the local planning authority before the erection of any dwellings south of Plot 54. The development shall be implemented in accordance with the approved design.
Reason: In the interests of highway safety.
24. Prior to the first occupation of any dwelling, the new estate junction shall be constructed to Kings Newton Lane. The access shall be laid out in accordance with the detail design approved under Condition 17 above, having a minimum width of 5.5m, 2 x 2m footways, 6m radii and visibility sightlines of 2.4m x 43m sightlines in the easterly direction and 2.4m x 120m to the west. The area forward of the sightlines shall be cleared and taken into the highway constructed as footway
Reason: In the interests of highway safety.
25. Prior to the first occupation of any dwelling, the mini roundabout at the Kings Newton Lane/Pack Horse Road/Main Street junction shall be re-positioned, the kerbing realigned and a new footway on Kings Newton Lane shall be provided, extending along the entire site frontage of the application site and of the adjacent public house site linking to the existing footway on Pack Horse Lane, all in accordance with the detailed design submitted and approved under the terms of Condition 17 above.
Reason: In the interests of highway safety.
26. The new dwellings shall not be occupied until the proposed new estate street, between each respective plot and the existing public highway, has been laid out in accordance with the approved application drawings to conform to the County Council's design guide, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.
Reason: In the interests of highway safety.
27. Prior to the occupation of each dwelling hereby permitted, space shall be provided within each plot curtilage, or the parking area associated with each particular dwelling, for the parking of two vehicles and thereafter maintained free of any impediment to its designated use. Where a garage is counted as a parking space its internal dimensions shall be no less than 3m x 6m.
Reason: In the interests of highway safety.
28. Bin storage areas shall be provided within private land at the entrance to hard private accesses, in accordance with a scheme previously submitted to and approved in writing by the local planning authority. The approved facilities shall be provided prior to the first occupation of any dwelling to which they relate and shall be retained thereafter free of any impediment to their designated use.

Reason: In the interests of highway safety.

29. Any gates shall be set back at least 5m from the highway boundary and shall open inwards only.

Reason: In the interests of highway safety.

30. No removal of hedgerows, trees, shrubs or brambles shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on the site. Any such written confirmation shall be submitted to the local planning authority before any such works are carried out.

Reason: To ensure that nesting birds are protected.

31. Before the first occupation of the development, details of a scheme for all external lighting shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be implemented in accordance with the approved scheme.

Reason: To ensure that roosting bats are not disturbed.

32. The measures set out paragraph 5.11 of the submitted Ecological Appraisal report shall be implemented in accordance with the report.

Reason: To ensure adequate protection for wildlife.

33. Except as otherwise shown on the submitted drawings, details of bin storage areas and/or enclosures for all plots shall be submitted to and approved in writing by the local planning authority before development begins; and the approved bin storage areas and/or enclosures shall be provided prior to the occupation of the dwellings to which they relate and retained as such thereafter.

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

34. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before the commencement of the erection of the dwelling to which they relate.

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

35. Gutters and downpipes shall have a black finish.

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

36. The decorative finish to fascia and barge boards, external joinery and porches shall be submitted to and approved in writing by the local planning authority before being incorporated in the development. These details shall be implemented in accordance with the approval.

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

37. Notwithstanding the originally submitted details, this permission shall relate to the amended layout drawing no. SL/01 Rev F received under cover of the applicant's

e-mail dated 17/10/2104, Amended House Type Pack (except Flat house type) received under cover of the applicant's e-mail dated 15/10/2014 and revised Flat house type also received 15/10/2014 (at 11.38) .

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

Informatives:

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

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

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

The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

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

Any security measures implemented in compliance with the approved scheme should seek to achieve the 'Secured By Design' accreditation awarded by Derbyshire Constabulary. Written confirmation of those measures should then be provided to the Local Planning Authority.

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

satisfactory level of cleanliness.

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.

During construction you are requested to ensure that your or any other contractors' vehicles are parked legally and in a manner that shows consideration to the occupiers of adjacent and nearby properties. Thank you for your co-operation.

a. For the avoidance of doubt, none of the footpaths within the site will be considered for adoption and should form part of the public open space, including the footpath which links to Woodlands which is private and does not form part of the public highway.

b. Pursuant to Section 184 of the Highways Act 1980, and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months' prior notification should be given to the Economy, Transport and Environment Department at County Hall, Matlock (Tel: 01629 538589) before any works commence on the vehicular access within highway limit.

c. The Highway Authority recommends that the first 5m of any proposed access driveway should not be surfaced with a loose material (ie unbound chippings or gravel etc). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the individual householder.

d. Pursuant to Section 163 of the Highways Act 1980, where a plot curtilage slopes down towards the new estate street, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

e. Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Economy, Transport and Environment Department at County Hall, Matlock. The applicant is advised to allow at least 12 weeks in any programme of works to obtain a Section 278 Agreement.

f. Pursuant to Section 38, and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Economy, Transport and Environment Department at County Hall, Matlock.

g. The applicant is advised to ensure that the future maintenance responsibilities of the shared accesses/driveways and visitor parking spaces is clearly defined within the deeds of the individual properties.

h. The application site is adjacent to a Public Right of Way (Footpath 7 in the parish of

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

Item **1.2**

Reg. No. **9/2014/0431/SMD**

Applicant:
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Proposal: **THE ERECTION OF RESIDENTIAL DEVELOPMENT OF
64 UNITS WITH ACCESS PROVIDED OFF LAND AT
SK2915 3206 VALLEY ROAD OVERSEAL
SWADLINCOTE**

Ward: **SEALES**

Valid Date: **13/05/2014**

Reason for committee determination

The application is for a major development that is contrary to the development plan and has attracted more than two letters of objection.

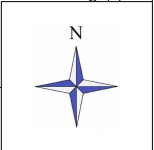
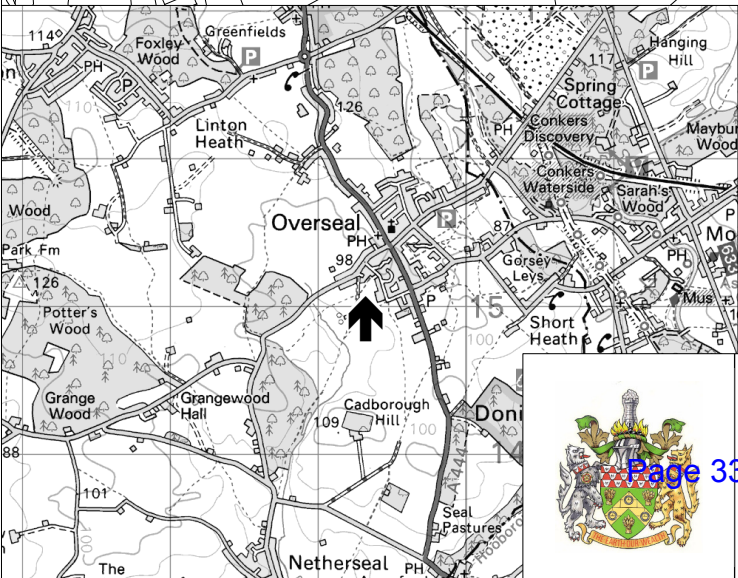
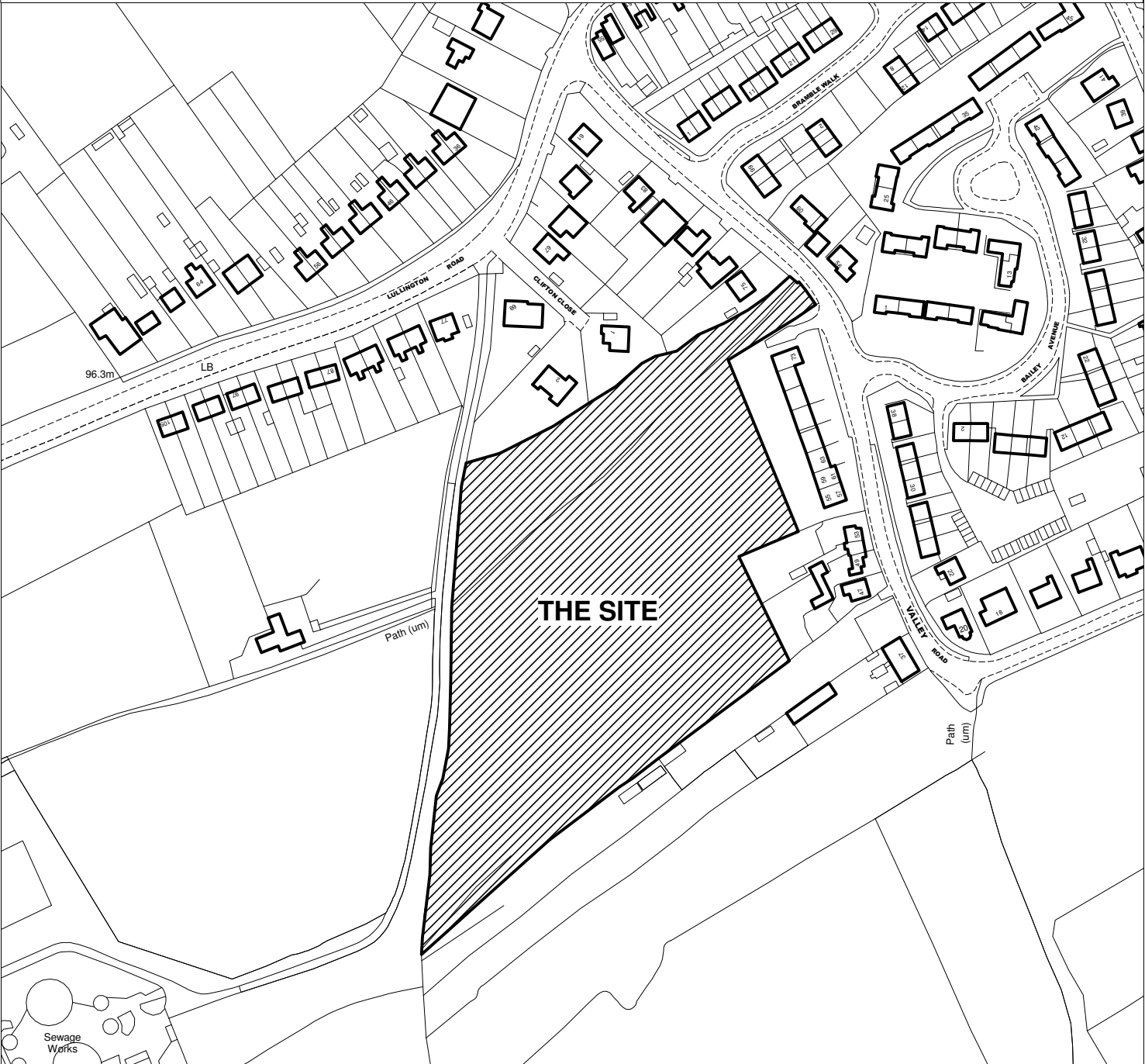
Site Description

The application site measures some 2.05ha and lies to the southwest of the village. It is enclosed on two sides by residential development to the north and east and open farmland to the south, southwest and west, although there is a sewage treatment works immediately to the southwest. The site has a short section of frontage to Valley Road to the northeast from which pedestrian access is currently gained. The route of Public Footpath No.13 enters the site at this point and runs south-westwards crossing Public Footpath No. 9 outside the western boundary. Vehicular access into the site would be taken from this point. There are existing trees within the hedgerows along the western and south-eastern boundaries of the site. The site lies outside but adjacent to the settlement boundary of Overseal and is within the River Mease SAC. It is formed by a single field of horse-grazed pasture with an historic ridge and furrow field pattern.

Proposal

This is a detailed (full) application for the erection of 64 dwellings (amended from 61 originally proposed, currently out to further notification at the time of writing), together with the provision of estate roads, garages, landscaping, public open space, an equipped play area and the retention of a public right of way. The top section of the estate road would end at a turning head adjacent to the proposed LEAP. A private drive

9/2014/0431 - Land at SK2915 3206, Valley Road, Overseal, Swadlincote
(DE12 6NL)



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leading off the turning head would serve a further 5 properties. The public footpath would run parallel to the top section of the estate road. The lower section of the road would serve the remaining properties, terminating at a turning circle. A private drive would also lead off the turning circle and serve three further properties. The balancing (attenuation) pond would be located in the southern-most corner of the site. A footpath would link the pond to the LEAP.

A mix of one, two, three and four bedroom properties are proposed as follows:

8 x 1-bedroom flats
7 x 2-bedroom dwellings
29 x 3- bedroom dwellings
20 x 4-bedroom dwellings

A Screening Opinion under the EIA Regulations has been undertaken and a view taken that the proposed scheme is not EIA development and will not require the submission of an Environmental Statement in support of the proposed scheme.

Similarly, a Habitats Regulations Assessment has been carried out which concludes that the proposed development would have no likely significant effect on the River Mease SAC and therefore there is no requirement to undertake an appropriate assessment.

Applicants' supporting information

The application is supported by a number of documents, all of which are available to view on the Council's website. For ease of reference, these are listed below and a short summary of each is provided.

- Design and Access Statement
- Arboricultural Assessment
- Planning Statement
- Flood risk Assessment
- Transport Statement
- Landscape and Visual Impact Appraisal
- Ecological Appraisal
- Archaeological Desk-based Assessment
- River Mease SAC Impact Statement

Design and Access Statement

The document includes a character assessment of the area, a sustainability appraisal of the site and discusses how the proposal relates to planning policy. It also evaluates the proposal against the constraints of the site and provides information on key vistas, the design concept and the principles of appearance and character. A Building for Life 12 Assessment is also included, which concludes by stating that the proposed development would score 12 out of 12.

Arboricultural Assessment

This includes an arboricultural impact assessment of the existing trees, details of those that would be retained and details of the proposed tree protection measures for the retained trees.

Planning Statement

This concludes by stating that the key material considerations in relation to the provision of additional housing justify the site's release for development. The development of the site represents an opportunity to secure economic, social and environmental gains in accordance with paragraphs 14 and 47 of the NPPF and is therefore in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004.

Flood Risk Assessment

The document includes site details, flood risk, surface water run-off and flood mitigation measures. It concludes by stating:

- The site lies in an area of Zone 1 Flood Risk
- Finished levels would ensure flows within the boundary ditch system would be conveyed along the boundary and beyond
- Surface water drainage would connect into the existing surface water system to the south of the site
- Drainage would be designed to accommodate a 1 on 30 year event and be put forward for adoption by Severn Trent Water
- The system would connect into the attenuation pond and would accommodate flows generated by up to the 1 in 100 year event plus allowance for climate change
- Development proposals would include measures with respect to the River Mease SAC
- The development would not be at risk from flooding from external sources, would not increase flood risk associated with the development and its environment and would therefore be appropriate.

Transport Statement

This is summarised by outlining the existing facilities within the village and the distances between those facilities and the proposed development. The nearest bus stops are around 300m from the site, on Main Street and Lullington Road, and therefore within the recommended maximum distance. Bus services operate regularly and include the provision of services to local schools. Existing traffic flows on Valley Road are minimal and 85th percentile vehicle speeds are well within the 30mph speed limit. Vehicular access to the site would be provided via a new, simple priority junction onto Valley Road designed in accordance with the 6Cs Design Guide. The estimated traffic impact is minimal and not considered to have a significant impact on the existing highway network. Based on the findings of the Transport Statement it is considered that the proposed development would be acceptable in transport terms.

Landscape and Visual Impact

This concludes as follows:

- The character of the site is influenced by the existing residential edge of Overseal
- The site is well contained by existing built development and established vegetation and has a strong defensible boundary with the open countryside
- Tree and hedgerow features would be retained
- The proposed layout would ensure that built development would be adjacent to existing residential edges with public open space and drainage attenuation adjacent to the open countryside and therefore not out of scale or context with the nature of the landscape
- No significant effects on the National Forest; moreover it has potential to benefit the local area through the proposed landscaping
- Visual receptors include relatively few existing residential properties (mainly those bordering the site), public rights of way (mainly limited to the public footpath crossing the site and those adjacent to the southern and western boundaries) and local roads (limited to fleeting views from short sections along Valley Road. There would be no views from Lullington Road or Burton Road.
- Overall the site comprises a single field with little landscape or ecological value and the proposed development would relate well to the existing residential edge of Overseal. It is considered that the proposed residential development is a relatively modest size and density of up to 64 dwellings with a robust green infrastructure and is the type and scale of development which can successfully be assimilated into the local landscape without any unacceptable landscape or visual effects.

Ecological Appraisal

This concludes by stating that:

- The site is heavily grazed semi-improved neutral grassland which would be lost as a result of the development
- As the site is within the River Mease SAC and SSSI catchment there will be a requirement for a financial contribution towards the improvement of water quality in accordance with the River Mease Developer Contribution Scheme (DCS)
- Hedgerows along the site boundaries should be retained wherever possible, one in particular (H2) which is of high value to wildlife
- Removal of vegetation should avoid bird nesting season (March to September). If this is not possible vegetation removal should be preceded by precautionary checks for nesting birds
- Mature trees could be utilised by roosting bats and if they are to be lost further surveys would be required. If retained external lighting should ensure the potential roosts are not affected by light pollution
- Great Crested Newts may be present within the application site and access to offsite ponds should be sought to undertake further survey work. Otherwise terrestrial trapping of the site would be required
- Planting schemes should involve native species with an emphasis on species bearing nectar, berries, fruit and nuts to enhance the foraging opportunities
- Further opportunities to enhance the site include the provision of native trees, shrubs and climbing plants, both in rear gardens and throughout the site's green infrastructure together with bat and bird boxes, dead wood piles and insect houses.

Archaeological Assessment

The Historic Environment Record for Derbyshire indicates there are few known archaeological sites in the vicinity of the assessment area. The area was once part of Leicestershire and is largely industrial in nature and was dominated by mining and clay workings for bricks and pipeworks. The land contained well-defined medieval ridge and furrow earthworks, which may need recording before any new development is commenced. The preservation of any underlying archaeological remains, if present, may be good although there may be some minimal disturbance close to where the sports grounds were situated and there may be some evidence of a pavilion on the northern part of the site.

River Mease SAC Impact Statement

This concludes that, following discussions with the Environment Agency and Natural England, the impacts on the River Mease have been adequately considered as part of the proposals. The development would not adversely affect either the quality and ecology of surface watercourses or the quality and quantity of groundwater. Satisfactory arrangements could be made for the disposal of foul sewage and the control of surface water flows and water quality. It is therefore possible to conclude there would be no likely significant effect.

Planning History

None

Responses to Consultations

Natural England (NE) initially submitted a holding objection based on concerns relating to the impact of the development on the River Mease SSSI and SAC. However, NE is now satisfied that the specific issues that were raised in previous correspondence have now been met and has no objections subject to conditions with regard to developer contributions, details of the private drainage scheme, further plans and details of the attenuation pond, details of the planting and seeding scheme, the submission of a statement of construction and mitigation, ongoing management of the attenuation pond and gullies and detailed designs of the attenuation pond, including appropriate planting, the agreement of water quality outflow parameters, monitoring of the effectiveness of the attenuation pond and the submission of details of the capture and filtering out of road run-off.

Derbyshire Wildlife Trust initially raised concerns with regard to the loss of trees that offer potential bat roosts and the loss of semi-natural grassland. Following further discussions with the developer it is now intended to retain the two trees in question, protect all retained trees and hedgerows in accordance with BS 5837:2012 *Trees in relation to design, demolition and construction* and agree to pay a contribution of £6,000 towards the restoration and subsequent management of over 2ha of flower rich grassland. DWT recommends that this is secured through a Section 106 Agreement and that the contribution is made specific to grassland restoration and management at Swadlincote Woods.

The Environment Agency considers that the proposed development would be acceptable provided a condition is included that requires the submission and approval

of drainage details in order to prevent the increased risk of flooding, both on and off site, together with informatives relating to pollution, waste and water efficiency.

The local County Councillor has commented with regard to wildlife and archaeology; has requested contributions towards local infrastructure, particularly school places and public transport and that consideration should be given to health, shopping facilities, broadband and sprinkler systems.

Derbyshire County Council has set out its requirements, based on the revised number of 64 dwellings, as follows:

- £1,831.04 (£28.61 per dwelling x 64 dwellings) towards the provision of a new Household Waste Recycling Centre
- £99,470 towards developing a Greenway link (£36,750 land acquisition and £62,720 construction costs)
- £125,389 towards 11 primary school places at Overseal Primary School
- £137,408 towards 8 secondary school places at The William Allitt School
- £55,881 towards 3 post 16 places
- Access to high speed broadband services for future residents in conjunction with service providers
- New homes designed to Lifetime Homes standards
- The possible diversion of Public Right of Way Overseal Footpath 13.

The National Forest Company (NFC) has no objections subject to the detailed pond design incorporating further planting and a natural play approach being adopted for the LEAP, the NFC considers that the expectations within the planting guidelines to accommodate 20% of the site area as National Forest planting have been met and therefore there is no requirement for an off-site contribution towards NF planting.

The County Archaeologist considers that the site contains fairly well-preserved earthwork ridge and furrow, which are of undoubted landscape and historic landscape value and their loss would therefore be weighed as a material concern when considering the landscape and visual landscape impacts of the development. From an archaeological point of view, however, they possess little or no evidential value beyond confirming that the site lay outside the bounds of the medieval village and their isolation means that they can be considered of low significance only. Given the small size of the site and the absolute lack of any other indicators nearby, the very low level of probability of encountering archaeological remains does not, in this case, justify placing a further planning requirement on the applicant.

Severn Trent Water has no objections subject to a condition with regard to the submission of drainage details.

In its original response to the Transport Statement the County Highway Authority (CHA) stated:

- A topographical survey of the access is required with details of land ownership as the submitted plan does not accurately show the actual layout on the ground. The proposed visibility splays to the south of the access appears to cross third party land (probably owned by SDDC).

- The traffic flows cited in the Transport Statement indicate that the development would result in a significant increase in the number of vehicle movements at the junctions of Valley Road/Lullington Road and Valley Road/A444 both of which are substandard in terms of visibility.
- A more detailed drawing which clearly indicates the parking provision within the site is required.

In response to the above the applicant submitted further information; however the CHA remained concerned and subsequently commented as follows:

The submitted document demonstrates the shortfalls of the junctions of Valley Road, with both Lullington Road and the A444. The CHA's final comments are yet to be received but it has indicated that the scheme is acceptable in principle (this position will be updated at the committee). Notwithstanding this, the junctions are existing and it does not follow that the CHA would accept a new junction with substandard visibility. Visibility sightlines of 2.4m x 43m are required at a new access onto a road subject to a 30mph speed limit. Speed surveys have been carried out on both Lullington Road and A444 but not on Valley Road and no evidence has been submitted to substantiate the fact that visibility sightlines below that required standard are indicated on the plans. The developer responded by detailing speed readings for Valley Road which concluded that 2.4m x 33m visibility splays would be required for the site access junction and that these could be achieved. A drawing showing swept path details were also submitted. A County Highway Authority's final official response with regard to the proposed development and its likely impact on the Lullington Road and A444 junctions is awaited, although it is understood that initial concerns have now been overcome.

In terms of the internal layout the CHA considers the requested revisions are now acceptable, other than the issue of surface materials which remains unresolved. In order that the application can proceed the CHA is satisfied that a pre-commencement condition would overcome this issue.

The County Footpaths Officer advises that Overseal Public Footpath 13 crosses through the northern part of the site and advises that:

- the route should remain open and unobstructed and on its legal alignment at all times
- there should be no disturbance to the surface of the route without prior authorisation
- 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
- 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.

The Environmental Protection Officer (contaminated land) requires conditions in respect of contaminated land hazards.

The Crime Prevention Design Adviser has provided advice with regard to footpath links, the need for secure gates, the treatment of some house types with regard to views and the inclusion of windows to provide outlook.

Following further discussions with regard to the affordable housing mix and tenure, the Strategic Housing Manager has now agreed the level, mix and tenure of the affordable housing to be provided within the development.

Responses to Publicity

Overseal Parish Council strongly objects to the proposal on the following grounds:

- Unsuitable access
- Increased traffic
- Outside the village boundary
- Brownfield sites should be considered first
- Bus services have been changed and no longer exist
- Lack of capacity at the local school and doctor's surgery
- Impact on the character of the village
- Noise and disturbance to nearby elderly people and impact on privacy
- Impact on historical landform (ridge and furrow) and presence of a geological fault near to Valley Road
- Impact on protected species (bats roost in trees within adjacent site)
- Traffic count has not been agreed by the County Council
- Development should not be considered in isolation but as part of the next stage of the Local Plan
- A site visit should be made by members of the Planning Committee so that they can witness the problems before making a decision.

Netherseal Parish Council objects to the proposal on two grounds:

- Overseal School is at capacity and therefore the development could result in children travelling to Netherseal, which would cause traffic problems for Netherseal.
- Problems caused by additional traffic accessing the development via Valley Road which is narrow and contains several senior citizen properties.

The Peak and Northern Footpaths Society is pleased that the revised plan shows the route of Public Footpath 13 retained and incorporated into the development as the Society would have objected to any application to divert it. The Society also considers that there should be contributions to the off-site improvements of adjacent footpaths as these are likely to be used more frequently if the development goes ahead.

Safeguards, such as changes in surface colour, should be put in place to ensure the safety of walkers where vehicles will need to drive over the public footpath to reach houses to the northwest of the path. The footpath links shown on the original plan should be re-introduced.

The Derby and South Derbyshire Ramblers strongly object to the development as it considers the proposal is the start of further encroachment into the rural nature of the area. There are sufficient environmental, biodiversity and access constraints that support a refusal of the application. If the application were to go ahead a kissing gate

would be the preferred access to public footpath No.9 as a stile or wicket gate would allow access to the footpath by prohibited persons.

The Overseal Footpath Volunteer Group has asked to be notified when the development starts as it wishes to re-use the wicket gate at the eastern end of public footpath 13 where it enters the site. A kissing gate is essential at the western end of the footpath as this would prohibit cyclists and horses riders from accessing the lane to the sewage works. Bus services have been reduced since May and consequently the information is out of date. All secondary schools in the Swadlincote urban area are full beyond capacity as is the village primary school. A considerable sum will be necessary to accommodate the increase in pupil numbers. What are the safeguards to ensure the money is not used in other areas? The junction of Valley Road and Lullington Road is dangerous, particularly when turning right and an increase of 59+ cars cannot be called a modest increase. The application should be refused on safety grounds. Earlier concerns with regard to biodiversity still stand.

A total of 153 letters, emails and standard letters have been received all of which object to the proposal. These objections can be summarised as follows:

- a. Inadequate access into the site from Valley Road, being on a blind bend on the brow of a hill and hampered by parked cars owing to its narrow width – death trap waiting to happen
- b. Detrimental significant impact and harm on the surrounding countryside, the National Forest and the River Mease SAC
- c. Increased traffic and congestion on a road already used by tractors and other farm machinery during the summer months – potential to increase accidents to the elderly
- d. Site is outside the built-up area of the village – loss of another green field and overdevelopment of Swadlincote – use brownfield sites first
- e. Difficulties getting onto Lullington Road and the A444 from Valley Road owing to poor visibility caused by on-street parking and bends in the road and gridlock at the traffic lights on the A444
- f. Increased likelihood of accidents as Valley Road is used as a cut through to avoid traffic lights on the A444
- g. Insufficient local amenities to support the development and strain on existing facilities, such as schools and doctors with some children travelling many miles to school – future residents likely to commute and not contribute anything to the village – impact of waste collections and water pressure, telephone and broadband
- h. Pollution and noise from construction traffic and subsequent residents' vehicles could affect the health of many elderly people living on Valley Road by way of stress and lack of sleep (general health) – noise caused by car doors banging, children and pets, parties, barbecues and fireworks
- i. Existing junctions unable to cope with the additional dwellings
- j. Limited parking affecting existing businesses
- k. Amended plans are less obtrusive but no consideration given to the existing geological fault
- l. Possible overlooking and loss of privacy, loss of natural light, overdevelopment, greed
- m. The site should be inspected regularly during construction to ensure the development is being built correctly

- n. Evidence of badger activity via boundary hedges and possibility of a sett to the rear of properties on Valley Road – destruction of natural habitats
- o. Exacerbation of problems with flooding both ends of Valley Road
- p. Impact on wildlife on the site and within the hedgerows
- q. Loss of peace and tranquillity
- r. Location of play area close to existing rear garden
- s. Inadequate sewerage system to serve the development
- t. Concept of developing the field is ridiculous
- u. Loss of view and overshadowing
- v. Urban sprawl and loss of community identity
- w. Devaluation of property prices
- x. Increased use of the A444 by commuter traffic will make it unusable by locals
- y. Impact on existing tourism if more countryside is built on – no longer safe to cycle and walk – impact on public footpath
- z. Sections of Valley Road would benefit from improvements to allow two cars to pass
- aa. Proposed location of social housing and play area – they should be re-located elsewhere within the development
- bb. Impact of the proposed access on existing driveways
- cc. Loss of ridge and furrow which is part of our shared cultural heritage
- dd. Traffic reviews by the developer are selective and do not reflect the current problems – an independent survey should be undertaken
- ee. UK has gone mad with health and safety – Government should know that the development would ruin the village
- ff. Potential smell from the nearby sewage works
- gg. Proposed parking within the development appears inadequate, resulting in further on-street parking on Valley Road
- hh. Not a sustainable site on many levels and therefore contrary to the NPPF and NPPG – premature insofar as Part 2 of the Local Plan is concerned
- ii. Cumulative impact given that there is another site in Overseal that is in the SHLAA
- jj. Too many villages disappearing
- kk. Essential that all Members should visit the site before they vote on the application

Development Plan Policies

The relevant policies are:

Adopted Local Plan: Housing Policies 5, 8, 9, 11; Environment Policies 1, 9, 10; Transport Policies 6, 7; Recreation & Tourism Policies 4, 8; Community Facilities Policy 1

Emerging Local Plan (Submission version March 2014) S2, S4, S6, H1, SD1, SD2, SD3, SD4, BNE1, BNE3, BNE4, INF1, INF2, INF6, INF7, INF8, INF9

Housing Design and Layout SPG

National Guidance

National Planning Policy Framework (NPPF), paragraphs 7, 8, 9, 10, 11, 14, 17, 32, 34, 36, 38, 47, 49, 50, 56, 57, 58, 59, 69, 75, 103, 109, 118, 121, 186, 187.

Planning Considerations

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

- The principle and general sustainability
- Highway Impacts
- Affordable Housing
- Impact on the character of the area
- Urban design and Open Space
- Impact on River Mease SSSI/SAC, Ecology and Archaeology
- Public Rights of Way
- Section 106 obligations
- Miscellaneous issues

Planning Assessment

The principle and general sustainability

The Council has submitted its Local Plan Part 1 to the Secretary of State and an Examination in Public is expected during November 2014. Until such time as the Examination takes place only limited weight can be given to it, although the more advanced the Plan the greater the weight that can be accorded to it, according to the NPPF. The site has been identified in the Strategic Housing Land Availability Assessment (SHLAA) as a site suitable and achievable for an estimated capacity of 41 dwellings. The proposed development is for a total of 64 dwellings, providing a mix of 1, 2, 3 and 4 bedroom properties, 19 of which would be affordable (30% of the total number), which is in accord with the emerging Local Plan.

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 planning permission unless:

- *'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits; or*
- *specific policies in this NPPF indicate development should be restricted'*.

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

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

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

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

The application site is considered to be in a sustainable location with appropriate services in terms of the presumption in favour of sustainable development. It has access to a range of facilities, services and transport options and in acknowledgement of the contribution that it would make towards housing need, the proposal represents sustainable development in principle. In the context of the 1998 Local Plan, that is out of date insofar as policies for allocations are concerned, the presumption in favour of sustainable development would apply unless any adverse impacts would significantly and demonstrably outweigh the benefits.

In terms of housing policies in the current adopted 1998 Local Plan the site lies outside but adjacent to the existing western edge of the village confine boundary of Overseal. Policy H5 of the adopted Local Plan only supports new housing developments that can be accommodated within the village confines, which, clearly, is not the case here. However, recent appeal decisions have made it abundantly clear that where the local planning authority does not have a five year housing land supply, such policies should be considered to be out-of-date and currently should not be used as a reason for refusal, particularly where the site is in a sustainable location where a range of services and facilities are available. Overseal has been designated as a Key Service Village in the Settlement Hierarchy Policy of the emerging Local Plan (Policy H1) and therefore capable of accommodating this level of development. The site also forms part of the Council's Strategic Housing Land Availability Assessment (Site 0022) with an estimated capacity 41 dwellings (using a generic method of calculation at that time). The proposed erection of 64 dwellings is achievable without adversely affecting the amenities of existing residents and therefore is not considered to be overdevelopment

of the site. It is considered that the proposed 64 dwellings would make a valuable contribution towards the Council's five year housing land supply, as well as contributing towards the need for social housing in the District.

Many of the residents' objections relate to the lack of capacity at the local school and doctor's surgery. The developer has agreed to make contributions towards primary and secondary schools as requested by the County Education Authority. The NHS for Southern Derbyshire has confirmed that the Overseal Surgery is not currently at capacity and would welcome any new patients that the development would bring.

Highway Impacts

Discussions have been ongoing between the CHA and the developer since the submission of the application and further information has been submitted and approved on the impact of the proposed development on the junctions. Speed readings for Valley Road were presented in Appendix B of the Transport Statement which demonstrates 85th percentile speeds of 24.5mph northbound and 26.1mph southbound. A 'wet weather' reduction was applied in accordance with the guidelines in TA/22/81 of the Design Manual for Roads and Bridges with the result of 85th percentile speeds of 22.0mph northbound and 23.6mph southbound. According to the 6Cs Design Guide, visibility splays of 2.4m x 33m would be appropriate. Further discussions resulted in the CHA confirming that the proposal is now acceptable in principle in highway safety terms, i.e. there were no highway safety reasons for refusal, subject to consideration of the internal road layout. This has subsequently been agreed subject to conditions. On this basis it was concluded that no mitigation measures would be required at the A444 and Lullington Road junctions, as the additional information demonstrated that there would be a minimal traffic impact. As already stated, the official response from the CHA is awaited and will be reported to Members at the committee meeting.

Affordable Housing

The SHMA suggests, over the period of 2012 – 2017, there is a housing need for 1,723 affordable homes (345 affordable homes per year) across South Derbyshire. The housing mix should reflect both the demand for houses registered on the current District housing waiting list and projected demand.

The SHMA recommends a mix of houses for rent as follows:

10% - 15% 1 bed, 2 persons flats/houses
35% - 40% 2 bed 4 persons family houses
35% - 40% 3 bed 5 persons family houses
10% - 15% 4+ bed 7 persons family houses

and houses for shared ownership as follows:

Suggested 66% x bed 4 persons family houses
Suggested 34% 3 bed 5 persons family houses

This current layout plan shows the provision of 19, one- bedroom, two-bedroom and three-bedroom affordable dwellings. The number equates to 30% in line with Council policy, and, following detailed discussions, the mix and tenure reflects the current need in accordance with the Housing Needs Survey. This would be provided as follows:

14 (75% of 19) social rented units comprising

- 8 x 1 bedroom flats
- 3 x 2 bedroom houses
- 3 x 3 bedroom houses

5 (25% of 19) shared ownership units comprising

- 2 x 2 bedroom houses
- 3 x 3 bedroom houses

The revised affordable housing mix has resulted in a slight revision to the proposed layout in terms of the location of the affordable housing and the submission of elevation drawings of the proposed flats. The proposed flats would be in the form of two, two-storey blocks and located towards the western side of the site close to and overlooking the LEAP. Each flat would have a single car parking space to the front of the building. Two visitor parking spaces would also be provided.

Although there would be no 4-bedroom affordable houses within the site, the Council's Strategic Housing Manager is satisfied with the revised housing mix and tenure. The requirement for 4-bedroom affordable homes would be met within the Council's development in Lullington Road that was granted planning permission earlier this year. Overall, no more than nine affordable dwellings would be clustered together within the site, which, again, is in line with Council policy.

Impact on the character of the area

Given the location of the site outside the Overseal village confine boundary and the proximity of the public right of way, there would, inevitably, be an impact on the character of the area. Whilst there are no buildings within the site, its character is influenced by the built form of existing housing on Valley Road and Clifton Close as well as being influenced by Valley Road itself. The public footpath crosses the northern part of the site and connects to the footpath beyond the site's western edge (No.9). It is proposed to incorporate the route of the footpath into the development by way of a green corridor that would run parallel to the northern-most estate road rather than taking walkers along the road itself. This is preferred by the footpath groups and the County Council. As such the footpath would remain on its definitive route thereby mitigating any likely harmful impact.

Urban design and Open Space

The application is for full planning permission and the layout has undergone considerable change during the life of the application with the total number of dwellings being increased from 61 to 64, in order to accommodate appropriate street widths, better street elevations and an acceptable affordable housing mix. Small clusters of affordable dwellings would be distributed throughout the site. The layout has been designed so that there would be no loss of privacy for existing dwellings on Valley Road and Clifton Close through overlooking. The minimum distances, as stipulated in the Housing Design and Layout SPG, would be met.

Access would be taken from the existing pedestrian access off Valley Road, which is also where the route of public footpath No.13 starts. A balancing pond would be

created in the southern corner of the site to provide sustainable drainage for the development. An equipped play area (LEAP) would also be provided at the western end of the site, just to the north of the point where public footpath No.13 leaves the site and joins with public footpath No. 9, which also forms an existing vehicular access serving the Severn Trent Sewage Treatment Works. The balancing pond and the LEAP would be connected by a pedestrian pathway that would run along the western boundary. The entire area along the western boundary would be landscaped, and a drawing to show the proposed soft landscaping proposals has been submitted. It is noted that The National Forest Company is satisfied that the required 20% of the site could be planted and therefore no off-site contribution is required. The route of public footpath No.13 would be separated from the northern estate road by a row of street trees and a landscaped buffer would be provided between plots 1 to 8 and the rear gardens of Nos. 55 to 73 Valley Road. In terms of urban design the layout scores 14/20 using the 2008 Building for Life criteria and is therefore considered acceptable.

Impact on the River Mease SSSI and SAC, Ecology and Archaeology

Following an initial objection from Natural England with regard to the likely impact of the proposal on the River Mease SAC further information was submitted and it was confirmed that additional measures would need to be put in place to mitigate any effects. Following further discussion between the Local Planning Authority, Natural England and the developer, Natural England has since lifted its holding objection and a Habitats Regulations Assessment has now been carried out. This concludes that the proposed development would have no likely significant effect on the River Mease SSSI and SAC and as such there is no requirement to undertake an appropriate assessment for the proposed development. A developer contribution would be required under the River Mease DCS (see paragraphs on Section 106 contributions below).

The application site is the potential Local Wildlife Site SD R6375 known as Valley Road Field, noted for semi-improved natural grassland. Although the site was briefly viewed in 1999 by the Derbyshire Wildlife Trust (DWT) no detailed surveys were undertaken. However, based on current information the grassland vegetation is not considered to be of sufficient quality to meet Local Wildlife Site selection guidelines and as such should be considered as being of local interest only. However, DWT recommends that the developer compensates for the loss of the grassland by (a) providing areas of wild flower grassland within the green infrastructure of the site and (b) assisting in the management of grassland habitats elsewhere within the District. For example grassland habitats within Swadlincote Woodlands require active management urgently in order maintain their current diversity. It suggests that the developer could make a financial contribution to meet the cost of this management and a figure of £6,000 has been agreed as part of the Section 106 Agreement.

The Ecology Appraisal has identified that that at least two trees on the site have the potential to provide bat roosts. Initially it was intended to fell the trees; however the developer has since decided to retain the trees and therefore there will not be a requirement to carry out further bat survey work prior to the application being determined.

There are no known badger setts within the site and DWT has not provided evidence to the contrary. Provided that the existing habitat creation is implemented as part of the landscape plan and the proposed off-site compensation measures are secured DWT

considers that the development would have no net loss of biodiversity and as such would be in accordance with the NPPF.

Public Rights of Way

Public footpath No.13 is fairly well used and as such it is considered important to retain it on its definitive line. This has been achieved by re-designing the layout to accommodate the route. After following the access road into the site, the footpath would 'split' from the estate road and cut across the front of plots 60 to 63 and to the side of one of blocks of flats. The route would be delineated by trees where possible and surfaced in a material to be approved by the Local Planning Authority. Following initial concerns from the County Council with regard to the original layout, an amended response was received which requires the applicant to be made aware of the public footpath and any possible future obstruction. The retention and incorporation of the public footpath into the layout contributes towards the provision of facilities for the wider area and therefore helps to make it a sustainable development.

Section 106 obligations

A development of the size proposed triggers financial contributions in line with the Council's matrix. Based on a development of 64 dwellings (189 persons) the following contributions have been agreed with the developers:

New Household Waste Recycling Facility £1,831.04

Education

- £125,389 towards primary school places
- £137,408 towards secondary school places
- £55,881 towards post-16 school places

Recreation

- open space - £70,308
- outdoor facilities - £41,580
- built facilities - £23,058

Commutated sum towards maintenance of p.o.s. £23,475 for 10 years

Commutated sum for maintenance of attenuation pond = £44,000 for 10 years

River Mease contribution £16,742

Grassland restoration (offsetting grassland losses) £6,000

In addition to the above and notwithstanding its objection to the proposal, Overseal Parish Council has requested a financial contribution of circa £60,000 (roughly equating to £1,000 per dwelling) should the application be approved. This would be put towards outdoor fitness equipment and the repair/refurbishment of sports changing rooms in the village. The developer has agreed to contribute £30,000 towards this with the balance being taken from the outdoor recreation facilities contribution. The District Council is working on the basis that the developer contributions are put towards specific projects rather than into an area pot and therefore the full recreation allocation (open space,

sports pitches and built facilities) should go towards the improvement of recreation facilities in Overseal including, but not exclusively:

- change room repairs
- football pitch drainage
- new play equipment
- outdoor gym

Other than the developer contribution of £30,000 it is considered that the above contributions are compliant with the Community Infrastructure Levy (CIL) Regulations as they are reasonable and necessary in order to make the proposed development acceptable.

Miscellaneous Issues

Many of the objections points have already been addressed as part of this report. However, the following comments are relevant to the remaining points:

- Devaluation of property and loss of view – these are not material planning considerations
- Issues relating to pollution, odour and noise would be covered by environmental health legislation
- There is no evidence to suggest that tourism in the area would be adversely affected

Conclusions

The application relates to one of the SHLAA sites put forward for residential development. The development is likely to be able to contribute to the early delivery of homes, helping the Council to meet its requirement for five year supply of deliverable housing. By reference to the NPPF's three sustainability dimensions (economic, social and environmental) the provision of new housing would support economic growth, ensuring an attractive place to live for South Derbyshire's economically active population as well as helping to support the vitality and viability of the area. Construction jobs would be created and retail trade in the area is likely to benefit from the influx of new residents. The local schools would benefit from the substantial financial contribution. On balance, it is considered that development of the site would appear as a logical extension to the Overseal.

The proposed scheme would also have a positive impact on local communities by providing new homes (market and affordable). In terms of healthy communities, there would be a good level of green infrastructure, open space and recreation. Pedestrian links would be retained and incorporated into the layout which would assist in supporting active lifestyles and encourage alternatives to the car for accessing local facilities.

The reports accompanying the application explain how of range of environmental factors have been taken into account to ensure sustainable development (including landscape, ecology, arboricultural, flood risk and drainage). Mitigation has been included within the scheme to ensure the conservation and enhancement of key features and wildlife. The scheme also helps to mitigate future climate change through

reducing CO² emissions by the provision of new homes in an accessible location and by reducing the need to travel by car. In terms of resilience to climate change impacts, the scheme has been designed to take this into account, namely through the provision of a sustainable drainage strategy and green infrastructure.

Revised layout drawings have been received whilst compiling this report. As a result of the overall numbers increasing, neighbours have been re-notified and certain consultees have been re-consulted. Any feedback on the revised plans will be reported verbally at Committee.

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

Recommendation

GRANT permission subject to the applicant entering into a Section 106 Agreement with the Council to secure the contributions referred to in the planning assessment of the report (as may be updated at Committee); and 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. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. SL/01 Revision E, received by the Local Planning Authority on 14th October 2014 showing the introduction of eight, one-bedroom flats, and a change in house types for plots 1, 3 and 4

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

3. No part of the development shall be carried out until precise details, specifications and samples of the facing materials to be used in the construction of the external walls and roof of the dwellings have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

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

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

5. Prior to the commencement of the erection of the dwelling to which they relate, details of all cills, window headers, ventilation infill panels within windows, wet

verge details without cloaking tiles, eaves and verge projections, block paving types and colours, and footpath/pavement materials and colours shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed strictly in accordance with the approved details.

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

6. Prior to the first occupation of any of the dwellings, details of the design and equipment for the LEAP, including the materials of the proposed equipment, shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with the approved details.

Reason: To safeguard the character and appearance of the area and to ensure the LEAP equipment is appropriate.

7. The soft landscaping for the development shall be carried out in accordance with the details shown on Drawing No. GL0267 01E received on 6th October 2014 unless otherwise agreed in writing by the Local Planning Authority.

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

8. Notwithstanding the submitted details, prior to the commencement of development in the adjacent areas, details of the measures for the protection of all trees and hedgerows to be retained shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented prior to the commencement of the development on the adjacent areas and retained in position until all building works on the site have been completed unless otherwise agreed in writing with the Local Planning Authority.

Reason: To protect the trees and hedgerows from undue disturbance.

9. Prior to the commencement the planting scheme for the street trees, details of the tree pit design shall be submitted to and approved in writing by the Local Planning Authority and the works shall be carried out in accordance with the approved details.

Reason: To ensure the long-term health of the street trees and in the interests of the character and appearance of the area.

10. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the 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 completed development and the appearance of the area.

11. No development shall take place until details of a scheme for the disposal of foul and surface water has been submitted to and agreed in writing by the Local Planning Authority. The surface water drainage scheme shall be based on sustainable drainage principles and include an assessment of the hydrological and hydrogeological context of the development. The drainage scheme shall demonstrate the surface water run-off generated up to and including the 100 year plus 30% (for climate change) critical rain storm will not exceed the run-off from

the undeveloped site following the corresponding rainfall event. The submitted scheme shall demonstrate how the drainage will discharge into the attenuation pond. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

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

12. In accordance with Condition 10 above the surface water drainage system(s) shall include:

- the design to be in accordance with either the National SuDS Standards or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken;
- Limiting the run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm;
- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details of any attenuation system and the outfall arrangements;
- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long-term operation to design parameters.

Reason: For the avoidance of doubt and in order to prevent the increased risk of flooding both on and off site.

13. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
- B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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.

14. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 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.

15. Prior to the commencement of the dwellings to which they relate, details of the finished floor levels and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

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

16. Prior to the first occupation of any dwelling on the site, full detailed drawings of the attenuation pond, including depth, construction, Water Quality outflow parameters, materials and planting, shall be submitted to and approved in writing by the Local Planning Authority. The pond shall be designed to capture and filter out surface water run-off from the estate roads. The development shall be completed in accordance with the approved details.

Reason: In the interests of the completed development and to ensure there will be no adverse impact on the integrity of the River Mease SSSI and SAC.

17. Prior to the commencement of development a construction and mitigation statement shall be completed and submitted for approved in writing by the Local Planning Authority and the development shall be carried out strictly in accordance with the approved statement.

Reason: To ensure the integrity of the River Mease SSSI and SAC is safeguarded.

18. Prior to the occupation of the first dwelling on the site, details for the monitoring of the effectiveness of the attenuation pond shall be submitted to and approved in writing by the Local Planning Authority and the works shall be carried out in accordance with the approved details.

Reason: To ensure the attenuation pond is fit for purpose and a monitoring protocol is agreed with appropriate trigger points,

19. No development shall commence until a scheme for the provision of the affordable housing hereby permitted, as detailed on approved plan SL/01 Revision E, 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:

- the tenure of the affordable housing provision to be made which shall consist of not less than 19 dwellings;
- the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no RSL involved);
- the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reason: To ensure the provision of affordable housing.

20. Prior to the first occupation on site, details of the surface materials to be used in all areas of proposed public highway shall be submitted to and approved in writing by the Local Planning Authority in consultation with the County Highway Authority. All such materials shall conform to approved standards for use in the public highway within Derbyshire.

Reason: In the interests of highway safety.

21. Before any other operations are commenced (excluding demolition / site clearance) space shall be provided within the site curtilage for the storage of plant and materials / site accommodation / loading and unloading of goods vehicles / parking and manoeuvring of site operatives' and visitors' vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

23. Before any other operations are commenced the new estate street junction shall be formed to Valley Road in accordance with the application drawings, laid out, constructed to base level and provided with 2.4m x 43m visibility splays in each direction, the area in advance of the sightlines being levelled, constructed as footway and not being included in any plot or other sub-division of the site.

Reason: In the interests of highway safety.

24. No dwelling shall be occupied until the proposed new estate streets between each respective plot and the existing public highway have been laid out in accordance with the application drawings to conform to the County Council's Estate Road design guide, constructed to binder course level, drained and lit in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of highway safety.

25. No dwelling shall be occupied until space has been provided within the site in accordance with the application drawings for the parking and manoeuvring of residents' and visitors' vehicles, laid out and surfaced. Once provided any such facility shall be maintained throughout the life of the development free from any impediment to its designated use.
- Reason: In the interests of highway safety.
26. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the garage accommodation/parking space to be provided in connection with the development shall not be used other than for the above stated purpose except with the prior permission of the Local Planning Authority granted on an application made in that regard.
- Reason: To ensure that adequate parking/garaging provision is available.
27. No gates or other barriers to any dwelling shall be erected within 5m. of the proposed nearside highway boundary and any gates elsewhere shall open inwards only.
- Reason: In the interests of highway safety.
28. The proposed access drive to each dwelling shall be no steeper than 1 in 15 for the first 5m from the nearside highway boundary.
- Reason: In the interests of highway safety.
29. Prior to the occupation of the first dwelling on the site, details shall be submitted to the Local Planning Authority to show how bat boxes and bat tiles will be incorporated into the development and the works shall be carried out in accordance with the details that have been approved in writing by the Local Planning Authority.
- Reason: In the interests of protecting the ecology of the area.
30. The development hereby approved shall be carried out in accordance with the Ecological Appraisal dated April 2014 unless otherwise agreed in writing by the Local Planning Authority.
- Reason: In the interests of the ecology of the area.

Informatives:

The applicant is advised to consider and act upon as necessary the contents of the letter from the Environment Agency dated 29th May with regard to the Land Drainage Act 1991, the Control of Pollution (Oil Storage) (England) Regulations 2001, the Water Framework Directive, Waste and Water Efficiency.

The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually

takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Strategic Director of the Economy, Transport and Environment Department at County Hall, Matlock (tel: 01629 533190). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 38 Agreement.

Highway surface water shall be disposed of via a positive, gravity fed system (ie; not pumped) discharging to an approved point of outfall (eg; existing public sewer, highway drain or watercourse) to be sanctioned by the Water Authority (or their agent), Highway Authority or Environment Agency respectively. The use of soak-aways for highway purposes is generally not sanctioned.

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. The application site is affected by a public Right of Way (Footpath number 13 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 advice can be obtained by calling 01629 533190 and asking for the Rights of Way Duty Officer.

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 01629 533190 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 Section 50 (Schedule 3) of the New Roads and Streetworks Act 1991, before any excavation works are commenced within the limits of the public highway

(including public Rights of Way), at least 6 weeks prior notification should be given to the Director of Environmental Services at County Hall, Matlock (tel: 01629 580000 and ask for the New Roads and Streetworks Section).

Pursuant to Sections 219/220 of the Highways Act 1980, relating to the Advance Payments Code, where development takes place fronting new estate streets the Highway Authority is obliged to serve notice on the developer, under the provisions of the Act, to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.

Construction works are likely to require Traffic Management and advice regarding procedures should be sought from Dave Bailey, Traffic Management, 01629 538686. All road closure and temporary traffic signal applications will have to be submitted via the County Councils web-site; relevant forms are available via the following link - http://www.derbyshire.gov.uk/transport_roads/roads_traffic/roadworks/default.asp

It is an offence to kill or damage or disturb bats or their roosts. If bats are found you are advised to inform Natural England, Block 7, Government Buildings, Chalfont Drive, Nottingham, NG8 3SN. Practical advice on how to protect/relocate any bats may be obtained from Malcolm Hopton, Derbyshire Bat Group, 9 Ashton Close, Mickleover, Derby, DE3 5QD, (Tel. 01332 511427).

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 August inclusive. If you are in doubt as to requirements of the law in this regard you should contact Natural England or the Derbyshire Wildlife Trust.

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 project has been screened to assess its impact on the River Mease SAC under the Conservation of Habitat and Species Regulations 2010. The assessment has concluded that the development would cause no significant impact and therefore an Appropriate Assessment is not required.

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 objections and issues and suggesting amendments to improve the quality of the proposal and negotiations and by determining the application as promptly as possible. 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 **1.3**

Reg. No. **9/2014/0300/RSD**

Applicant:
Mr Michael Hall
Windmill Farm
Hunts Lane
Netherseal
Swadlincote
DE12 8BL

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

Proposal: **THE RESIDENTIAL DEVELOPMENT TO FORM 12
 HOUSES INCLUDING PROVISION OF PARKING AND
 GARDENS AT 47-51 ALEXANDRA ROAD
 SWADLINCOTE**

Ward: **SWADLINCOTE**

Valid Date: **03/04/2014**

Reason for committee determination

The application is brought to Committee as the applicant is related to Councillor Hall.

Site Description

The application site is located within the Swadlincote Urban Area with two thirds of the site situated within Swadlincote Conservation Area. The site extends between Alexandra Road and Stanhope Road to the west and is currently occupied by Nos. 47-51 Alexandra Road, a two-storey Edwardian building with shop frontages at ground floor level fronting onto Alexandra Road, formerly occupied by R B Hall printers. The property has been extended at two-storeys to the rear such that the building wraps around the corner extending along the boundary with Alexandra Passage, a public footpath that runs along the entire length of the northern boundary of the site. To the rear of the frontage buildings are garages and a hard surfaced area beyond which is a rough overgrown area leading up to the boundary with Stanhope Road. The frontage buildings are staggered to follow the rise of Alexandra Road and the site rises gradually from front to rear towards Stanhope Road such that the site is situated approximately 1m above Alexandra Passage at this end. The surrounding area is predominantly residential with an element of commercial properties fronting Alexandra Road. There is currently vehicular access to the site from both Alexandra Road and Stanhope Road.

Proposal

The applications propose the demolition of all buildings on the site (application 9/2014/0301) and replacement with a scheme for twelve dwellings (9/2014/0300). On

the Alexandra Road frontage would be an amendment to the existing access with a pair of 3-bedroom semi-detached 2½ storey houses, and to the right of the access a terrace of four 2-3-bedroom 2 storey houses. This terrace has been designed to front both Alexandra Road and the driveway access and Alexandra Passage each side. To the rear of the terrace would be a further terrace of three 2-bedroom houses backing on to Alexandra Passage but fronting the new access drive with gardens between. A further single 2-bedroom 1½ storey dwelling set back on the site would also be accessed from the Alexandra Road driveway. A pair of 3-bedroom 2 storey houses would front Stanhope Road. Parking is shown for 18 vehicles all accessed from Alexandra Road; the Stanhope Road access being closed by the pair of semi-detached houses. The parking areas would be served by an on-site turning space, along with cycle and bin storage areas. In general all houses are designed in the late Victorian style incorporating typical window, door, roof and chimney detail of the period.

Applicants' supporting information

Reports submitted with the application comprise a detailed desk study report (ground report including a coal mining risk assessment and contamination report), a marketing report, an ecology report (phase one habitat survey), and a highway statement (transport assessment), a draft unilateral undertaking under Section 106, a design and access statement, and a planning statement.

The detailed desk study report (ground report) makes recommendations regarding site remediation and further investigations in some areas given the report's findings. A bat and bird activity survey revealed low levels of activity by common pipistrelles but no evidence that any were roosting on site and therefore no licence for the redevelopment of the site would be required. It recommends enhancements of the site as a continuing habitat for bats.

The highway statement concludes that: the main access into the site would be greatly improved and a benefit to highway safety; there would be a reduction in traffic flows; there would be no detrimental impact on the highway network; although the development would generate an increase in pedestrian, cycle and public transport usage, existing facilities would be sufficient to cope; at a rate of 1.5 spaces per dwelling and given the good public transport system, no vehicle should be parked on the highway; the on-site turning facility would represent a significant improvement to highway safety; overall the development would result in a significant highway gain compared to the current use.

The design and access statement concludes that: the proposed site is located within the centre of Swadlincote, where the principle of residential use is considered to be acceptable with a detailed application being used to achieve this. The scheme has been designed to have minimal impact on surrounding properties in the vicinity. The development will respect the overall vernacular by using quality brickwork and architecture.

The proposed development:

- re-uses previously developed land
- is in a sustainable location
- achieves efficient use of the site
- is of a high quality layout, design, scale and uses high quality materials

- assists in reducing motor car dependence
- will enhance the visual appearance and character of the area.

The Planning Statement concludes that; *'On the basis of the supporting evidence it is clear that the site is not viable based upon the existing consent and that the site is subject to unauthorised entry, fly tipping and antisocial behaviour, which often results in Police attendance. In addition considerable expense is being undertaken by the owner to insure and secure the site, which is becoming unsustainable. The proposed new scheme the subject of this application is considered to offer a betterment in terms of the overall development of the site and will provide 12 small houses for which there is a strong market within the local area and this revised proposal has already attracted developer interest. In addition the development of the site will enhance the Conservation Area, making an efficient use of a derelict brownfield site in a sustainable location helping support the districts growth and maintaining of a 5 year supply of housing land in accordance with the presumption in favour of sustainable development and the NPPF. The proposal is considered as a whole to offer a betterment to the Conservation area over the current situation of a derelict site comprising buildings which are neither Nationally or Locally Listed, therefore in all instances the revised scheme is considered both policy compliant and practical to overcome the current underused derelict brownfield site.'*

This statement is supported by the evidence of marketing of the site given the extant permission (see planning history below) in a report provided by the marketing agent, and by viability evidence which has since been presented to the District Valuer.

The draft unilateral undertaking offers contributions towards the provision of public open space at the usual rate (£22,134) and an education contribution in accordance with the County LEA's request of £52,980.24.

Planning History

Planning permission for the conversion of the existing buildings (including some demolition) and some new build to form 8 houses and six apartments was granted in November 2011 (9/2011/0424).

Responses to Consultations

The Coal Authority has no objection subject to a condition to undertake further site investigation works and remediate any shallow mine workings that may be discovered on the site.

Derbyshire County Council has written in regard to developer contributions. It requests the following: household waste and recycling centre contribution - £343.32; £34,352.34 for Pingle Secondary School (2 places); £18,627.90 for post-16 Pingle School (1 place); new homes designed to Lifetime Homes standard; and access to high speed broadband services.

The Environmental Health Manager (contaminated land) recommends the standard conditions to remediate any contamination found on the site.

The County Highway Authority has no objection to the scheme subject to conditions controlling the access geometry, visibility, manoeuvring and bin storage space, parking,

and on-site controls during construction. The Public Rights of Way Officer has no objection but advises that the adjacent public footpath would need to stay open unless a temporary closure is required.

Severn Trent Water has no objection subject to a condition for the control of surface and foul water from the site.

Derbyshire Wildlife Trust initially assessed the ecological report submissions and considered that further survey work for bats (a protected species under the Habitat Regulations) was required. It reports that with the additional survey work now completed there are no ecological constraints to the development of the site. It understands that three bat boxes will be incorporated into the scheme.

Peak and Northern Footpath Society requests that the adjoining public footpath not be bordered by high walls and fences on both sides which would be unpleasant for walkers.

The Crime Prevention Design Adviser (CPDA) is concerned that the enclosed nature of Alexandra Passage could present risks to building elevations with no set back, and secondly the shape of the site which makes in curtilage parking difficult, consequently removing most parking plots away from the view of linked houses. He also requested amendments to introduce windows into some side elevations and various other minor amendments to improve surveillance. He adds that because parking spaces are sometimes out of view of the occupiers that consideration be given to gating the courtyard to be deployed when necessary. He also thinks that the cycle storage is too small and would be seldom used. He suggests cycle storage would be better left with individual property owners.

Responses to Publicity

Two neighbours on Stanhope Road are concerned about:

- a. The number of windows overlooking their property, loss of privacy and loss of sunlight to their garden.
- b. The lack of off-street parking where there is a lack of space on Stanhope Road already making it difficult for existing occupiers – emergency services have been known not to be able to get through.
- c. The existing building has beautiful brickwork which would be a shame to lose – the building could be retained for conversion thus saving the embedded carbon in the building fabric.

One representation has been received supporting the application stating that the scheme will greatly improve the conservation area's character in line with local and national policy.

Development Plan Policies

The relevant policies are:

Local Plan: Environment Policy 12, Housing Policies 4 and 11 and Transport Policy 6.

Supplementary Planning Guidance - 'Housing Design and Layout' and 'Historic South Derbyshire'.

National Guidance

NPPF Paragraphs 17, 32, 49, 56, 57, 60, 61, 69, 111, 118, 120, 121, Chapter 12.
PPG – ID:18a

Planning Considerations

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

- Principle of development
- Design and impact on conservation area
- Residential amenity
- Highways and the public footpath
- Ecology
- S106 Unilateral Undertaking

Planning Assessment

Principle of development

The site was previously occupied by a printing business and categorised by the Derby Housing Market Area Employment Land Review 2008, as being of “average” quality and as such should be “protected and supported” for employment use. However, the site has since been vacant and it is now considered that it would fall in the Derby Housing Market Area Study as being in a “below average” category and should therefore be assessed as to “whether to protect/review through the LDF”. The available evidence does not support the retention of the site for industrial/business uses and, therefore, it is considered that residential use is acceptable in principle.

Housing Policy 4 of the Local Plan allows for residential development in Swadlincote providing that the site is substantially surrounded by development; does not place excessive demands on public utilities; involve the development of valuable open spaces or gaps; is of suitable scale and character; and does not prejudice the viability of adjacent commercial or community uses. The site is surrounded by existing development on all sides and makes no discernable contribution to the character of the surrounding area as an open space being predominantly occupied by disused buildings, areas of hard surfacing and rough overgrown vegetation. The nearby commercial uses are predominantly retail and office uses interspersed with existing residential and it is not considered that a further increase in residential use would adversely affect the existing commercial uses within the vicinity of the site. Scale and character are assessed below.

This is a brownfield site in a sustainable location within the urban area with good access to services and public transport in accordance with the sustainability principles of the NPPF.

However, in terms of the principle of development, another layer of policy and guidance also applies in this case. The main building on the site lies within the Swadlincote Conservation Area and has been identified in the Draft Swadlincote Conservation Area Character Statement as ‘... *The offices and shops of the former Hall’s printers (nos. 47-*

51) are a high quality group of terracotta buildings that have not changed since they were first built.' As such their loss to the character and appearance of the conservation area must be tested. The Heritage and Conservation Officer is clearly in favour of the retention of the buildings which among other things are of smooth red brick making good use of the moulded detailing which was a hallmark of the town in the late Victorian and Edwardian periods and were even the subject of picture postcards. As such he strongly objects to their loss on the grounds that they make a positive contribution to the special interest of the conservation area, the proposed redevelopment is an unworthy replacement, the proposal is contrary to the Council's positive strategy for the conservation of the historic environment, and neglect and decay are not valid reasons for approving the application. This has been the prevailing stance with regard to the demolition and redevelopment of the site until recently. During the course of the application the applicant's agents have been challenged to produce evidence which provides more robust support for their claim that the conversion and part redevelopment scheme consented in 2012 is not viable and therefore the only possible alternative is a complete redevelopment. Detailed submissions were then sent to the District Valuer who has recently come to the view that the development of the site incorporating the conversion of the building is indeed not viable. This would tend to bear out the lack of success in the marketing of the site over the last 18 months or so. Therefore, notwithstanding the perceived value of the building and its contribution to the conservation area, saving the buildings through conversion is no longer a realistic alternative. As such attention must turn to the merits of the redevelopment scheme as submitted.

Design and impact on the conservation area

Alexandra Road is mainly characterised by its close knit frontage and mix of uses. It does however possess a fairly consistent late Victorian character of red brick houses of two and two-and-a-half stories with stone lintel and cills, semi-circular arches over doorways and fairly pronounced chimneys. Window openings possess a typical vertical emphasis reflecting the once proliferation of timber sliding sashes. Many of these attributes can be seen incorporated into the new housing scheme on the former Kwik Save site a short distance further down the hill. The approved scheme demonstrates the same massing and linear appearance that prevails as the street rises. The architectural character of Stanhope Road although not in the conservation area, is similar.

The submitted scheme attempts to achieve something similar. Red brick and plain tiles are proposed along with semi-circular doorways, the use of stone cills and lintels with similar window openings. The containment of the street is achieved through the tight development of the frontage on a similar line to the existing buildings. As such it is considered that the scheme would blend well into the street in traditional fashion, although it is true that the frontage houses would not make the same contribution to the conservation area as the buildings they replace. The CPDA's comments have been considered in detail. In terms of the impact on Alexandra Passage, compared to the existing situation the scheme would represent a significant improvement. Enclosures around that boundary of the site are inevitably still tight up to the footpath but have been significantly lowered and with part of the footpath space now overlooked from various directions where none existed before. Other improvements have been made through adding extra windows to otherwise blank elevations. All parking areas would be overlooked by first floor windows across the site thereby ensuring a reasonable degree

of safety through passive surveillance. The introduction of gates is resisted in principle because it can give rise to the appearance of an unsafe neighbourhood.

In conclusion, the redevelopment scheme would result in a net benefit to the area as a whole subject to the use of suitable conditions to ensure the careful execution of the scheme using high quality materials and practices. As such the development would very much appear consistent with the tone and character of the streets on which it lies.

Residential amenity

The neighbouring detached house which sits to the north of the Stanhope Road frontage has no doubt enjoyed an open aspect to the side and the 'active' side frontage shows it has made use of this. The semi-detached houses shown on the Stanhope Road frontage would take up the entire available frontage and as a parallel development would therefore markedly change the view from the side of the house to the north. However, the main habitable windows of that property are to the front and rear and the current SPG would not therefore 'protect' the side windows on that south facing outlook. In terms of the impact of the house on plot 10, it has been designed with a controlled aspect to achieve compliance with the relevant separation distances in the SPG. The remainder of the houses have been similarly designed to avoid any conflict the space standards. In general terms, compared to the current impact of the site and buildings on many of the surrounding properties, the redevelopment scheme would result in a marked improvement to amenity.

Highways and the public footpath

As confirmed by the County Highway Authority, the redesigned current access would improve highway safety on Alexandra Road. The only issue is the level of off-street parking offered. At 1.5 spaces per dwelling this falls short of the level normal sought. However, issues of viability and character must be considered in this context. At 12 dwellings the applicants have stated that the site is viable and that there is sufficient interest to conclude that the site would be brought quickly back in to use. The scheme is well worked with regard to the existing development pattern in the area without causing any undue harm to amenity. The level of parking proposed would be unlikely to add unacceptable pressure to the surrounding road network to the extent that the scheme should be resisted on highway safety grounds; parking levels are also similar to those previously permitted.

Ecology

On the advice on the Derbyshire Wildlife Trust the necessary investigation and survey work has been completed and there is nothing to prevent the development on ecology grounds.

S106 unilateral undertaking

A draft unilateral undertaking sets out contributions towards public open space and education as requested. The waste disposal element (£343.32) has so far not been offered. Compliance with lifetime homes standard and broadband services will be suggested as an informative given that there is no policy support for these.

Conclusion

The loss of the buildings on the site is regrettable especially given that they have been identified as making a positive contribution to the Swadlincote Conservation Area. However, it is considered that sufficient effort has been made to market the site with the extant permission for its conversion (with additional new build units) to no avail. As such the decision must turn to that of viability. The District Valuer has analysed the value of the development under the extant permission and concluded that it cannot be viable. Although not performing the same visual role in the conservation area as the current building, the submitted scheme would be of high quality and sympathetic design and therefore blend well with its context, and offer twelve new homes to the town's housing stock.

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 unilateral undertaking offered and 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. Notwithstanding the originally submitted details, this permission shall relate to the following drawing nos. 08.2359.23, 24, 25A, 26A and 27.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the new buildings and boundary walls have been submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
4. Large scale drawings to a minimum scale of 1:10 of eaves, verges and all new external joinery (including horizontal and vertical sections, configuration of opening lights, cill and lintel details, and framing and cladding of dormer windows) shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The items shall be constructed in accordance with the approved drawings.
Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
5. The precise type and size of the proposed rooflights shall be submitted to and approved in writing by Local Planning Authority. The approved rooflights shall be

fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the appearance of the building(s) and the character of the area.

6. Notwithstanding the submitted details plans indicating the proposed design and materials of site/unit boundary walls and fences shall be submitted to and approved in writing by the Local Planning Authority before work commences. The boundaries 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.

7. Prior to commencement of the development hereby permitted precise details, including specifications and samples of the materials to be used in the hard landscaping works, and (where relevant) paving patterns, shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority.

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

8. All boundary walls shall have a traditional style of shaped clay or stone coping the details, including a sample, of which shall have been previously agreed in writing by the Local Planning Authority prior to implementation.

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

9. All external joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the building(s) and the character of the area.

10. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the buildings unless specifically agreed in writing by the Local Planning Authority. The type, number, finish and position of heating and ventilation flues outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

Reason: In the interests of the appearance of the building(s) and the character of the area.

11. Gutters shall be cast metal (with cast metal fall pipes) and shall be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

Reason: In the interests of the appearance of the building(s), and the character of the area.

12. Pointing of the existing/ proposed building(s) shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand).

Reason: In the interests of the appearance of the building(s).

13. A sample panel of pointed brickwork/stonework 1 metre square or such other area as may be agreed by the Local Planning Authority shall be prepared for

inspection and approval in writing by the Local Planning Authority before the work is generally executed.

Reason: In the interests of the appearance of the building(s) and the locality generally.

14. No demolition shall take place until a contract has been let for the works as set out in the submitted drawings and in accordance with a timetable that has been set out in writing and agreed with the Local Planning Authority. The works shall be carried out in accordance with approved contract and timetable.

Reason: To prevent the site becoming vacant and derelict with the possibility of not being re-developed in the interests of the appearance of the conservation area

15. Before any other operations are commenced (excluding demolition/ site clearance), space shall be provided within the site curtilage for [storage of plant and materials/ site accommodation/ loading and unloading of goods vehicles/ parking and manoeuvring of site operatives and visitors vehicles], laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

Reason: In the interests of highway safety.

16. 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. The facility shall be retained on the site throughout the construction period.

Reason: In the interests of highway safety.

17. Prior to any other works commencing (excluding conditions 15 and 16 above) the new access shall be formed to Alexandra Road. The access shall have a minimum width of 5m and be provided with 2m x 2m x 45 degree pedestrian intervisibility splays and visibility sightlines of 2.4m x 47m in the northerly direction and 2.4m x 24m in the southerly direction, the area forward of which shall be cleared and maintained thereafter clear of any obstruction exceeding 600mm in height relative to the nearest carriageway edge. Notwithstanding the submitted drawing, the access shall be laid out as a splayed vehicular crossover and constructed in accordance with Derbyshire County Council's standards for vehicular crossovers and works within the public highway.

Reason: In the interests of highway safety.

18. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application drawing 08.2359.23 for the parking and manoeuvring of residents/ visitors/ 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.

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

Reason: In the interests of highway safety.

20. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
- B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: 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.

21. 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.

22. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

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

23. Prior to the first occupation of the development hereby permitted, measures to minimise the risk of crime to meet the specific security needs of the application site and the development shall be implemented in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area pursuant to the

Council's powers under Section 2 of the Local Government Act 2000 and to reflect government guidance set out in PPS1.

24. The development shall be implemented in accordance with the recommendations of the submitted Coal Mining Risk Assessment, in particular with regard to intrusive site investigation works (which shall be undertaken prior to the commencement of any other development) and any resultant remedial works identified by the site investigation.

Reason: To ensure the stability and safety of the development, having regard to the Coal Mining Risk Assessment undertaken.

25. In the event of any bat(s) being found on site the development shall be carried out in accordance with the mitigation measures identified in Section 6 of the submitted Protected Species Report prepared by Richard Fox, Ecological Consultant, dated 3 March 2011.

Reason: In the interests of the protection and preservation of European Protected Species.

26. The bin stores shown on the submitted drawings shall be available for use prior to the first occupation of the development hereby permitted.

Reason: To ensure adequate facilities are available in the interests of highway safety.

Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 7595) before any works commence on the vehicular access within highway limits.

The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

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

The northern boundary of the site abuts Alexandra Passage, Public Footpath No. 33, Swadlincote. The granting of planning permission is not consent to divert or obstruct a public right of way, the route must therefore remain open, unobstructed and on its legal alignment at all times both during and on completion of the development. This also applies to the obstruction of the route by parked vehicles, plant and equipment. There should be no disturbance to the path surface without prior authorisation from Zoe Woodhouse, Rights of Way Inspector for the area.

Consideration should be given at all times to members of the public using the path. It would be preferable for the path to remain open during the works, however, a temporary closure of the route may be granted during the demolition and construction phases if a risk to public safety is identified. The applicant should contact the Rights of Way Section via email at espro@derbyshire.gov.uk or by telephoning 01629 533262 for further information. No structures, for example fences, gates or barriers may be installed on the path without prior authorisation from the Derbyshire County Council's Rights of Way Section.

Where development is proposed over areas of coal and past coal workings at shallow depth, The Coal Authority is of the opinion that applicants should consider wherever possible removing the remnant shallow coal. This will enable the land to be stabilised and treated by a more sustainable method; rather than by attempting to grout fill any voids and consequently unnecessarily sterilising the nation's asset. Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: www.coal.gov.uk/services/permissions/index.cfm.

It is an offence to kill or damage or disturb bats or their roosts. If bats are found you are advised to inform Natural England, Block 7, Government Buildings, Chalfont Drive, Nottingham, NG8 3SN. Practical advice on how to protect/relocate any bats may be obtained from Malcolm Hopton, Derbyshire Bat Group, 9 Ashton Close, Mickleover, Derby, DE3 5QD, (Tel. 01332 511427).

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 suggesting amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

The applicant should be aware that the access road/driveway within the site is to remain private and will not be adopted by the Highway Authority as publicly maintainable highway. The developer is advised to inform any purchasers or successors in title of this fact and ensure that they do not at any time, either alone or jointly with others, seek the adoption of the private access which will be resisted by the Highway Authority. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification shall be given to the Environmental Services Department at County Hall, Matlock (tel: 01629 580000, Ext 38595) before any works commence on the vehicular access within highway limits. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

To consider the Lifetime Homes scheme for some of the development.

To consider access to highspeed broadband services for the site.

Item **1.4**

Reg. No. **9/2014/0301/CC**

Applicant:
Mr Michael Hall
Windmill Farm
Hunts Lane
Netherseal
Swadlincote
DE12 8BL

Agent:
Mrs Janet Hodson
JVH Town Planning Consultants Ltd
Houndhill Courtyard
Houndhill
Marchington
ST14 8LN

Proposal: **THE PROPOSED DEMOLITION AND CLEARANCE OF**
 EXISTING SITE AND BUILDINGS AT 47-51
 ALEXANDRA ROAD SWADLINCOTE

Ward: **SWADLINCOTE**

Valid Date: **03/04/2014**

The report for this application is covered by the report to application 9/2014/0300.

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. No demolition shall take place until a contract has been let for the works as set out in the submitted drawings and in accordance with a timetable that has been set out in writing and agreed with the Local Planning Authority. The works shall be carried out in accordance with approved contract and timetable.

 Reason: To prevent the site becoming vacant and derelict with the possibility of not being re-developed in the interests of the appearance of the conservation area
3. In the event of any bat(s) being found on site the demolition works shall be carried out in accordance with the mitigation measures identified in Section 6 of the submitted Protected Species Report prepared by Richard Fox, Ecological Consultant, dated 3 March 2011.

Reason: In the interests of the protection and preservation of European Protected Species.

Informatives:

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

The northern boundary of the site abuts Alexandra Passage, Public Footpath No. 33, Swadlincote.

The granting of planning permission is not consent to divert or obstruct a public right of way, the route must therefore remain open, unobstructed and on its legal alignment at all times both during and on completion of the development. This also applies to the obstruction of the route by parked vehicles, plant and equipment.

There should be no disturbance to the path surface without prior authorisation from Zoe Woodhouse, Rights of Way Inspector for the area.

Consideration should be given at all times to members of the public using the path. It would be preferable for the path to remain open during the works, however, a temporary closure of the route may be granted during the demolition and construction phases if a risk to public safety is identified. The applicant should contact the Rights of Way Section via email at espro@derbyshire.gov.uk or by telephoning 01629 533262 for further information.

No structures, for example fences, gates or barriers may be installed on the path without prior authorisation from the Derbyshire County Council's Rights of Way Section. It is an offence to kill or damage or disturb bats or their roosts. If bats are found you are advised to inform Natural England, Block 7, Government Buildings, Chalfont Drive, Nottingham, NG8 3SN.

Practical advice on how to protect/relocate any bats may be obtained from Malcolm Hopton, Derbyshire Bat Group, 9 Ashton Close, Mickleover, Derby, DE3 5QD, (Tel. 01332 511427).

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through suggesting amendments to improve the quality of the proposal. 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.

Item **1.5**

Reg. No. **9/2014/0557/RSD**

Applicant:
Mr Paul Blackshaw
Trent And Dove Housing Ltd
Trinity Square
Horninglow Street
Burton Upon Trent
DE14 1BL

Agent:
Ms Svetlana Solomonova
BDP
85-89 Colmore Row
Birmingham
B3 2BB

Proposal: **THE CONSTRUCTION OF 26 NO. HOUSES AND 23 NO. APARTMENTS INCLUDING ASSOCIATED LANDSCAPE WORKS, ROADS AND PARKING AT ROSE HILL WORKS ROSE HILL WOODVILLE SWADLINCOTE**

Ward: **WOODVILLE**

Valid Date: **18/06/2014**

Reason for committee determination

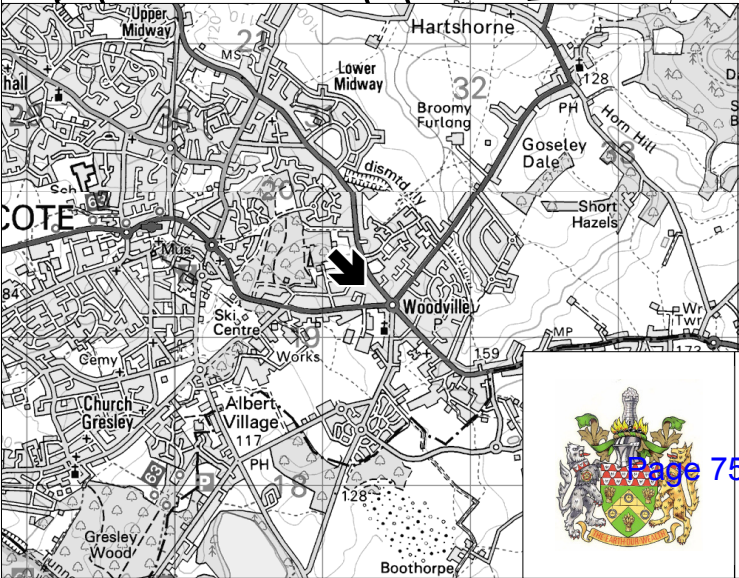
The application is brought to Committee at the discretion of the Planning Services Manager as all other applications for residential development on this site have previously been dealt with by the Committee.

Site Description

This irregular shaped site measures 1.27ha in total and was previously occupied by a number of B2 (industrial) employment units the majority of which are now demolished with the exception of units on the northern part of the site which were occupied by a car sales and repairs business and a rubber and plastics manufacturer business. Two dwellings, No 15 & 17 Swadlincote Road located at the entrance to the site have also been demolished.

The site has an access connection to Burton Road (A511) at its northern end and Swadlincote Road (A514) at the southern end. Definitive Public Footpath number 20 runs through the site from Burton Road to Swadlincote Road.

On its western side the site is abutted mainly by existing terraced housing apart from the southwest corner where it abuts Masseys shop (now vacant) and half way up the western side where the site is indented by the Woodville Scout Group building and curtilage land. On the eastern side is a greater presence of commercial premises abutting the site interspersed with housing which extends up to the edge of Burton Road.



The topography of the site is mixed with a general rise in levels towards the North and North West.

Proposal

The application proposes to erect 49 dwellings which would be split as follows; 23 one bed apartments, 22 two bed houses, 3 three bed houses, and 1 four bed house.

The properties would be a mixture of apartment blocks, terraces, semi-detached dwellings and a detached property. The existing scout hut/centre would occupy part of the site and has been included in the proposal as a central feature within the cul-de-sac. All units would be affordable housing as outlined in annex 2 of the National Planning Policy Framework (NPPF) in that it provides social rented, affordable rented and intermediate housing and would be allocated in accordance with the allocations policy approved by South Derbyshire District Council.

The proposed development would utilise the existing access arrangement off Swadlincote Road, the public footpath which runs through the site would be retained and has set the layout for the proposed highway and pavement which meanders through the site to the northern edge where the pavement would merge with the end section of public footpath through the former TH Archer garage site.

The housing would be split in housing styles and blocks which are indicated in the elevation drawings submitted as part of the application. Block one which forms the entry point into the development would be occupied by a detached property; a four bed dwelling identified as house type D1. The proposed dwelling has been revised in design to reflect the local streetscene by altering the roof to a pitched design and removed the first floor Juliette balconies and doors, instead 2 double casement windows to match the ground floor would be detailed.

Block two would be located to the rear of block one and would run perpendicular to the dwelling so as to front the highway running through the cul-de-sac. This block would consist of a pair of semi-detached 2 bed dwellings, house type B2a and a row of four terraced 2 bed dwellings, house type B1c. The semi-detached properties would adopt a hybrid pitched roof with saw tooth gable features to the front and rear elevations. These properties would benefit from two tandem off street parking bays set to the side of the residential curtilage. The terrace would have a saw tooth roof design which has taken its design cue from the industrial heritage of the site and the surrounding locality. This form of roofscape is visible in the neighbouring industrial business park opposite the site. These properties would provide one off street parking bay each to the front of the residential curtilage, however they would have an additional space allocated to the front of the proposed apartment building.

Block three is set on the western side of the site to the rear of the former Masseys Store and would take the shape of three terraces containing housing styles B1a and B1d (2 bed dwellings), the only difference being the addition of two windows within the side elevation facing onto the highway. These properties would follow a more traditional Victorian terrace design and adopt a pitched roof profile. The end units would be predominantly Derbyshire red brick to reflect the neighbouring buildings. Two of the units have a double tandem parking bay set to the side boundary of the residential curtilage; all other dwellings would have a single parking bay to the front amenity space in addition to a single allocated bay opposite the terraces to the side of the existing

scout hut, these two areas would be divided by a hard standing labelled as a homezone on the proposed plans, this hard standing would be constructed in an alternative material to the highway to define the private and public space.

The existing Scout Hut sits between blocks three and four and forms a transition in the site as the topography rises to the north and the west. The Scout Hut is in an elevated position set above the road side. Proposals to tidy up the site including rebuilding the retaining wall against the roadside, are included as part of the proposed development. The applicant has also negotiated 10 additional parking spaces for the Scout Hut, including a disabled bay and cycle parking which are proposed to the north eastern side of the building. The existing green space would be retained and enhanced.

Block four is similar to block two in that it incorporates a mix of dwelling styles which include C1a, a pair of semi-detached 3 bed dwellings and B1b, a terrace of four 2 bed dwellings. Both would incorporate the saw tooth roof design. The semi-detached properties and plot 11 (end terrace) would have two tandem parking spaces provided within the residential curtilage, all other properties would have a single parking bay within the private space and a single allocated parking space within walking distance to the northern turning head and adjacent to the apartment building.

Block five sits behind the apartment buildings on the northern fringe of the development site. This block includes a detached 3 bed dwelling, house type C1b which has a pitched gable fronted roof design and would be faced predominantly with Derbyshire Red Brick. In addition a pair of semi-detached 2 bed dwellings, house type B1c would make up the remainder of the block and display a saw tooth roof design. These properties are set within elongated plots; as a result the properties would be set back from the pavement edge to provide a long green space to the front and double tandem parking bays for each dwelling.

All housing styles would incorporate a mixed pallet of materials consisting of; Derbyshire Red Brick which would predominantly be utilised at ground floor level, an off white render at first floor level and a small panel of Staffordshire blue brick would be incorporated into the front elevation to reflect the proportions of the adjacent double door Juliette balcony opening. These openings would be recessed to ensure the glazed balustrade sits within the building frame rather than projecting beyond the building line. The entry points into the dwellings have also been recessed to provide covered entrances.

All units would benefit from front and rear amenity spaces, the front area would be open and divided by low railings and hedgerows, the rear space would form the primary garden area and these would be enclosed by fencing to create secure and private spaces for each dwelling.

The apartment blocks are set within the centre of the development and have been designed as a terrace of four blocks which are three storeys in height (approx. 11 metres) and adopt a mono pitched roof design which when read as one structure has a similar appearance to the saw tooth design. The apartment blocks would be made up of 23 one bed apartments set around a central communal space. The structure steps down to two storeys at each end to reduce its dominance from the public realm and each block is reduced in length as it moves towards the western boundary. The proposed plans have been amended, horizontal timber cladding has been introduced beneath the window openings and the metal seam roofing has been extended over the

pitch dropping down to merge with the next mono pitch, forming a continuous wave of roofing. The development would provide access to the north and south of the building, the northern area would accommodate the bulk of the parking and includes cycle storage and bin storage, this area would be screened by the apartment building. A linear parking layout would be formed on the southern side but this is predominantly linked to neighbouring terraces that form part of the development of the site. A retaining wall would split the levels on the southern side with landscaping proposed in this raised area which aims to create a semi green open space environment. A large private amenity space would be located to the east of the apartment blocks and would be landscaped to form a shared space for the occupiers of the apartments.

Hard and soft landscaping proposals have been submitted as part of the scheme which include tree planting within the street corridor to reflect the sites location within the National Forest. Altering materials between road, pavements and private spaces are proposed to define spaces and enhance the sense of place. It is also proposed to introduce furniture into the green open space associated with the apartments.

Applicants' supporting information

Design and Access Statement outlines the brief and ideas which have led to the proposed development and includes the following statements:

- This brownfield site is available and has been vacant for a period of time; the NPPF encourages the re-use of previously developed land.
- The proposal would provide a mix of housing to achieve diversity and to fulfil housing needs in the area.
- Full assessments relating to transport, noise, and ground conditions (contamination) all confirm the sites suitability for residential development.
- Principle of housing on the site was granted in 2007 9/2006/1205 and renewed in 2010.
- Within walking distance of a post office, library and church as well as a variety of shops and schools.
- Local Bus Stops provide regular bus service to Burton on Trent, Swadlincote, Derby, Ashby and East midlands Airport.
- The formal footpath crossing the site would be retained and improved, providing a properly surfaced footpath to the benefit of all users.
- Urban design would be at the heart of the development.
- Scale and massing of buildings would be sensitive to surrounding buildings and would optimise the benefits of passive solar gain to meet *Code for Sustainable Homes level 3*.
- The development is to include a range of dwelling heights which would produce an interesting and varied roofline and massing which complement and respect the varied topography of the site.
- The development would sustain the viability of local businesses and preserve and enhance the existing community via the re-development of the site.
- The development has been designed to support strong vibrant and healthy communities.
- Would replace a derelict and underused land with a quality urban environment that is 100% affordable housing.
- Good levels of general observation are created across to comply with *Secured by Design*.

- Provides an opportunity to improve the scout hut in terms of building and setting.
- A strong built form has been designed with care taken to minimise the number of cars that are visible in the street that creates a definitive sense of space.
- Sizes and layouts of units comply with requirements of *Lifetime Homes Standards* and exceed the *Housing and Communities Agency (HCA) space standards*.
- Individual plots would benefit from private gardens with additional landscaping across the remainder of the site.

The viability assessment submitted outlines that the rental income from the proposed development would not be sufficient to give surplus over and above the projected development costs; therefore contributions to infrastructure off the site would make this site unviable and undeliverable which would result in its continued state as a derelict and redundant brownfield site. The projected payback period of this development is above the housing associations 30 year target, it is projected at 43 years. The assessment highlights that a social housing grant has already been secured by Trent and Dove Housing to bring the development forward.

In addition to the above an archaeological evaluation dated 2014, a Geotechnical phase I and II desk study report dated October/December 2013, Ecology Survey dated December 2013 and Drainage Statement have been submitted in support of the application.

Planning History

9/2006/0290- Outline application (all matters to be reserved except for means of access) for a residential development at Rose Hill Works was refused in May 2006 for the following reason:

'The proposal would lead to a qualitative and quantitative deficiency of business, general industrial and distribution land in the Swadlincote Sub Area and therefore does not accord with Economy Policy 1 of the Derby and Derbyshire Joint Structure Plan. The evidence submitted by the applicant does not satisfy the Council that the site is no longer needed for industrial and business purposes as the marketing period has been too short to expose the property correctly and the signage erected on site to advertise the property provides insufficient information to effectively fulfil its purpose'.

Following a subsequent marketing exercise over a 16-month period a further outline application 9/2006/1205 for residential development (all matters to be reserved except for means of access) was approved in March 2007.

9/2010/0204 - The renewal of planning permission 9/2006/1205 for outline application (all matters to be reserved except for access) for a residential development at Rose Hill Works was approved in September 2010.

Responses to Consultations

The County Highway Authority has no objection in principle to the development subject to conditions.

The Contaminated Land Officer has no objection subject to a condition relating to contamination identification and monitoring as the land has had industrial activity in the past which may give rise to pollution and therefore contaminated land hazards.

The Environmental Health Manager has commented that no conditions are required as the impact of noise and odours from the surrounding environment on the development site is not significant.

The Affordable Housing Officer has no objection. The proposal delivers more than 30% affordable housing required. She advises that the applicant is a non-profit organisation.

The County Development Control Archaeologist commented that the site relates to the former Rosehill Pottery, a known heritage asset which dates back to 1818. The submitted archaeological evaluation identified well-preserved remains of three kiln bases associated with the pottery site which is of regional significance. This document outlines how the kilns would be preserved and covered, however more detail is required on this before an agreement can be made, and therefore a condition should be requested for a written scheme of investigation.

The County Rights of Way Officer has advised that Public Footpath No 20 (Swadlincote) crosses the application site. The application proposes the retention and improvement of the footpath but it is noted that the route would deviate from its legal alignment and therefore a permanent diversion order would be required.

Severn Trent Water has no objection subject to the submission of drainage details.

The Environment Agency following the submission of an updated Flood Risk Assessment has advised that the development is acceptable if measures limiting the surface water run-off so that existing run-off from the undeveloped site is not exceeded and the provision of a minimum of 166m³ of surface water run-off attenuation storage on the site are implemented in accordance with the approved Flood Risk Assessment dated August 2010. A scheme for surface water drainage should be submitted for approval prior to commencement of development.

The Coal Authority has No objection subject to condition.

The Wildlife Trust advises that no impacts upon any habitats of substantive nature conservation value are anticipated as a result of the proposed development and there are unlikely to be unprotected species issues arising. It welcomes the proposed ecological benefits indicated in the D&A including the incorporation of bat and bird boxes into the buildings and the landscape enhancement proposed.

The NHS states that Woodville Surgery (closest facility) is at capacity and would need to consider a new development. It is unlikely that a single handed GP development would be supported. The PCT therefore requests a total contribution based on the pre-agreed formula of £551 per dwelling.

The Crime Prevention Design Advisor has no issues with the principle of the development but makes the following comments: the pedestrian access onto Burton Road is as wide as possible, and is incorporated into the adopted lighting scheme; shared rear gate should be lockable from both sides; the apartment communal

entrances would require audio visual linked access control systems for each apartment in accordance with the applicant's quality standard part 2 of Secured by Design.

Responses to Publicity

Woodville Parish Council has raised no objection to the proposed development.

1 objection and 4 comments have been received from third party representations including the Woodville Scout group, all comments are summarised as:

- a) Bought house to be private not in a housing estate.
- b) Loss of privacy.
- c) New residents would complain and report us for animals we keep.
- d) New boundary fence would result in tipping.
- e) Cellars are located where properties were knocked down which would cause problems.
- f) Site access onto Swadlincote Road is dangerous with haulage access opposite (lorries turning).
- g) Noise and dust from building site would cause disruption.
- h) There are wells and springs on the site feeding a pond.
- i) Ground contaminated from metal works.
- j) Sewers shallow and have previously collapsed.
- k) Deeds indicate a pedestrian right of way from rear of properties on Burton Road through to Swadlincote Road.
- l) Fence backing onto greenhouse would block light and prevent vents from opening.
- m) Have access from Granville Street garden area to side of Scout Hut.
- n) Restricting access to Burton Road to pedestrian only would affect scout groups deeds, which gives them right of access for all vehicles from Burton Road.
- o) New plans make good provision for parking at the scout hut and buffer from housing.
- p) Concern proximity of properties could restrict activities run by the group.
- q) Concern over safety of group during construction period and ground disturbance unearthing contaminants, which could be hazardous to public health.
- r) Aware of benefits to scout group from the development and aim to work with the developer for mutual benefit.
- s) Agree with design and access statement.
- t) Support redevelopment of brownfield site.

Development Plan Policies

The relevant policies are:

Local Plan: Housing Policies 4, 9 and 11; Environment Policy 10 and 14; Transport Policy 6.

The Submission Local Plan (2014) (Part 1):

S2 – Presumption in favour of sustainable development

S4 – Housing need

H1 - Settlement hierarchy

H20 – Affordable housing

SD1 – Amenity and environmental quality

SD3 - Sustainable Water Supply, Drainage and Sewerage Infrastructure

SD4 - Contaminated Land and Mining Legacy Issues
BNE1 - Design excellence
INF2 - Sustainable transport
INF6 – Community facilities
INF8 – The National Forest
INF9 – Open space, sport and recreation

National Guidance

National Planning Policy Framework (March 2012) and the National Planning Practice Guidance (April 2014) can be awarded significant weight

Local Guidance and Evidence

Housing Design and Layout Supplementary Planning Guidance (SPG).

Planning Considerations

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

- The principle of residential development (including site circumstances which may have altered since the previous grant of planning permission).
- Affordable housing exception site
- Design and layout
- Amenity impacts

Planning Assessment

Principle of Development

Paragraph 47 of the NPPF seeks to boost significantly the supply of housing providing a considerable emphasis on bringing forward high levels of housing provision as soon as possible.

Local Plan Housing Policy 4 states that residential development within the built-up area of Swadlincote is permitted provided that the site is substantially surrounded by development. The principle of residential development on the site including means of access and loss of industrial/employment land has previously been established with outline consent. The previously developed land (brownfield) is within the Swadlincote development boundary set between residential and industrial buildings. The site is within walking distance of local services, facilities and employment, therefore the site would be considered to be a sustainable location for development whereby there would not need to be a reliance on the car. The development being close to a principal road network and linked /served by an appropriate standard of highway would accord with part A of Transport Policy 6. Existing pedestrian and vehicular networks and access points would be utilised and enhanced as part of the development.

Therefore residential development in this sustainable location (being well within the Swadlincote urban area) which is substantially surrounded by development is considered acceptable in principle. This is not altered by the policy set out in the NPPF as the national guidance encourages the re-use of brownfield sites for housing developments.

Affordable Housing

Chapter 6 of the NPPF seeks to ensure the delivery of a wide choice of high quality homes and in particular paragraph 50 states that LPAs should target size, type, tenure and range of housing that is required in particular locations, reflecting local demand. The LPA accepts that the concentration of affordable housing in one development does not conform to the pepper potting philosophy of mixing affordable and market housing, therefore there is the argument that as a result the development could result in segregation and deprivation. However the scheme has clearly set out to establish a high level of urban design with the key aim of enhancing the built environment and sense of place. Negotiations have ensured that the development will provide a good mix of dwellings in accordance with the requirements of Housing Policy 9. Trent and Dove Housing would retain management of the dwellings and thus would ensure a good mix of residents and avoid concentrations of certain groups.

The Homes and Communities Agency state that the demand for affordable homes is growing all of the time, especially from families, first-time buyers and young people. At the same time, older people and those with special care requirements want a home that can be adapted to their needs so they can live there for as long as possible.

An extant permission has been attached to the application site for a period of 7 years but has not moved beyond an outline stage. The level of works and costs required in clearing, de-contaminating and stabling the site in addition to financial contributions may be a factor that is deterring developers from taking on this site as it would be deemed unviable for a private housing company. The project has been shown to be at the very limit of viability due to the limited amount of grant available. The site is ideal for this type of tenure as it is within reasonable proximity of the town centre and on main bus routes giving residents very good access to local services. The mix of dwellings is considered to provide a more sustainable mix and would meet the demand for affordable dwellings in the Swadlincote urban area in addition to enhancing the character of the site by removing the existing eyesore of a disused industrial site.

Viability Assessment

Paragraph 173 of the NPPF requires that developments be considered for viability to ensure that developers and landowners secure competitive returns and schemes are therefore deliverable.

The previous applications approved were subject to a Section 106 legal agreement for contributions, however as demonstrated in the viability assessment submitted, were contributions to be secured by a S106 agreement, the development currently proposed would not be viable and the scheme would be rendered undeliverable as the revenue (rental income) from the scheme would be significantly out-stripped by the costs and therefore no surplus funds for Section 106 contributions would accrue.

Trent and Dove housing association group are a non-profit based company and do not have the capital to develop the site in full and therefore will rely on a grant (which has been secured) to ensure the development is brought forward. The projected payback period of this development is above the housing associations 30 year target, however as a grant has been secured they are committed to developing this redundant brownfield site.

Design and Layout

Good design is an important part of making places successful. This involves giving people the opportunity to live in buildings that suit their circumstances throughout their lifetime. It also means adapting existing buildings to our changing climate and helping residents to reduce their energy consumption and save money.

Housing Policy 4 states that residential development within the urban area is acceptable provided it is of a suitable scale and character. Likewise, paragraph 17 of the NPPF seeks to secure high quality design and good standards of amenity. In this case the key principles of design and scale have taken their cues from the neighbouring Victorian terraces and the industrial heritage of this locality and embed the Building for Life principles in creating affordable, functional and sustainable homes thus complying with these policies.

The layout of the highway divides the site neatly to ensure that the public realm is overlooked by properties which creates urban and active frontages whilst providing private amenity space to the rear which on the eastern edge backs onto existing garden land, this has been designed to enhance the green corridor in this locality. The western boundary line steps in and out creating an irregular boundary line, however it provides the opportunity to form a green open space on the western boundary. This would form a shared space associated with the apartments and it is proposed to enclose this amenity space in order to create a sense of privacy and seclusion. The layout and availability of green space has been directed by Housing Policy 11 whereby new development will be permitted if a development provides safe, functional and convenient layouts.

The agent has taken on board comments made regarding plot one and the apartment blocks and revised the proposed development which focused on balancing a contemporary design that would be sympathetic to the scale and character of the surrounding built environment; in particular the Victorian terraces that front on to Swadlincote Road. The difficulty centred on the width of the dwelling as it would be wider than others in the street, therefore design details proposed in the property create visual breaks which give the appearance of multiple properties, and this includes a change in the palette of materials on one side of the building and a set back entrance. The revised scheme fits more comfortably with the local vernacular and forms a positive transition of the corner plot into the site in compliance with Housing Policy 11.

The revision made to the apartment building enhances the level of visual breaks in the building and reduce its massing, which is important due to its elevated position in the site. The timber cladding introduced would create a horizontal break which aids in reducing the massing effect of multiple storey buildings, whilst avoiding the loss of the changing heights that adds interest and character to the site. The metal seam roofing would form a continuous wave of material that defines the saw tooth design as reflected in the industrial site opposite. This predominate characteristic runs through the site and is linked to the heritage of the site and the buildings that once formed part of the character and appearance of this part of the built environment.

The proposed design and layout of the site would enhance the relationship of the site with the wider environment and create a bridge between the existing residential streets that make up this locality. The proposed development as a result of good design would

establish a sense of community and a strong sense of place and space that would enhance the local streetscene and is considered to comply with principles of Housing Policy 11 of the Local Plan.

Transport Policy 6 states that provision should be made for adequate access, parking, and manoeuvring and off street provision. The design and access statement highlights that the highway and parking arrangements have been designed in accordance with manual for streets and provide adequate off street parking per dwelling in addition to visitor spaces. Additional provision has also been provided for the Scout Hut including cycle parking. Turning heads and home zones ensure cars and service vehicles can manoeuvre within the site without compromising other parked vehicles. The highway will be constructed to an adoptable standard and as a result no objections have been raised from the County Highways Authority.

Residential Amenity

Housing Policy 11 relates to layout and design of housing developments and through standards set out in the SPG, requires that they provide: a reasonable environment, reasonable amenities in terms of light, air and privacy for both existing and new dwellings, safe, functional and convenient layouts and private amenity space and landscaping.

Having carried out a full assessment of the proposal in relation the SPG, two plots on the site raised concern. The relationship between no.13 Swadlincote road and plot 1 and 2 could result in overlooking due the layout of the sites, which means that the neighbouring property would be within the 45 degree sector of view of the proposed windows of plot 2. However due to the orientation of the dwellings this would be on the edge of the 45 degree sector at an acute angle, this coupled with the existing outbuildings and boundary treatment within no.13 means the potential for overlooking is limited and would not be significant enough to warrant a reason for refusal. Other side windows that otherwise would not comply can be obscure glazed by condition.

The Council's space standards require 15m between a proposed living room and existing first floor bedroom and 15m between proposed and existing first floor bedroom windows, which is achieved. Having assessed surrounding residential properties to the West, North and East of the site a distance in of 15m is achieved and thus the space standards are complied with.

Housing policy 11 states development will be permitted subject to providing private amenity space and space for landscaping, this is reflected in the layout of the development whereby private amenity space is provided to the rear of the dwellings, this aids the development in achieving the space standards. These spaces are all accessible externally avoiding the need to go through the properties. The level of amenity provided is considered acceptable and enhances the level of space within the site. Small pockets of green open space are proposed and merge with the green corridor of the front gardens and tree lined streets to create a positive attribute which makes a valuable contribution to the character and environmental quality of the area in compliance with Housing policy 11 which requires adequate public open space.

Other Issues

Concerns pertaining to noise and dust have been expressed by local residents, this disturbance is inevitable but would only have a short term effect during the construction phase of development, local codes of construction would ensure dust and noise levels are controlled and the hours of construction and deliveries can be controlled by condition, by ensuring the submission of a construction management plan, this would also outline any footpath/road closures or diversions required.

Environmental Policy 9 seeks the protection of trees and woodlands and states that conditions should be imposed to secure the planting of trees and woodlands in association with development proposals, this is reflected in the proposed development whereby a landscape scheme has been submitted that includes replacement planting in addition to tree planting within the street corridor and the private amenity spaces that enhance the association of the site with the National Forest designation. The landscape proposal will enhance the landscape merits of the site and a condition will be attached to control the planting of trees and soft landscaping.

The site has a considerable fall in levels from north to south. The area is not defined as a flood zone however the use of sustainable drainage on site has not been considered as a viable option. It is noted that the level of hard standing will be reduced by the development, however there are concerns as to the drainage of surface water run-off. There are existing services that run through the site and it is proposed to investigate these further to establish if the services can accommodate the additional load. This matter, alongside foul water drainage, can be addressed by way of conditions.

Conclusion

The principle of residential development is considered acceptable in this sustainable location surrounded by existing residential properties, and accords with the Government's commitments to protecting and enhancing the quality of the built environment, in urban areas, which is highlighted in the NPPF. The design, scale and mass are considered to sufficiently reflect the character of Swadlincote Road and would enhance this redundant brownfield site. The residential amenity of neighbouring properties would not be unduly affected and the area would see a very positive lift for all its inhabitants. Issues have been addressed and conditions are recommended. The proposal therefore complies with the Local Plan Policies and the NPPF.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with plan/drawing no. BDP_TDRH_(PL)AE104, BDP_TDRH_(PL)AE106,

BDP_TDRH_(PL)AE108, BDP_TDRH_(PL)AE110, BDP_TDRH_(PL)AP003, BDP_TDRH_(PL)AP103, BDP_TDRH_(PL)AP105, BDP_TDRH_(PL)AP107, BDP_TDRH_(PL)AP109, BDP_TDRH_(PL)AP111, BDP_TDRH_(PL)AP113, BDP_TDRH_(PL)AP114 received on 12th June 2014 and 130911_SK12 received 8th October 2014 and BDP_TDRH_AE112 RevB, BDP_TDRH_AE102RevA, BDP_TDRH_AX162 RevA received 13th October 2014; unless as otherwise required by condition attached to this permission.

Reason: For the avoidance of doubt.

3. All planting, seeding or turfing comprised in the approved landscape plan LA-WS-L-90-01 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.

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

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

5. No development shall commence on site in connection with this approval until details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed in accordance with the agreed levels.

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

6. No development shall commence on site in connection with this approval until samples of materials for the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved samples.

Reason: To ensure the materials are appropriate to enhance the appearance of the area.

7. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

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

8. No development shall commence on site until the proposed new street within the application site has been designed and laid out in accordance with the County

Council's current design guide, and constructed to base level to adoptable standard, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

9. Prior to the commencement of the development, a construction management plan shall be submitted to and approved in writing by the Local Planning Authority and shall include details of the phasing of the works, any traffic management requirements, parking of contractors vehicles, deliveries including stacking arrangements, storage of plant and materials, site accommodation, parking and manoeuvring of site operatives' and visitors vehicles and shall be adhered to throughout the construction period in accordance with the approved designs, free of any impediment to the designated use.

Reason: In the interests of highway safety and to safeguard the amenities of neighbouring residents.

10. Prior to the occupation of the dwellings hereby approved, the parking bays and cycle parking for use by the Scout Group shall be constructed and laid out in accordance with the approved plans.

Reason: To safeguard the amenities of the users of the community facility and neighbouring residents.

11. The development shall not be commenced until all remedial works set out in section 11.2.3 of the Phase II Geo-environmental assessment (February 2014) have been carried out and completed in accordance with the assessment.

Reason: To ensure the stability and safety of the development, having regard to the Coal Assessment undertaken.

12. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
- B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: 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.

13. 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.

14. The development shall not be commenced until details of any external lighting (street and building) including the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the Institute of Lighting Engineers "Guidance notes for the Reduction of Obtrusive Light" (2005).

Reason: To preserve amenity of neighbouring residents

15. 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

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

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 occupied until the archaeological site investigation and post investigation analysis and reporting has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Part A and the provision to be made for 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.

16. Prior to its first occupation, the proposed side elevation windows serving the ground floor living room and first floor bedroom in plot 2 shall be non-opening and glazed with obscure glass and permanently retained as such.

Reason: To safeguard the amenities of adjoining occupiers from overlooking and loss of privacy.

Informatives:

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

There are public sewers , which cross the site. No building shall be erected or trees planted within 2.5metres of the 225mm public combined and within 2.5 metres of the public surface water sewers. The applicant may wish to apply to Severn Trent Water to divert the sewer in accordance with Section 185 of the Water Industry Act 1991.

The grant of planning permission does not entitle developers to obstruct public rights of way affected by the proposal. Development, in so far as it affects the right of way, should not be started, and the right of way should be kept open for public use, until the necessary order under Section 247 or 257 of the Town and Country Planning Act 1990 for the diversion or extinguishment of the right of way has been made and confirmed. Nor should it be assumed that because planning permission has been granted an order will invariably be made or confirmed.

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 0845 762 6848. Further information is also available on The Coal Authority website at www.coal.decc.gov.uk Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

That detailed plans of road levels, surface water drainage arrangements and the construction of the new street should be submitted to the County Surveyor, Derbyshire County Council, County Offices, Matlock, Derbyshire, DE4 3AG, prior to the commencement of the work.

Any security measures implemented in compliance with the approved scheme should seek to achieve the 'Secured By Design' accreditation awarded by Derbyshire Constabulary. Written confirmation of those measures should then be provided to the Local Planning Authority.

The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

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

No materials arising from the demolition of any existing structure(s), the construction of new buildings nor any material from incidental and landscaping works shall be burnt on the site.

The developer shall comply with the BRE Code of Practice to control dust from construction and demolition activities (ISBN No. 1860816126). The requirements of the Code shall apply to all work on the site, access roads and adjacent roads.

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

Item 1.6

Reg. No. 9/2014/0615/FM

Applicant:
Mr William Loomes
Bridge Barn
Derby Road
Swarkestone
Derby
DE73 7JB

Agent:
Mr William Loomes
Bridge Barn
Derby Road
Swarkestone
Derby
DE73 7JB

Proposal: **THE ERECTION OF A DWELLING WITH ATTACHED
GARAGE AT BRIDGE BARN DERBY ROAD
SWARKESTONE DERBY**

Ward: **ASTON**

Valid Date: **04/08/2014**

Reason for committee determination

Part of the site lies outside the village confine.

Site Description

The site is the now redundant car park to the former Bridge Farm Hotel. There is an established vehicular access which also serves Bridge Barn. There is a stable block immediately to the north and a dwelling and outbuildings to the east. The site is in the conservation area and the Crewe and Harpur Inn opposite is a listed building as is Bridge Farm itself.

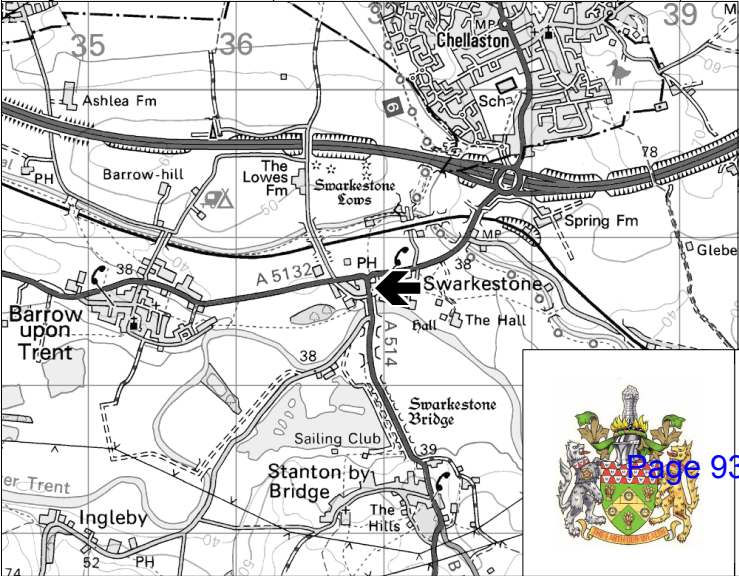
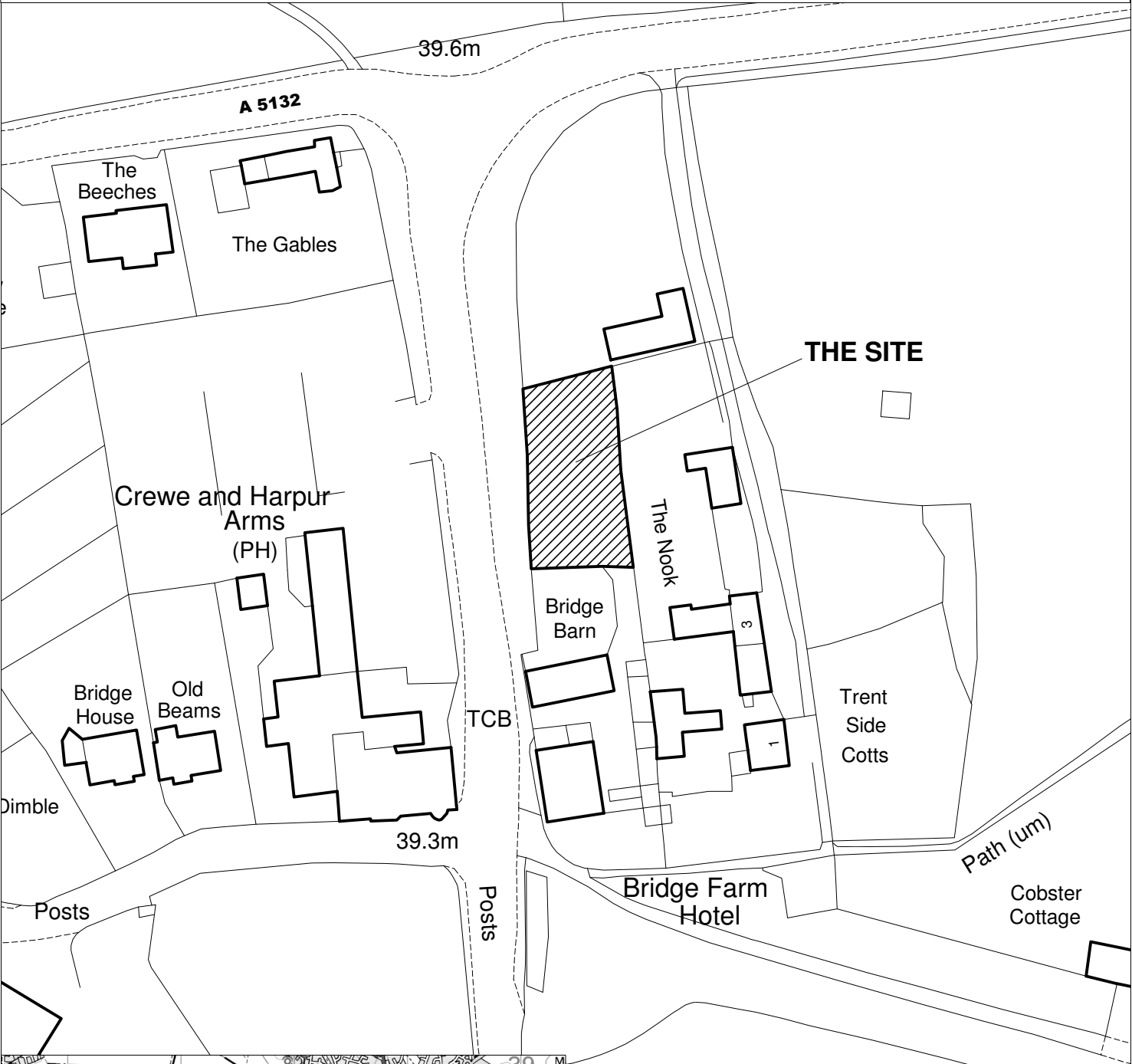
Proposal

A single storey dwelling is proposed. Notably it would present a blank façade to the boundary facing the highway. Vehicular access would be as existing, albeit with new section of wall alongside bridge Barn.

Applicants' supporting information

The submitted design and access statement explains that the building has been designed to be subservient, architecturally, to the nearby important listed buildings.

Planning History



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9/1992/571 Craft centre/workshop on site of stables.

9/1994/647 Detached bungalow.

Responses to Consultations

The Highway Authority and Contaminated Land Officer have no objection principle.

Severn Trent Water Ltd has no comment.

Responses to Publicity

None

Development Plan Policies

The relevant policies are:

Local Plan: South Derbyshire Local Plan Saved Housing Policies 5 & 11 (and its associated supplementary planning guidance), Saved Environment Policies 9, 11 & 12, Transport Policies 6 & 7.

Emerging Local Plan Policies

Pre-Submission Local Plan 2014: Policy S1 (Sustainable Growth Strategy), Policy S2 (Presumption in Favour of Sustainable Development), Policy S4 (Housing Strategy) Policy S6 (Sustainable Access), Policy H1 (Settlement Hierarchy), Policy BNE1 (Design Excellence) Policy BNE2 (Heritage Assets), BNE3 (Ecology) Policy INF2 (Sustainable Transport), SD2 (flood Risk).

Local Guidance

Housing Design and Layout SPG

Swarkestone Conservation Area Character Statement (consultation draft).

Historic South Derbyshire

National Guidance

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)

Paras 11-14 (The presumption in favour of sustainable development)

Para 17 (Core principles)

Chapter 6 (Delivering a wide choice of quality homes)

Chapter 7 (Requiring good design)

Chapter 12 (Historic Environments)

Paras 186 & 187 (Decision-taking)

Para 196 & 197 (Determining applications)

Paras 203-206 (Planning conditions and obligations)

NPPG ID26 (Design), 21a (Conditions), 18a (Historic environment)

Planning Considerations

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

- The principle
- Heritage assets
- Highway safety
- Residential amenity

Planning Assessment

The principle

The site lies partly in the village confine as defined by the adopted Local Plan (the line was drawn to follow the wall of the former stable on the site). The majority of the site, including the access lies in the confine. Given this overlap it would not be reasonable to argue that the site lies outside a settlement, particularly as there is built development (a stable) immediately to the north of the site. As such the development would be in accord with Saved Housing Policy 5 and not in conflict with policies for the countryside, based on the particular circumstances of this case. Housing development is, in principle supported by the NPPF, particularly as the site is not isolated in the countryside.

Heritage assets

The design of the building displays a simple character, subservient to Bridge House immediately to the south. In particular the roadside elevation would be blank, giving the building an agricultural character, respecting this, historically, farming settlement. This design approach would preserve the character of the conservation area and protect the setting of nearby listed buildings in accordance Local Plan and national policies relating to heritage assets, as identified above.

The elevations indicate traditional materials and detailing that can be identified in the Character Statement and Historic South Derbyshire. The general and detail design approach echoes the design policies of the emerging local plan and the NPPF.

A section of wall would be built on the south side of the access, tying to the existing low roadside wall in front of Bridge Barn. This would be in keeping with the existing wall and conservation area.

Highway safety

The access and parking arrangements would be to the satisfaction of the Highway Authority and the relevant transport policies are thus satisfied.

Residential amenity

The main windows would face the boundary of The Nook, and the garage/parking area would be served by a drive running alongside the boundary. However the immediately adjacent area beyond the boundary hedge is used for parking and manoeuvring of The Nook's vehicles. The south facing windows to the new dwelling would be more than 21 m from The Nook's main windows. As such there would be compliance with Housing

SPG and the impact on the only affected residential neighbour (The Nook) would thus be acceptable.

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. Pointing of the proposed building shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish.
Reason: In the interests of the appearance of the building.
3. Windows shall be painted timber and;
 - a. be set back from the face of the wall by a minimum of 20 mm,
 - b. have segmental brick arches (unless they are located directly underneath the eaves) and unless otherwise agreed by the Local Planning Authority,
 - c. be traditionally constructed so that opening casements are flush with the frame (modern EJMA detailing is not acceptable), and
 - d. have a traditional brick/stone/tile cill. Integral timber cills are not acceptable.Reason: In the interests of the appearance of the building, and the character of the area.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwelling hereby permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwelling and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.
Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene.
5. Eaves and verges and the external door shall be constructed in accordance with Drawing No BB2014 ISSUE 2 Sheet 4.
Reason: In the interests of the appearance of the area.
6. External materials and rainwater goods shall be as specified the submitted Design and Access Statement.

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

7. Prior to the first occupation of the dwelling space shall be proved within the application site in accordance with the submitted application drawings for the parking and manoeuvring of residents' 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.

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

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

9. No development shall take place until a suitable scheme for the prevention of ground gas and a subsequent risk assessment has been 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'.
Alternatively the site shall be monitored for the presence of ground gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: 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.

10. 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.

11. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

Reason: In the interests of the appearance of the building(s) and the character of the area.

12. This permission shall relate solely to the plans submitted with the application, unless as otherwise required by condition attached to the permission and unless as may otherwise be agreed in writing with the Local Planning Authority.

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

Informatives:

The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

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

The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

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 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.

Item **1.7**

Reg. No. **9/2014/0810/OX**

Applicant:
Mrs Iris Evans
C/O Agent Calkleys Ltd

Agent:
Mrs Janet Hodson
Jvh Town Planning Consultants Ltd
Houndhill Courtyard
Houndhill
Marchington
ST14 8LN

Proposal: **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR
ACCESS RESERVED) FOR RESIDENTIAL
DEVELOPMENT AT 124 REPTON ROAD HARTSHORNE
SWADLINCOTE**

Ward: **WOODVILLE**

Valid Date: **28/08/2014**

Reason for committee determination

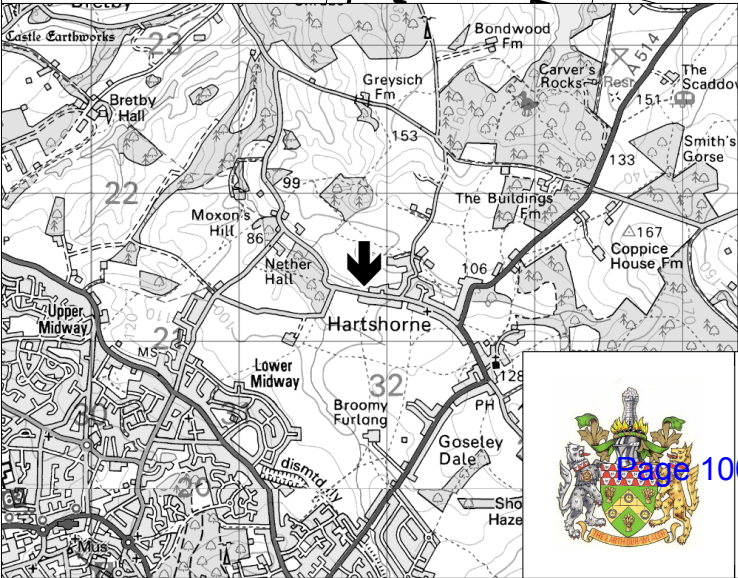
This item is presented to committee being a development contrary to the Development Plan.

Site Description

The application site is a greenfield site situated on the edge of Hartshorne village, adjacent to the house and garden of 124 Repton Road but outside of the defined development boundary. The site is bordered to the east and south by a ribbon of housing with open countryside to the north and west. A hedge forms the boundary of the site with Repton Road as well as to the open countryside to the west. The land gently slopes away from Repton Road across the site with a further slight fall east to west. The north boundary is not marked by a physical delineation with it sitting centrally to the wider land ownership, although it is at a point where the land begins to steeply slope down towards an elongated pond situated in the northern half of the ownership. To the north of the pond is Repton Brook, a watercourse that flows from east to west across the site and beyond. The land starts to gradually rise beyond this watercourse but remains below the road level by some 3 metres.

Proposal

The proposal is in outline with only the detail of access to be considered. Whilst indicative plans provided show up to 5 five dwellings arranged parallel to Repton Road behind the existing hedgerow (where retained) and private driveway across their



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South Derbyshire District Council. LA 100019461. 2014

frontage; this is not a detailed part of the proposal. At present a mix of three 4-bed dwellings and two 5-bed dwellings are indicated. The description of development has been amended during the course of assessment to remove reference to the number and type of dwellings to allow for flexibility under a later Reserved Matters application. Assuming the indicative layout provides the likely layout, the driveway would be served by a new access, repositioning the one installed under an extant permission. The dwellings would in essence continue the existing northern side to the ribbon of development along Repton Road which terminates on the southern side level with the western boundary. Each dwelling would have front and rear amenity space, garaging and further space for vehicular parking. The indicative design suggests split level dwellings to give the impression of bungalows from the street scene whilst ground levels would facilitate a conventional two-storey dwelling elevation from the rear. Each dwelling would provide living space at ground floor level with bedrooms in the basement level. Again this is only indicative and would need greater consideration at Reserved Matters stage.

Applicants' supporting information

The Planning, Design and Access Statement (PDAS) highlights that a previous permission for the erection of 5 holiday cabins, retail and community building and associated access and parking has been implemented and is extant. The PDAS then discusses the national policy position in respect of housing land supply and the status of local planning policy in this respect, of which it is considered to be out of date. Taking this into account and in view of the extant consent, it is considered the proposal would result in a logical amendment to the village confines as the proposal represents a logical development adjacent to the built up area with development already on two sides. In terms of design, whilst in outline it is considered the development can be accommodated without any compromise to the amenity of the surrounding residents, with accessed via a shared private drive and adequate parking provision. The dwellings are in character and the scale and layout of the area, and would sit comfortably on the application site. Overall it is considered that the development comprises a logical and sustainable form of development in line with the emerging but as yet untested local plan.

An Ecology Report assesses the site for the presence and suitability of habitat for protected species, namely bird nesting sites, badgers, bats, great crested newts and water voles. No evidence of the site being used by any protected species was found. However badger paths and snuffle hole were observed, whilst two species of bat were observed but not roosting within the site. No notable or listed trees were identified on site, and no evidence of rabbits or hares were found. Advice and recommendations for the biodiversity enhancement of the site are provided, including nest boxes bat boxes and protection of species during the course of development.

Planning History

9/2012/0712: Variation of condition 12 of planning permission 9/2009/0346 to allow for the submission of a scheme for the removal of a temporary access culvert prior to the commencement of lodges 1 & 2 – Approved September 2012.

9/2009/0346: Erection of five holiday cabins, village shop, tea rooms and hair salon with associated access, parking and landscaping – Approved September 2009.

Responses to Consultations

Natural England notes the site is in close proximity to the Carver's Rocks Site of Special Scientific Interest (SSSI) but are satisfied the development would not damage or destroy the interest features for which the site has been designated. As a result it is advised the SSSI does not represent a constraint in determining the application. They further advise to consult Natural England's standing advice in respect of protected species whilst encouraging biodiversity and landscape enhancements as part of the proposal.

Derbyshire Wildlife Trust notes the findings of the Ecology Report comprising a protected species survey assessment, Phase 1 Habitat Survey, bat surveys and great crested newt surveys. Although three different survey methodologies were not employed during each survey visit as per the great crested newt survey guidelines; on balance given the number of visits undertaken and the timing of these visits, this is not considered to be a significant constraint – especially when great crested newts were not recorded during the survey work under the previous application. Also whilst white clawed-crayfish were recorded in the Repton Brook in 2009; no additional survey work for crayfish has been undertaken as the proposals do not affect the land to the north where the Repton Brook is located. Overall it is considered that adequate ecological survey work has been undertaken in support of the application, and whilst the development will result in the loss of a pond that supports common frog, it is noted remaining hedgerows will be retained and new tree planting and hedgerow planting can be provided. The recommendations within the ecological survey report to enhance the biodiversity value of the site should be implemented where possible, secured through an appropriately worded planning condition.

The County Highway Authority notes the previous approval provided access to 5 holiday cabins, tea rooms and a village shop and seek similar visibility splays to that access under this application. They also seek conditions to secure suitable space for turning of service and delivery vehicles, site construction vehicles and storage, and wheel washing facilities during construction.

The Development Control Archaeologist notes the proposal is within a site described on the Derbyshire Historic Environment Record as an "amorphous area of earthworks, possibly representative of deserted medieval settlement". The earthworks are visible on aerial photographs, but it is felt that the majority represent palaeochannels associated with a former course of the brook through the site. The eastern part of the site does however exhibit some more regular earthworks which could well be the remains of medieval or early post-medieval settlement. This archaeological interest should be addressed through a scheme of archaeological recording to take place in advance of development, secured by condition.

Responses to Publicity

Hartshorne Parish Council objects as the development falls outside the development boundary of the village noting the previous application was for holiday lets and shopping outlets. They consider the village is unsustainable with no shops other than a hairdresser; and there are also concerns that the proposed dwellings would be close to the junction of Dunnsmoor Lane.

4 objections have been received, raising the following concerns:

- a) the previous application was beneficial to the whole community of Hartshorne;
- b) the previous application was just a plan to get planning consent for houses;
- c) the previous permission required the land to revert to a field if the business did not succeed;
- d) Hartshorne will have enough traffic, sewage and other obstacles to cope with when 400 houses are built at Broomy Farm
- e) there should be no encroachment into the open countryside at the edge of the village. toads regularly use the site as access to the pond and Repton Brook;
- f) the site was used by many nesting birds which were disturbed when the site was cleared;
- g) existing wildlife should be protected;
- h) parking provision for the dwellings; and
- i) surface water run-off will increase and should be clean of contaminants before entering the brook.

Development Plan Policies

The relevant policies are:

- Saved Local Plan 1998 (LP1998): Housing Policies 5, 8 and 11 (H5, H8 and H11), Environment Policies 1, 11 and 14 (EV1, EV11 and EV14), and Transport Policies 6 and 7 (T6 and T7).

Emerging Development Plan Policies

The relevant policies are:

- Local Plan Part 1 (as modified at Submission) (LPP1): policies S4 (Housing Need), S6 (Sustainable Access), H1 (Settlement Hierarchy), H19 (Housing Balance), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport) and INF9 (Open Space, Sport and Recreation).

National Guidance

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

Local Guidance

- Housing Design and Layout SPG.
- Section 106 Agreements – A Guide for Developers

Planning Considerations

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

- the principle of development (including weight afforded to Development Plan policies);
- sustainability;
- infrastructure and services;
- visual and landscape impacts;
- ecological considerations;
- heritage considerations;
- highway safety impacts arising; and
- other relevant planning matters.

Planning Assessment

Planning legislation commands that applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. This is reinforced by paragraphs 11 and 12 of the NPPF. The saved policies of the LP1998 presently form the Development Plan, although the NPPF is a significant material consideration whilst the emerging Plan can also be given a reasonable degree of credence. Replies from statutory and technical consultees, as well as third parties, are also material considerations. All these will carry varying degrees of weight.

The principle of development

EV1 seeks to guide development to within existing settlement confines unless it is appropriate to a rural location or unavoidable in the countryside. H5 provides for new housing development within settlement confines subject to being in keeping with the scale and character of that settlement. However as the site lies outside the currently defined village boundary, H5 is not applicable to this part of the proposal – instead it falls to consideration under H8. Given it is neither a replacement dwelling nor a new dwelling benefitting from agricultural justification, the proposal fails to adhere to the Development Plan at this point. Notwithstanding this conflict, attention must still be given to material considerations which either individually or collectively might outweigh the harm arising.

The foremost material consideration is the NPPF. This advocates that housing policies for the supply of housing should not be considered as up-to-date if a 5 year supply of deliverable sites cannot be demonstrated. The latest published position, as part of the LPP1, confirms the Council is short of such a supply. However this does not automatically mean that the relevant policies are out-of-date – instead it leads to a consideration of how much weight may be afforded to those policies depending on their consistency with the NPPF, as defined by paragraphs 215 and 216. It is therefore necessary to consider the degree of consistency that EV1 and H8 hold.

EV1 is in part a housing delivery policy given it constrains the provision of housing across the District. In the context of the LPP1 identifying a need for some 13,500 dwellings across the Plan period, it is clear that sites outside of existing settlement confines will be necessary. As such EV1 is consistent with the NPPF in recognising that in some cases greenfield development in the countryside is unavoidable. Paragraph 55 of the NPPF provides further consideration as to whether the quantum of development in rural areas is appropriate, noting "housing should be located where it will enhance or maintain the vitality of rural communities". On this basis it is not considered that H8 is necessarily applicable given it is designed more for addressing isolated dwellings, of

which this proposal is not given cues from recent Appeal decisions. As such it should not be relied upon to reject this proposal as a point of principle.

The LPP1 envisages development within the confines and adjacent to the edges of Hartshorne. The emerging settlement hierarchy points to allocations to address the projected needs inside and outside the existing confines under Parts 1 and 2 of the emerging Plan before providing the principle for windfall and exception sites thereafter. This vision is consistent with the opening limb of paragraph 55. The allocated sites in and around Hartshorne will become clear as work progresses on Part 2. However until then the situation is that existing confines can be challenged given they are tied to out-of-date housing policies, and that is the case before Members here.

Sustainability

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

Therefore Members should first reach a view on whether the proposal is sustainable, or can be made sustainable through planning obligations and conditions, before considering whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits arising. The discussion below looks in detail at the impacts arising so a conclusion can be reached on whether the presumption should actually apply, and whether there are significant and demonstrable adverse impacts arising which should command a refusal.

Infrastructure and services

The main benefit arising would be the contribution of up to 5 dwellings to the supply of housing in the locality plus benefits to the economy during the construction period and beyond. However it is not considered that this proposal would enhance or ensure the vitality and continued service provision within this rural community, with the proposal simply for housing units and the quantum of development insufficient to make a noticeable or recognisable difference. As such the benefits arising are already limited before the need to balance these against any harm arising.

Schooling and healthcare needs have been considered but the proposal either falls below the threshold set out by the County Council or there is insufficient evidence to demonstrate a direct unmet need would arise under this development (in line with paragraph 204 of the NPPF). There is however evidence that there would be an increased pressure on open space, sports and built facilities such that commuted sums can be sought through the Council's published guidance.

Visual and landscape impacts

A core principle of the NPPF is that planning should recognise the intrinsic character and beauty of the countryside. EV1 reflects this principle. The proposal would lead to an extension of the existing ribbon along this part of Repton Road and result in an intrusion into the countryside. However there are matters to consider in establishing the degree of harm arising. The extent of the development results in a squaring off of the ribbon such that the northern and southern sides of it are contiguous. The extent of the intrusion is thus limited and to no more than the previous development. Furthermore a form of residential development has already been permitted, and implemented, at this site. This had a similar arrangement of lodges continuing the existing line of dwellings to the Repton Road frontage, as well as arguably a greater harm by way of depth to the development through two of the lodges and the village shop. However it is acknowledged that the arrangement and design of the lodges, as well as intervening landscape features, helped to “sink” the development within a largely wooded site over time. In addition floor levels would have been lower than existing carriageway levels by at least 1 metre. The indicative layout plan here suggests a higher floor level so to accommodate the basement level, and this coupled with a more continuous built frontage and higher ridge line creates a different visual impact. A public footpath crosses the agricultural land to the north of the brook at the rear of the site where, from this aspect the development would appear more prominent than its predecessor; and the requirement to remove a further few metres of the existing boundary hedge in order to achieve the requested visibility splays (see below) would further increase the initial visual impact.

It must be noted that the development is in outline. Layout, scale, appearance and landscaping are to be reserved. Whilst 5 dwellings are suggested, the balance between built form and maintaining prevailing character may well result in a “less dense” layout – which could include fewer dwellings. The split level arrangement is also indicative and there are various options which could be explored to either lower floor levels further and/or utilise internal space to better effect. Structural and substantial landscaping could be secured to the Repton Road frontage. In brief the indicative layout is not considered to be satisfactory at this point in time such that if it were a detailed application, the recommendation would be different to that set out below. However as all these matters are reserved for later consideration and a reasonable way forward to secure an appropriate form of development with minimal visual harm and intrusion can be envisaged; then on balance it is considered that the impacts arising are not sufficient to sustain a refusal. This is of course a matter of judgement to which Members may wish to consider further.

Ecological considerations

It is considered there is adequate information to enable determination of the application. Protected species are either absent or can be appropriately mitigated for. Detailed design and layout at reserved matters stage could also work around the constraints and offer biodiversity enhancement where possible.

The additional element of hedgerow which requires removal arises from a slight repositioning of the bellmouth of the access when compared to the original approval. The additional loss amounts to some 4 metres which in the overall scheme is not considered to bring about a material impact above and beyond that already accepted and implemented under the previous approval.

Heritage considerations

The comments from the Development Control Archaeologist are noted. Officers have queried the differing approach to this application compared to the previous approval in order to ensure compliance with paragraph 204 of the NPPF. It arises that the historic environment record was not added until after the original permission and that as the archaeological interest in the site has emerged in the intervening period it is now a material consideration. This is no different to relatively recent changes in coal mining legacy leading to later permissions being subject to additional constraints. It is not considered unreasonable to support the requested investigation in the form of a condition, in line with the provisions of EV14 and the NPPF.

Highway safety impacts

The proposed new access would be located at a point on Repton Road where the speed limit is 30 mph, virtually in the same position as the 2009 approval. The alterations to the existing frontage hedgerow have already been implemented in the majority and would ensure the required visibility in both directions is achieved. A pedestrian footway into the site is provided as an extension of the northern footway to Repton Road. As a result the Highway Authority has no objection subject to conditions, and the layout can provide for suitable parking and turning space on site in due course.

Other relevant planning matters

As discussed above the design of the proposal is for later consideration. It is considered the site could be developed in compliance with the space between dwellings standards set out in the SPG. Although the Repton Brook passes through the land ownership, where it is subject to Flood Zone 2 & 3 designations, the proposal would be located outside of these areas with a less than 1 in 1000 annual probability of flooding. There was no objection in principle from the Environment Agency to the previous development and this is considered to remain applicable now with similar areas put to hard surfaces. Surface and foul water drainage can be addressed through condition to ensure sustainable drainage principles are implemented.

Summary

Whilst not in compliance with the Development Plan, the emerging Plan provides indication that such sites could form part of a formal allocation in Part 2 work. In the wider mind it is clear that greenfield sites will need to come forward to meet overall housing need for the District. A quasi-residential form of development has also been secured indefinitely on this site, which is within reach of a reasonable provision of local services and facilities or connections to. Hence whilst there is a degree of visual harm arising from the extension of the existing ribbon intruding into the countryside, the development terminates at a point where existing built form opposite also terminates. In this sense it effectively “rounds off” the settlement, tapering the extent of harm arising. Coupled with appropriate design, density and setting the dwellings at appropriate levels, the visual impact of the development is considered to be outweighed by the wider benefits of contributing towards the supply of housing in the settlement and wider area.

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. (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 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. Details submitted under condition 2 shall include the proposed finished floor levels to the dwellings, including existing and proposed surrounding land levels relative to the dwellings, as well as proposed boundary treatments and surfacing materials, a substantial landscaping buffer to the Repton Road frontage, and details and positions of existing rear and side facing windows at 124 Repton Road, Hartshorne.
Reason: To ensure that a detailed assessment of the impact of the dwellings on the visual and neighbouring amenities of the area can be undertaken.
4. No development shall commence until all retained hedgerows and trees, as shown on the approved plan, have been fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. This protection shall ensure vehicles, building materials and other temporary structures/cabins are not located on the land outlined in blue to the rear of the site. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the Local Planning Authority.
Reason: To protect the hedgerows/trees from undue disturbance, and to safeguard against protected species previously identified in the Repton Brook.
5. a) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved in writing by the Local Planning Authority, 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; and

vi. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a).

c) The development shall not be occupied 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 condition (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.

6. No development shall commence until an Ecological Mitigation & Enhancement Strategy has been submitted to and approved by the Local Planning Authority. The Strategy shall follow the recommendations of the Ecology Survey ref: WLC/ES/160614 prepared by Wildlife Consultants Limited (dated 14th July 2014) submitted with the application. Temporary mitigation provisions shall be implemented prior to any works commencing on site and thereafter retained throughout the course of construction. Permanent mitigation and enhancement measures shall be implemented prior to first occupation of the dwelling(s) hereby approved and thereafter maintained as such.

Reason: In the interests of safeguarding protected species and providing an overall net biodiversity enhancement.

7. Before any other operations are commenced, the new vehicular and pedestrian access shall be formed to Repton Road, located, designed, laid out, constructed and provided with visibility splays of 2.4m x 45m in both directions, all as agreed in writing by the Local Planning Authority, the area in advance of the sightlines being maintained throughout the life of the development 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.

8. Before any other operations are commenced (excluding demolition/site clearance), space shall be provided within the site curtilage for the storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

10. The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking and manoeuvring of residents and service and delivery vehicles, located, designed, laid out and constructed all as agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

Informatives:

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 Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

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

Item 2.1

Reg. No. 9/2014/0249/OM

Applicant:
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c/o Commercial Estates Group First
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Exchange
Station Parade
Harrogate
HG1 1TS

Agent:
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Nathaniel Lichfield & Partners
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Proposal: **OUTLINE APPLICATION FOR RESIDENTIAL
DEVELOPMENT OF UP TO 300 DWELLINGS WITH
MEANS OF ACCESS FOR APPROVAL NOW AND ALL
OTHER MATTERS RESERVED FOR FUTURE
APPROVAL ON LAND AT NEW HOUSE FARM ETWALL
ROAD MICKLEOVER DERBY**

Ward: ETWALL

Valid Date: 16/04/2014

Reason for committee determination

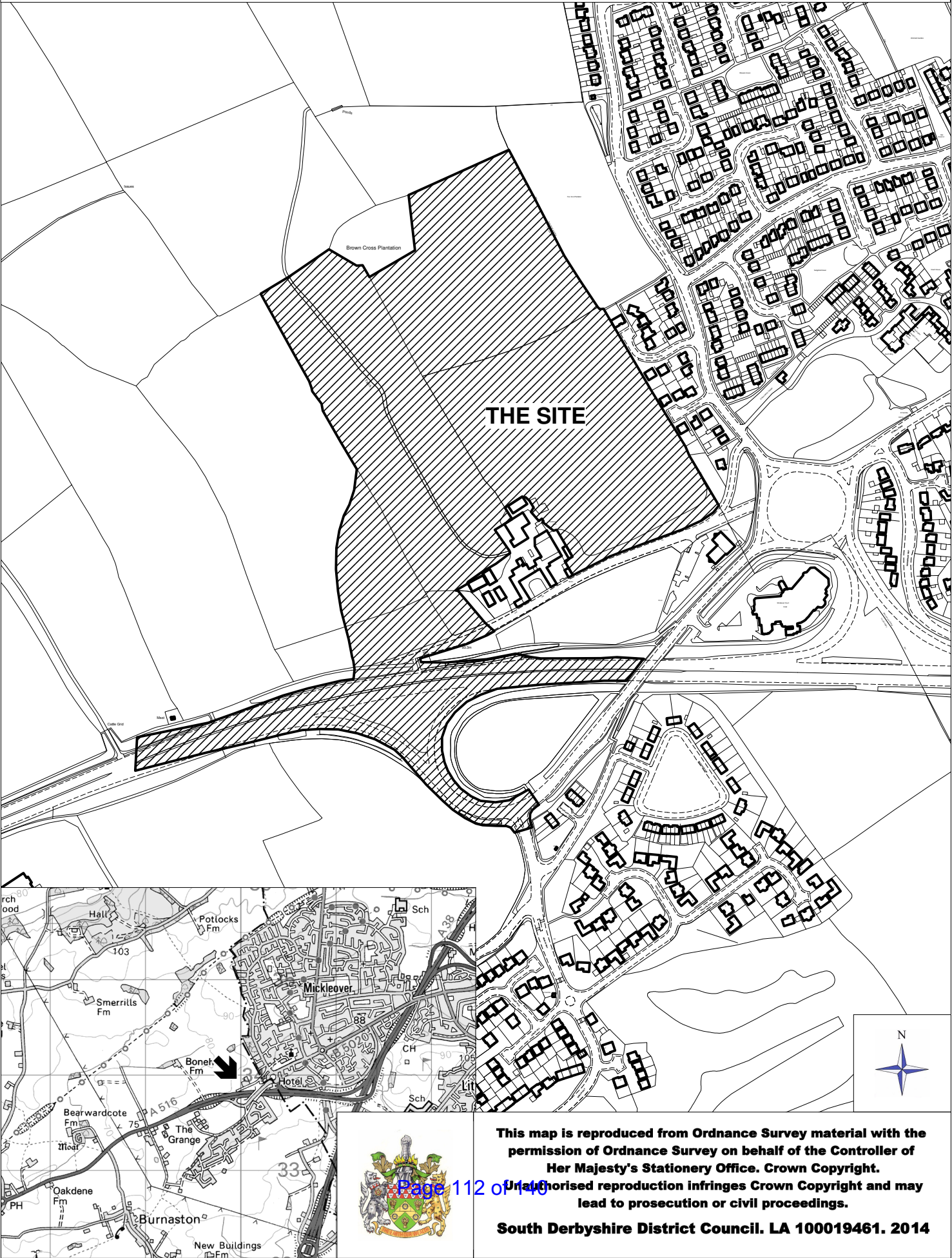
This is a major application, not in accord with the Development Plan, to which more than two objections have been received.

Site Description

The application site comprises 16.22 hectares of agricultural, greenfield land, situated to the north of the A516 Mickleover By-Pass and the Old Etwall Road which was stopped up when the by-pass was constructed. The site is immediately adjacent to the administrative boundary with Derby City and is west of properties on Ladybank Road, Howden Close and Paxton Close on the Ladybank estate in Mickleover. The site has mature hedges punctuated by numerous mature trees as well as a dense group of trees along the boundary with Old Etwall Road, a group of trees beyond the northern boundary of the site, known as Brown Cross Plantation and to the north-east of the site within Derby City there is a group of mature trees west off Ladybank Road known as Four Acre Plantation that are protected by Derby City Tree Preservation Order no. 530.

The Proposal

Outline planning permission is sought for development of the site for residential development of up to 300 dwellings with all matters except for access reserved for



future approval. An indicative Masterplan has been submitted which identifies the potential level of development. The illustrative Masterplan shows the main residential blocks provided throughout the site with buffers to the trees on Old Etwall Road, adjacent to Four Acre Plantation and adjacent to the north, adjacent to Brown Cross Plantation. The main area of public open space is shown as running in a north-south direction adjacent to the existing properties on Ladybank Road, Howden Close and Paxton Close. Surface water would be dealt with by way of soakaways with water being directed to a detached surface water attenuation ponds in the north-west corner of the site.

The matter of access is for approval at this outline stage and the detailed road junction plans show the vehicular access from the A516 Micklegate By-Pass, with main and secondary roads running through the site. The vehicular access would be complemented by cycle/pedestrian links onto Old Etwall Road to allow a more direct route for cyclists and pedestrians in to Micklegate. The detailed proposals for the vehicular access were amended during consideration of the application and the latest ones now under consideration show the junction of the A516 Micklegate By-Pass and Hospital Lane significantly changed so the off-slip from the A516 westbound onto Hospital Lane and the on-slip, westbound from Hospital Lane both closed off with traffic proceeding through to a traffic light controlled junction which would be located on the A516. The result would be that all traffic in both directions on the A516 would have to travel through the traffic light controlled junction as well as all traffic from Hospital Lane. The access into the site would also be via the new signal controlled junction and would include new footways to allow pedestrians to access the site from Hospital Lane through the junction and onto the site. Also as part of the proposal the applicant proposes that the speed limits on the A516 Micklegate By-Pass would be reduced from the national speed limit (70mph) to 50mph through the junction.

Applicants' supporting information

Planning Statement

The planning statement submitted in conjunction with the application states that the NPPF at Para.49 requires housing applications to be considered in the context of the presumption in favour of sustainable development. It states that the Council cannot demonstrate that there is a 5 year land supply of deliverable housing sites and consequently relevant policies for the supply of housing are not up to date in South Derbyshire. As Local Plan Policies EV1 and H8 (which are some 16 years old) effectively seek to control the supply of housing development they are out of date and the weight to be attached to the policies is reduced. It states that planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole and that the benefits of the proposals outweigh the impacts of the development. It claims that the proposed development broadly accords with development plan policies with regards to its impact and on this basis and that there is a presumption in favour of granting planning permission for this sustainable development proposal, without delay.

Design and Access Statement

The statement was supplemented by additional information and sets out the vision for the site, the site context as well as constraints and opportunities. Planning policies are also discussed as well as urban design objectives to create a high quality place; an

inclusive place; a safe community; a legible place and a green environment. The statement states that the development proposals have been based upon the principles of Garden Suburb layout. It refers to the creation of generous areas of green space including gardens, greens and tree-lined avenues which are linked to the wider natural environment via a series of green corridors, will provide an attractive setting not only for the development itself, but also for the wider community. It states that at up to 300 dwellings, the scheme would achieve a low density of approximately 26 dph, typically a mix of predominantly semi-detached and detached houses and that it is anticipated that the prevalent scale of development will be 2 storeys (circa up to 8m ridge height), albeit that taller dwellings of 2.5 storeys (circa up to 10m ridge height) could be incorporated where visual emphasis is required. The Design and Access Statement describes how they consider that the proposed development seeks to deliver a sustainable, successful scheme that will contribute towards the design quality and character of the wider area. It states that the site provides an opportunity to deliver a high quality development of houses and open spaces. The Statement includes a Building for Life Assessment in which they consider that the proposal would score mainly “greens” i.e. that principles have been fully met, with one “amber”.

Archaeological Desk-Based Assessment

The assessment provides a description of heritage assets affected by the proposed development of the site, and addresses the requirements of the law, relevant local planning policies and the Government’s National Planning Policy Framework. The Assessment establishes that the proposed development site does not contain any *designated heritage assets* (i.e. World Heritage Site, Scheduled Monument, Registered Historic Park, Registered Historic Battlefield, Listed Building, Conservation Area) and that development within the development site will not affect the significance of any designated heritage assets in the surrounding area. It states that one *non-designated heritage asset* (archaeological site) is recorded on the Derbyshire Historic Environment Record within the development site and that is an area of medieval ridge and furrow cultivation earthworks north-east of New House Farm (HER Monument reference 24308), although it states that it is of no archaeological interest.

The assessment concludes that the site has a low potential for significant archaeological assets of any date; that the proposed development of the site is likely to affect the non-designated heritage asset within the site, but will not affect the significance of assets in the surrounding area; that the non-designated heritage asset within the site is not of sufficient significance to outweigh the benefits of the proposed residential development.

The assessment states that the proposed development can be carried out without any impact on designated heritage assets, and without impacting on any significant non-designated heritage assets.

In view of the low level of previous archaeological investigation within the area, the report states that it is anticipated that the Local Planning Authority will require further archaeological survey of the site prior to development and that a standard planning condition can be used in this regard.

Ecological Report

This report Following an extended Phase 1 survey in 2011, and in order to determine potential constraints associated with protected species, the appraisal included a subsequent suite of ecological surveys. In order to inform a planning application for 2014, this report includes an updated assessment with reference to the illustrative Masterplan and details the results of ecological appraisal, describing any features of ecological value found to be present. It also outlines the results from the protected species surveys and provides advice to help minimise impacts, thereby enabling the development to comply with current nature conservation policy and legislation. The conclusion of this report is that with an appropriate plan for the retention and enhancement of habitats (particularly woodland, trees and hedgerows) implemented, the current development proposals could provide a net gain of biodiversity on the site.

Economic Benefits Assessment

This report sets out the potential economic benefits associated with the proposed residential development including jobs during construction and associated wage spend; £41m of local investment; £405,000 of additional Council Tax receipts and £2.6m New Homes Bonus as well as much needed affordable housing. It states that the development will produce high quality accommodation; support mixed communities; increase employment; improve public realm with green spaces and increase housing supply.

Preliminary Appraisal Report (Desk Study)

This reports looks concludes that given that the majority of the site is greenfield, and that any risk from contamination proven is likely to be limited in extent/severity, and easily mitigated through normal development practices, it considers that these works could be carried out post-determination of the planning application.

Landscape and Visual Impact Assessment

This report seeks to identify the sensitivity of each before considering the change that the introduction of the proposed housing development will introduce. Potential landscape, visual and character impacts of the proposals were assessed and mitigation proposals to ameliorate impact. The report concludes that the site has a Medium Landscape Sensitivity, Low Landscape Value and Ordinary Quality resulting in a capacity to accommodate residential development and that that the Visual Quality is assessed as Moderate and that the proposed mitigation measures in the form of new landscaping both within and outside of the development and areas of open space will fulfil some of the characteristics identified within the landscape character assessment.

Noise Impact Assessment

This report examined noise as an issue relative to this residential scheme and it found significant levels of traffic noise were measured in the area near to the southern boundary with the A516 in the western part of the site and advises that it will be necessary to incorporate adequate noise mitigation measures in to the final design of the development. Recommendations include designing the layout so that dwellings themselves adequately screen gardens, and where necessary, sound insulation for the most exposed living room and bedroom windows.

Statement of Community Involvement

This document provides an overview of the consultation undertaken by the applicant which they stated was established in order to encourage residents to participate in the consultation process. A brochure was mailed to 2,333 residents closest to the site, who were likely to have most interest in the development and it included a tear off comment form which could be easily returned without the need for an envelope or stamp. Following the consultation, in order to provide feedback to those who engaged in the consultation process, a letter was sent to all of those who participated in the consultation process. This explained the comments raised and how this is reflected in the proposals, as well as answering the questions raised.

Flood Risk Assessment (FRA)

The report aims to demonstrate that the development would be acceptable in flood risk terms and from a drainage point of view relative to flooding risk and surface water drainage. It states that according to the EA Flood Map for Planning (Rivers and Sea), the proposed development site is located outside the 1 in 1000 year flood outline and is therefore defined as being situated within Flood Zone 1 under the NPPF. The site therefore has a low probability of flooding. The proposed development site, being located in Flood Zone 1, satisfies the requirements of the Sequential Test. Residential development is an appropriate use within this flood zone, as indeed are all uses of land. The report concludes that the risk of flooding from fluvial, groundwater, surface water, reservoirs, canals and other artificial sources is considered low.

In order to mitigate any residual risk of flooding from groundwater and surface water it recommends setting finished floor levels of all residential dwellings at a minimum of 0.15m above adjacent ground levels. The development proposes a new access on to the A516 and this route is shown to be located within Flood Zone 1 and will therefore provide dry access and egress to the site. The surface water drainage strategy outlined within this FRA seeks to demonstrate that surface water would be sustainably managed on site without increasing flood risk elsewhere.

Transport Assessment

The original assessment was supplemented and it concludes that the TA clearly demonstrates that development trips can be safely accommodated on the network and the proposed signal controlled junction operates well within capacity, therefore, the proposed development fully accords with the National Planning Policy Framework and Local Plan policies. The report states that the proposed site access junction satisfies the layout recommendation in Design Manual for Roads and Bridges (DMRB) and that there is no reason to conclude that it should not operate safely and satisfactorily at all times. It states that the cumulative impact of the proposed residential development cannot be considered to be 'severe' and as a result in line with Para. 3.2 of NPPF, the development should not be prevented or refused on transport grounds.

Travel Plan

This report sets out the applicant's strategy for co-ordinating measures to encourage sustainable transport (public transport, walking, cycling and car sharing) and combines it in one useful place. The objectives of the Travel Plan are to encourage sustainable transport.

Arboricultural Report

This report looked at the trees affected by the development and it concluded that the trees surveyed were generally found to be in good condition. Five trees/groups have been recommended for removal for arboricultural reasons, twelve trees/groups/hedges require pruning works for reasons of public safety and to enhance their long term health and seven trees/groups/hedges require a periodical inspection as they have structural or physiological defects. The indicative proposals plans provided show that the designs aim to retain as many trees as possible and that the majority of the high amenity specimens will be retained, with only a minor percentage will be removed.

Planning History

None particularly relevant.

Responses to Consultations

Natural England raises no objection to the proposal and has not requested any specific conditions be imposed but advises the proposal is unlikely to affect any statutorily protected sites or landscapes. They advise that the area could benefit from additional green infrastructure (GI) and encourage its inclusion and that the scheme could deliver enhanced biodiversity and landscape.

Peak and Northern Footpaths Society advise that whilst they have no objection in principle to the proposed development they feel that the applicant has missed an opportunity to promote the use of sustainable transport by limiting access to and from the site on foot and cycle to just one very short link on to vehicular roads. There is an existing public footpath (FP 8 Radbourne) running to the north of the site from Greenside Court to National Cycle Route 54 and ought to be possible to provide a footpath/cycleway link from the north of the site to this footpath, legally and physically upgraded to a cycle track. If necessary NCR 54 could also be physically improved to enhance walking and cycling to Burton and to Derby. Links to FP 8 would also enable residents to easily access and enjoy the open countryside to the west of Mickleover on existing public footpaths. This is a very large development and the applicant should be more imaginative in the provision of walking and cycling links for access to amenities and for recreation.

The County Rights of Way Officer advises that there are no recorded public rights of way crossing the site although any unrecorded one may have been acquired through uninterrupted use. As a consequence they raise no objections.

Derbyshire Constabulary Crime Prevention Design Advisor states that he has no issues with the principle of residential development but that the subsequently submitted layout and detail should be in accordance with the principles of designing in community safety, in respect of outward looking building elevations with the capability to supervise all open space, public realm and non-secured private space, including garden curtilage and parking plots and that all private garden space is secured at points within view. He states that from the illustrative layout supplied as part of this application there are some areas of concern as four parking courts where vehicles and the semi-private space within will be out of view of all or the majority of users. He states that the two footpath links proposed to the south of the site should be kept at least 2m wide with an open aspect and that at present the access

track across the front of New House Farm has restricted access, and is to a greater degree assumed not to be in the ownership of the applicants and the more westerly footpath link location implies an extended route onto this track.

The Highways Agency raises no objection to the proposal, stating that they are satisfied that the additional traffic generated by the proposed development will not be detrimental to the safe operation of the Strategic Road Network (A38) and that the traffic can acceptably be accommodated at the A38/A516 Etwall Road, A38/A516 Uttoxeter Road and A38/ Rykneld Road junctions.

The Housing Strategy Manager advises that there is a need for affordable housing in the area and requests the developer provide 30% affordable housing of which 62.1% should be for social rent, 25.5% intermediate, shared ownership housing and 12.4% for affordable rent. These provisions should be secured through a S106 agreement.

The Planning Policy Officer at Derbyshire County Council advises that the Masterplan should include links emanating from the south should be available for cyclists and that new homes should be designed to Lifetime Homes standards. They also request S106 contributions to secure the following:

- a) £683,940.60 towards 60 primary school places at Etwall Primary School;
- c) £772,927.65 towards 15 secondary school places at John Port School;
- d) £335,302.20 towards the provision of 6 post-16 pupil places; and

Informatives are also suggested relative to the incorporation of measures to allow broadband and the installation of domestic sprinkler systems.

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

The Council's Contaminated Land Officer states that he has no significant concerns with respect to contamination but the site may be within influencing distance of historical activity which could give rise to pollution. As a result contamination conditions are recommended along with an informative.

The Environment Agency raises no objection and requests a condition relating to the provision of details relating to surface water drainage.

The Council's Land Drainage Engineer has confirmed that his concerns have been addressed.

The County Archaeologist states that the geophysical survey submitted by the applicant does not suggest unusual or significant archaeological remains to be present although a small number of features were noted. As a result he advises that trial trenching and further mitigation work if needed ought to be secured but this can be achieved through a conditioned scheme in line with NPPF para 141, post-consent.

Derbyshire Wildlife Trust considers that the ecological works have been undertaken appropriately and the Trust recommends conditions be imposed to secure badger

protection; hedgerow removal to avoid bird nesting season; the Reserved Matters providing green infrastructure as per the Masterplan and the submission of a Landscape and Ecology management Plan.

The County Highway Authority has fundamental concerns in respect of the proposal. They question whether the red outline of the application site encompasses land which is in the ownership/control of the applicant, public highway and land which was stopped up during the 1970's and no longer forms part of the highway – in particular, a section of the Old Etwall Road which extends through part of the proposed new road and is indicated as part of a proposed pedestrian/cycle link. They state that it is also unclear as to the status of the land between the two slip roads on the southern side of the A516. Whilst there is no evidence to suggest that it is not highway, there is no evidence to the contrary. Clarification is required as to whether the applicant has submitted accurate details of ownership of these sections of land or served the appropriate notices.

They state that through its Local Transport Plan, the County Council generally seeks to avoid the use of traffic signal control to facilitate access to new development. This is mainly due to the detrimental effect on the efficient movement of traffic on the major route through giving periodic priority to the minor arm(s). This is particularly pertinent for high speed A class roads where the primary function is movement of through traffic.

They advise that the introduction of signals to access the application site would present Derbyshire County Council, as Highway Authority, with a liability, not only for their future maintenance but for the potential safety of highway users. The introduction of extra vehicle turning movements, stops and starts increases the likelihood of conflict and will be inherently less safe than the existing situation.

This view is further reinforced in the Design Manual for Roads and Bridges (DMRB) which does not advocate the use of signal controlled junctions as a suitable means of access in situations where vehicle speeds exceed 65mph. The applicant has stated that two speed surveys have been carried out and the results demonstrated that the 85%ile wet weather speed in both directions was in excess of 65mph.

They draw attention to the situation that, where signals have been accepted elsewhere within the County, it has been only where an existing issue has been identified which can be overcome by their introduction and benefit in highway safety terms can be identified. In this instance there is no pre-existing situation which would be assisted by the introduction of traffic signal control.

With regard to the submitted drawings, they consider there to be a number of specific design flaws:

Firstly, in an attempt to overcome the hazards of the proposed junction at this location due to high vehicle speed, the only thing the applicants propose is to introduce an artificial speed reduction in the form of a 50mph limit. There is no guarantee that the required Traffic Regulation Order would be successful or, if it was successful, that it would be respected by the majority of drivers and, only once implemented, would the impact and resultant 85%ile speed be apparent.

If it was found that actual speeds did not reduce as a result of the new speed limit, the Highway Authority would be left with a hazardous situation which could not be further

mitigated. Furthermore, the Local Constabulary are opposed to reducing the speed limit at this location due to enforcement issues and efficacy of the signage.

Secondly, the design relies on the use of land, the status of which is open to question.

Thirdly, the introduction of the left turn lanes, brought about by the loss of the entry and exit slip roads for westbound traffic. This contrived solution would further erode the efficiency of the junction by forcing all traffic which hitherto could have used the slip roads to use the signalised junction and be brought to a halt periodically.

Fourthly, the proposed removal of the layby which is not being replaced. Laybys are a useful facility provided for drivers' benefit and used on occasions for the storage of plant and materials during maintenance works. The applicant has not identified a replacement for this facility or demonstrate that its loss can be overcome.

Whilst the applicant has endeavoured to address some issues by making changes to the original submitted design, these changes in themselves further compromise the principle of a signal controlled junction at this location, relying upon an artificial attempt to regulate vehicle speeds on the road (further compromising its efficiency) which cannot be proven and removing perfectly efficient slip road arrangements and forcing all traffic to pass through the signalised area to avoid conflicts which the proposed signals themselves introduce.

In light of the above, the County Highway Authority again recommends refusal of the proposal on the grounds that the proposed means of access on to the A516 is fundamentally flawed in terms of type and design and the introduction of development related traffic using this proposed junction would be prejudicial to safe and effective traffic movement on the public highway contrary to Paragraph 32 of the National Planning Policy Framework.

Derbyshire Constabulary Traffic Management Officer advises that the most obvious and safest access to this development would be from the existing Roundabout on Etwall Rd, Mickleover. He considers that the proposed signalised junction creates the inevitability of standing traffic on a main dual carriageway carrying high traffic flows to the detriment of road safety and traffic free flow and that this is disproportionate to the number of houses being proposed.

Derby City Council (DCC) considers that this application raises issues of concern that should be considered against the presumption in favour of sustainable development as set out in national policy. In particular, the proposal would result in a medium sized bolt-on to Mickleover that will not relate particularly well to the existing community and which does little to create a sustainable new community. Furthermore, it runs the risk of prejudicing the sustainable, longer term comprehensive development of a larger site in this area should a case for this arise in the future. For instance, it will make it harder to plan comprehensively for school places, shops and services within the site and for public transport penetration into the site. DCC also still considers that more than sufficient urban extensions are already being planned in and around Derby to meet both the City's housing need and a reasonable proportion of South Derbyshire's. More urban extensions to the city, particularly to the west and south, run the risk of undermining the strategy we are pursuing in our aligned local plans. Taken with other development in and around Mickleover, there is a concern that an alternative strategic location is emerging.

There is also a danger that too high a proportion of the HMA's overall housing need will be met within the Derby Urban Area and that the sustainable housing needs of other parts of the HMA are not fully met.

Whilst SDDC's local plan has not yet been submitted, it is close to submission and in all probability would have already been submitted if it were not for the additional land requirement emerging through Amber Valley's Examination. Coupled with the concerns raised above, there may be a case therefore, to consider the application to be premature as defined in Para 014 of the Practice Guidance (In what circumstances might it be justifiable to refuse planning permission on the grounds of prematurity).

With regard to access and school place issues, the Council comments as follows:

Access arrangements into and out of the site are a matter for Derbyshire County Council as highway authority for the area. The Highway Agency has previously expressed concern about strategic growth to the west of Derby, especially in the earlier parts of the plan period. Impact on Derby City's road network is unlikely to be significant enough to justify refusal of permission. The pedestrian link in the south east corner of the site shown on the illustrative master plan is approximately 255m from the nearest bus stop for the V1 and V2 service and 440m from the Mickleover service. This increases to over 700m from the V1 and V2 and 1km from the Mickleover service at the furthest extremity of the site. Whilst these are reasonable walking distances, it would be helpful if a pedestrian link onto Ladybank Road could be provided.

Whilst this site lies within a reasonable walking distance of the Mickleover District Centre, a piecemeal approach to development of this area will make it more difficult to secure new shops and services within the larger site being promoted in the local plan. This is a matter of concern as parts of the larger sites lie much further from Mickleover District Centre adding to the concern over a piecemeal approach to development.

Schools are an issue for the County and South Derbyshire. The application includes no proposal for new school provision and presumably school children would need to be transported to schools elsewhere in the County. City primary schools are largely at capacity in this area and there are major housing developments proposed within the City that are likely to reduce capacity at nearby Derby secondary schools. Therefore, it is unlikely a cross border arrangement could be put in place in this case. This approach would not be sustainable and would do nothing to help create a local identity and new community. Further, it would make sustainable school place planning all the more difficult for any larger site.

In conclusion, DCC considers that despite a change in circumstances from last year, there are still concerns over this proposal that weigh against it. Firstly, taken together with other proposed development in this part of Derby, it could undermine our wider aligned local plan strategies. Secondly, it does not relate well to the existing community and will lead to an unsustainable bolt-on to Mickleover rather than a sustainable extension to it. Thirdly, it would make the delivery of a comprehensively planned, sustainable new community on the larger site more difficult should this be justified at some point.

Notwithstanding the above comments, DCC welcomes discussions on Section 106 contributions. Following an initial meeting, DCC would like to request that the following contributions are directed towards Derby City:

1. A proportion of the nominations for the affordable housing secured on the site to meet Derby's need for affordable housing, although it is acknowledged that this may not be through the S106 process itself.
2. Contributions towards highway improvements in the Uttoxeter Road corridor.
3. Improvements to health facilities to be discussed.

The Council's Design Excellence Officer and the Council's Open Spaces and Facilities Development Manager have concerns in respect of connecting key green spaces and that the location of the open space opens up views of the existing side elevations of properties and their boundaries. The open space is too small for a Local Area of Play (LAP) and would be better in one location, located centrally. The layout should accommodate inevitable pedestrian access onto the existing cul-de-sacs on the adjacent estate. The development should secure large trees and tree lined streets, the retention of landscape features (as set out in the Design and Access Statement) and links to any future housing phases to the north/west; the protection of trees and the provision of a larger buffer to the existing woodland.

Responses to Publicity

Burnaston Parish Council objects to the proposal as the site was not included within the Local Plan which followed extensive consultation with local residents. They state that Mickleover could not accommodate this increase and a development on this scale would have an unacceptably detrimental effect on the area. They state that apart from a new junction on the A516, which may create its own traffic problems, the existing roads in Mickleover are already overcrowded and parking in the village is very difficult and it is often impossible even to park in Tesco. The local primary schools are already considerably overstretched and additional accommodation would be needed and the schools are far enough away from the proposed site to lead to significant additional car journeys. The local medical centres are overstretched and there is often a significant wait even for routine appointments. With the exception of a medium-sized Tesco store the provision for shopping in Mickleover is very limited and there are very few recreational facilities for children or adults. As a result the majority of local residents travel outside Mickleover for some or all of their purchases and for recreational activities. The proposed development would lead to even more car journeys with the inevitable increase in congestion and air pollution. In addition to the above there is the loss of agricultural greenfield space which enriches the lives of the local residents and is vital for wildlife.

A total of 208 letters have been received from local residents, which can be summarised by the following points:

Traffic

- a) The proposed development will result in an increase in traffic: Mickleover is already suffering with traffic issues on Station Road in line with new developments on Western Road, Former Pastures Hospital Land, Station Road Nestle site and new development on Radbourne Lane.
- b) The proposed development would add to the traffic congestion already experienced in Mickleover.
- c) The traffic on A38/A516 often cuts through Mickleover; this development will encourage this and make this much worse.

- d) The roads in Mickleover are already overcrowded and are congested throughout the day, not only at peak times. It is difficult to access the village shop as the road is blocked and no parking is available. This results in dangerous driving/parking and aggressive behaviour.
- e) Car parking availability in Mickleover is already insufficient and car usage is the only means of accessing Mickleover for residents on the outskirts of the area.
- f) The proposed development will result in up to an additional 600 cars on the road in Mickleover. Whilst the Transport Assessment confirms that people will walk and use public transport to access facilities and services, statistics show that people do not rely on public transport.
- g) Public transport in Mickleover is ineffective and only partially serves the new development i.e. the V2 Burton Bus only partially serves the new development and is hourly. There appears to be no intent to provide sufficient public transport for any of the additional housing. There has been no bus routes indicated as part of the proposed development.
- h) The Transport Survey that was submitted as part of the supporting documents for the application was originally carried out in 2011; this document is therefore out of date.
- i) The Transport Survey that was submitted as part of the supporting documents for the application makes unrealistic assumptions with regard to sustainability i.e. the level of public transport usage, walking and limited car use.
- j) The proposed development will encourage road users to use of Burnaston as a "rat run".
- k) A connecting road will be required from the A38 to the A50 to alleviate congestion.
- l) Wear and tear on the roads must be taken into consideration.
- m) The accessibility of the site is an issue; the proposed traffic lights on the A516 are likely to cause a significant number of accidents resulting from drivers travelling at high speeds.
- n) The development will appear to be accessed through Ladybank Road, despite the alterations to the A516 appearing to be dangerous. Speeds at Ladybank Road have already been reported as unacceptable.
- o) The traffic lights proposed on Hospital Lane would cause traffic back up in both directions.
- p) There is insufficient parking provided in the plans to accommodate the new residents. This will cause overspill parking and street parking.
- q) There are currently issues with pick up and drop off traffic at schools, this is likely to intensify as a result of the proposed development. There will be more school run traffic as a result of the proposed development and will result in parents travelling further for schools.
- r) The proposed pedestrian and cycle access at the end of Ladybank Road at the roundabout is very dangerous, there has been many accidents on this section of road.
- s) The Highways Agency will not allow any works to the east of the City until the work on the Little Easton, Markeaton and Kingsway islands are completed.
- t) The proposed development will create access issues for Country Park Residents.

Infrastructure

- a) Mickleover does not have sufficient infrastructure to support the proposed development i.e. retail, education, GP surgeries, leisure facilities and other community services.

- b) The current needs of Mickleover are not sufficiently supported and it appears that there are no plans to accommodate the increase in the need for infrastructure i.e. the Tesco in Mickleover is too small to cope and cannot expand.
- c) Existing school places in Mickleover are near capacity. There are very few Primary Schools available and John Port School is one of the largest secondary schools in the country and is over subscribed.
- d) There are not enough places at the Doctors Surgery and a lack of medical services.
- e) There are not enough Dentist Surgery places/provision within the Mickleover area.
- f) Affordable housing needs to be built near to good public transport links and amenities with school places. More starter homes are needed for young people as opposed to luxury 4 and 5 bedroom homes.
- g) The site is not a preferred housing site in South Derbyshire District Council's Proposed Local Plan.
- h) The proposed developments on Western Road, Former Pastures Hospital Land, Station Road, the Nestle site, Varsity Grange, Harlow Fields and the proposed new development on Radbourne Lane result in around 4427 additional dwellings in and around Mickleover, through developments in Amber Valley, South Derbyshire and Derby City.
- i) The proposed development needs to be assessed in association with the other developments around the site in accordance with EIA 2011 Circular.
- j) The proposed development will be located at a 1 mile distance away from schools, shops and facilities. This travel is likely to be supported by car use.
- k) The fields that surround Newhouse Farm are some of the best examples of Medieval Ridge and Furrow ploughing sites.
- l) New House Farm is a working farm and the proposed development will result in building on prime grazing/agricultural land. "Turning farms into housing estates is bad for people and their environment".
- m) The proposed development would involve significantly building into the countryside. Further development on greenfield land would diminish Mickleover and would change the character of Mickleover forever.
- n) The proposed development will create a "sprawling suburb" and a characterless housing estate.
- o) The proposed development would ensure that Mickleover will be caught up in Derby's urban sprawl, where Mickleover is a village. Previous development in Mickleover during the 1970's has created substantial growth, any further growth would damage the area of Mickleover.
- p) There are more suitable brownfield sites within the district that will be more suitable for housing development than this particular site, as the proposed development will result in creating a forced urban extension to Mickleover.
- q) The proposed increase in houses in Mickleover could lead to an increase in crime. This development will increase; petty crime, littering and graffiti, similar to other larger housing estates.
- r) There is only one petrol filling station in Mickleover.
- s) Nottingham has addressed its infrastructure issues by incorporating a green electric tram, Derbyshire has not addressed the same problem.

Ecology

- a) The proposed development will affect wildlife that has been seen on the site such as; hares pheasants, badgers, foxes, bats, owls, cuckoos, thrushes, sparrows,

buzzards, skylarks, green woodpeckers, greater spotted woodpeckers, spotted woodpeckers, partridge, pheasants and glow worms.

- b) The proposed development will worsen light pollution in the area.

Flooding

- a) The Environment Agency has identified areas of the site that suffer from surface water flooding.
- b) The topography of the site slopes downwards from South to North. There is significant flooding to the east of the existing development.
- c) The application makes significant reference to SUD's. However, these will need to be maintained.
- d) The sewage connection to the foul drain system is totally reliant on the existing system in Mickleover. This has been proven to be inadequate for the current number of dwellings and has resulted in instances (after heavy rain) where the sewage pumping station and culvert on Ladybank Road has been inundated and waste water has been forced up manhole covers.
- e) During heavy rain, surface water flooding has become an issue in Mickleover. The site currently acts a drainage space.
- f) The proposed development is not compliant with the Derby Urban Extension Strategy.

Other matters

- a) The site currently acts as a clear separation between Derby City and South Derbyshire as a green wedge. The proposed development will appear to join the areas.
- b) It is necessary for brown field sites to be used for development as opposed to green field sites. The petrol station site in Mickleover is a good example of a site that should be developed first.
- c) The proposed development will negatively affect house prices.
- d) The proposed development will lead to the further development of Newhouse Farm i.e. the erection of 1,500 dwellings which will occupy the western edge of Mickleover from the A516 north to the Mickleover Greenway. Concerned that the proposed development will act as a "foot in the door" for future development in the Mickleover green space.
- e) The views of the green space are photographed by local residents and photography students, as a beauty spot.
- f) The proposed development of 300 dwellings would threaten the existing community.
- g) The occupiers of the proposed development will pay Council to South Derbyshire District Council but the services and facilities that will support the properties will be provided by Derby City.
- h) The proposed development has been formally submitted prior to the adoption of the local plan.
- i) The existing properties on Ladybank Road will suffer with a loss of privacy from the proposed development.

As part of a further consultation with regard to amended plans, a further 68 letters have been received from local residents, which reiterated original objections and made additional points which can be summarised by the following:

Traffic

- a) There appears to be a lack of understanding with regard to the level of traffic on A516, there is likely to be more congestion than stated in the Traffic Survey.
- b) There is likely to be an increase in accidents due to the proposed traffic lights being obscured by a natural bend and adjacent foliage.
- c) The amended proposal for installing traffic lights for access onto the A516 will contribute to delays.
- d) There is a considerable on-road parking issue which makes driving very hazardous i.e. Aldi outside of Derby Royal Hospital. Alternatively, it is a 20 minute walk to alleviate the parking issue.
- e) There is insufficient public transport infrastructure i.e. one bus lane on the road into Derby City at the point of the Royal Derby Hospital.
- f) The proposed junction on the A516 will be positioned on a blind bend and will create a crossing point. The removal of barriers on the dual carriageway will cause a number of accidents.
- g) Right-hand turning at the proposed junction on the A516 will be hazardous and will cause accidents.
- h) The proposed alterations to the A516 does not address issues raised by Derbyshire County Council, it is likely to increase the risk of overshoot collisions, delays and rear end shunt type accidents.
- i) There is no safe vehicular access from the site to Ladybank Road.
- j) There are concerns about the number of vehicles that the development will create i.e. two cars per property and in the future when the children of the household obtain cars of their own, this number will increase.

Infrastructure

- a) Reduced financial contributions (i.e. school places) shows a complete disregard by the applicant to the needs of the area. A Section 106 contribution for 60 primary school places and 25 secondary school places does not equate to 300 family homes being built.
- b) The nearest medical practice (Vicarage Road) has closed its list for new patients, as it is unable to provide appointments due to patient numbers.
- c) The A516 near to Dee Lane floods in heavy rain due to inadequate drainage.

Other matters

- a) The amendments do not solve the safety and transport concerns that were identified as part of the original Planning Application.
- b) Loss of Flora and Fauna; the proposed development at Newhouse Farm is likely to have irreversible negative consequences.
- c) Concerns about the time period in which to comment about the amended plans (10 days).

A letter has been received from Mickleover Medical Centre in which they have stated that whilst their practice has no objection to the development of this site for residential purposes, it would like to highlight the fact that there are not sufficient healthcare facilities available to absorb this additional demand, nor are there sufficient healthcare facilities available to absorb the demands of the other developments in and around the Mickleover area. Neither Derby City Council nor the CCG have approached their

practice to establish whether this additional development can be accommodated for healthcare provision.

A letter has been received from John Port School in which they state that they are operating close to capacity and will be at capacity from September 2015. The additional secondary school places generated by this development can only be accommodated by additional capital investment in order to facilitate expansion and refurbishment of the school facilities.

A letter has been received from Councillor Keith, a City Councillor for Mickleover Ward, in which he objects to the proposal, stating that the site is open countryside which marks a distinct separation between Derby City Council and South Derbyshire District Council via a green wedge. Allowing this application would create a forced extension to Mickleover which is not part of the city or the Mickleover community. The site in question is not supported by SDDC and DCC as options for housing and so he is led to believe, will not be shown as such in the final local plan, therefore should not be considered for approval. The approval of 300 family homes would create an extra four hundred children looking for school places, since Mickleover schools in the main are full to bursting parents will have a long commute to alternative schools outside of Mickleover. Distance from the northern part of the proposed site is over 1Kilometre and walking time is over 10 minutes. This is above the recommended distance for accessibility. A development of this size would be expected to produce between 500 and 600 cars. Since the site is not allowing enough parking for these numbers car parking will be an issue which will create an over-spill of traffic on to roads and pavements within the site and outside the site. The local road structure in Mickleover will be impacted by an increase in cars brought about by this development. All in all without a massive spend on upgrading roads, medical centres, schools, parking places, public transport etc. Mickleover cannot handle hundreds of extra people and all they bring with them. The ward is full to capacity in all the areas mentioned above. Other land more suitable for development within South Derbyshire District Council's remit should be sought.

A letter has been received from Councillor Holmes, a City Councillor for Mickleover Ward, in which she states that this site is not supported as an option for housing by Derby City Council or South Derbyshire District Council and will not appear as an housing option or reserve site option in either of the authorities local plans for housing that will be moving towards final consultation and adoption soon. Virtually all local schools for all stages are full. A modest expectation from this development would be an extra 400 children requiring and school places. Those places are not deliverable in Mickleover. This will mean a very long distance commute for those living in the proposed site, which is aimed, by its design, at families or those planning families. The land is long established open countryside precious to the community. South Derbyshire should look to develop other more suitable sites. This site is not a well-planned extension to Mickleover. Ladybank Road marks the western extent of Mickleover and marks a clear separation from Derby City and South Derbyshire via green wedge. This development would force an 'extension' of Mickleover whilst not being officially part of Derby City or that local community. The access point into and out of the site is about 1km or a 10 minute walk from Mickleover's district centre. The planned dwellings to the north of the site are more than 1km from shops and services. This is above the recommend distances for accessibility. A realistic expectation for car use/ownership within a development of this size is 600 cars. Car parking provision within the site will not meet this need and details within the application also state a deliberate design

policy of reducing the facilities for car users to 'encourage' active and public transport use. Based on all evidence of similar developments across Derby, car parking will be an issue and will lead to overspill onto streets and pavement across the development, potentially also impacting on local streets outside of the site. Local roads that are also increasingly busy with traffic will also be impacted by the large increase in car use due to this development.

A letter has been received from Councillor Jones, a City Councillor for Mickleover Ward, in which she states that the Highways Agency's own concern and intent to object to any large housing developments on the Western side of Derby until the capacity of the A38 around the city has been increased. She understands that this work will not be completed until 2021 at the earliest. The traffic assessment within the application does not take into account fully the number of car journeys travelling into and through Mickleover using Etwall Road/Utttoxeter Road route and the impact on the Parade shopping traffic. The survey work for the assessment was done back in 2011 and should be considered as," out of date." Also access to Mickleover District Centre from the northern part of the development is over one kilometre and more than ten minutes' walk which is above the recommended distance for accessibility. In addition the proposal that cyclist and walkers use the Menzies Mickleover Court Roundabout is flawed as this has always been a busy roundabout and several vehicles have left the road within the Mickleover ward boundary. It seems to me an unsafe route for cyclist and walkers. The traffic lights on the main road seem unsafe as this is a fast section of road with speeding an issue and sight lines poor on the approach to the proposed lights. The bus provision is poor from the site involving only one bus service or a long 10 minute plus walk to access the Mickleover buses. This is not going to encourage sustainable transport and families may well be over reliant on the car. The number of new houses already given planning permission or currently pending permission within or in close proximity to Mickleover would make the capacity of the public services within the ward unable to cope with another large development on its doorstep. There is potential for another 1000+ people requiring services such as G.P. practices and schooling for children both of which have clearly stated they are running at near full capacity. This outline application is for family housing and it is estimated that it would create four hundred extra children requiring school places; these cannot be accommodated in Mickleover schools which means parents will have to commute their children to schools in other areas. This issue needs to be addressed within the plans. She notes that the current farming is not intensive and this has led to a diversity of wild life in the area. The ecological reports seem to be from 2011 and not up to date. This site was excluded from the final draft strategy as being unsuitable at the current time for development there being more suitable locations within South Derbyshire District.

Development Plan Policies

South Derbyshire Local Plan Saved Policies:

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

Submission Local Plan Part 1 Policies:

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

Local Supplementary Planning Guidance

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

National Guidance

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)
Paras 11-14 (The presumption in favour of sustainable development)
Para 17 (Core principles)
Chapter 1 (Building a strong competitive economy)
Chapter 4 (Promoting sustainable transport)
Chapter 6 (Delivering a wide choice of high quality homes)
Chapter 7 (Requiring good design)
Chapter 8 (Promoting healthy communities)
Chapter 10 (Meeting the challenge of climate change, flooding etc.)
Chapter 11 (Conserving and enhancing the natural environment)
Paras 186 & 187 (Decision-taking)
Para 193 (Local Planning Authorities should only request supporting information that is relevant, necessary and material to the application in question.)
Para 196 & 197 (Determining applications)
Paras 203-206 (Planning conditions and obligations) Annex1 (Implementation)

The National Planning Practice Guidance (NPPG)

Environmental Impact Assessment

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

Planning Considerations

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

- The principle and general sustainability
- Affordable housing
- Traffic and transport
- Impact on the character of the area
- Urban Design & Open Space
- Ecology
- Archaeology
- Flood risk and drainage
- Residential amenity
- S106 Contributions

The principle and general sustainability

The Council has submitted the Local Plan Part 1 to the Secretary of State for examination by an independent Inspector. The strategy is evidence based and does not identify the application site as a preferred housing site. However, whilst a date has now been set for late November for the emerging Local Plan Examination, it has yet to be publicly examined, and as a result, therefore, only limited weight can still be attributed to this.

The application site is immediately adjacent to the boundary with Derby City and the suburb of Mickleover with its relatively good level of services and transport links lies to the east. The site can be considered to be classed as part of the Urban Area in the Submission Local Plan's Settlement Hierarchy (H1) and such locations are envisaged to be capable of providing appropriate scale developments up to and including strategic sites (100 dwellings or more). However, it has to be noted that this hierarchy presently carries limited weight and whilst the proposed development is of a scale envisaged for the Urban Area, the site at present lies outside in the open countryside, as defined by adopted 1998 Local Plan, Policy H5.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that *“if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”* Paragraph 14 of the National Planning Policy Framework (NPPF) states *“at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.”* The NPPF makes it clear that for decision-taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

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

Paragraph 215 of the Framework states that due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework. In terms of housing supply, paragraph 47 of the Framework requires Local Planning Authorities to use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market

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

Derby City Council is concerned that the proposal would result in a medium sized bolt-on to Mickleover that will not relate particularly well to the existing community and which does little to create a sustainable new community and prejudicing the sustainable, longer term comprehensive development of a larger site in this area should a case for this arise in the future. They also consider that more than sufficient urban extensions are already being planned in and around Derby to meet both the City's housing need and a reasonable proportion of South Derbyshire's and that more urban extensions to the city, particularly to the west and south, run the risk of undermining the strategy being pursued in the aligned local plans. Taken with other development in and around Mickleover, there is a concern that an alternative strategic location is emerging. They are also concerned that there is a danger that too high a proportion of the HMA's overall housing need will be met within the Derby Urban Area and that the sustainable housing needs of other parts of the HMA are not fully met. They are also concerned that it will make a comprehensively planned larger development more difficult if needed at some later point in time.

Notwithstanding these concerns it must be remembered that this Council cannot currently 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 taken as a whole. It has been made clear through appeal decisions made since the inception of the NPPF that any negative considerations would need to be substantial in order to justify refusal of an application that makes a meaningful contribution to strategic housing need. The mere presence of less than optimal planning circumstances for any given development is not likely to outweigh the presumption. The objectively assessed housing needs of the Derby Housing Market Area has been agreed across the three local authorities, with South Derbyshire needing to provide 13,454 dwellings up to the end of the plan period in 2028. Whilst New House Farm is not one of the strategic housing sites promoted in the Local Plan Part 1, it is considered to be a sustainable location with appropriate services close by in terms of the presumption in favour of sustainable development. Mickleover has a range of facilities, services and transport options, and in acknowledgement of the contribution that the development would make towards meeting an identified strategic housing need the proposal represents sustainable development in principle. In the context of a Local Plan that is out of date in so far as the allocation of new housing is concerned, the presumption in favour of sustainable development would apply unless any adverse impacts would significantly and demonstrably outweigh the benefits.

Affordable housing

The SHMA suggests, over the period of 2012 – 2017, there is a housing need for 1,723 affordable homes, (345 affordable homes per year), across South Derbyshire. The application site lies on the Derby Fringe and The Council's Housing Strategy Manager has advised that the development should provide 30% affordable housing with a split of 62.1% social rent, 25.5% Intermediate – shared ownership housing and 12.4% affordable rented properties being appropriate for the site. Based on this current evidence, in order to deliver the affordable housing need a proportion of affordable housing is sought, underpinned by Local Plan saved Housing Policy 9 and Chapter 6 (para 50) of the NPPF.

The applicant has examined the evidence and has agreed to provide the requisite 30% sought by the Council's Housing Strategy Manager, though advises that the Masterplan does not currently include 1 bedroom properties therefore the mix may need to be amended.

Traffic and transport

Whilst the application is in outline form the matter of access to the site is for approval at this stage therefore the suitability of the access arrangements proposed have to be critically examined. The proposals were amended during the consideration of the application following objections from the County Highway Authority, the result being that vehicular access to the site would be via a new signal controlled junction with the A516 Mickleover by-Pass and Hospital Lane. The existing on and off slips roads providing access and egress to the A516 at the end of Hospital Lane would be removed resulting in all traffic at that location from the development site, Hospital Lane and on the A516 having to negotiate the new signal controlled junction. This would be complemented by a proposed reduction on the speed limit on the A516 from the national speed limit down to 50mph.

The A516 Mickleover by-Pass is a classified, "A" road, and one that is relatively busy with vehicles travelling at high speed and the speed limit is currently the national speed limit. As such the alterations to create the access and accommodate the traffic generated by the proposal needs to be appropriate to this location. In order to come to a view on this matter the opinion of the County Highway Authority has been sought. Furthermore, due to the proximity of the A38 Trunk Road to the east, the views of the Highways Agency have also been sought. In the reply from the Highway Agency they have stated that they are of the opinion that the proposal would not

The County Highway Authority they have advised that they seek to avoid traffic light controlled junction on roads such as this and that they would be a liability, being less safe. They refer to the Design Manual for Roads and Bridges (DMRB) and the fact that the applicant has stated that that two speed surveys have been carried out and the results demonstrated that the 85%ile wet weather speed in both directions was in excess of 65mph. The County Highway Authority advise that an artificial speed reduction in the form of a 50mph limit is not guaranteed to be achievable and that the required Traffic Regulation Order would not necessarily be successful or, if it was successful, that it would not necessarily be respected by the majority of drivers and, only once implemented, would the impact and resultant 85%ile speed be apparent. If speeds did not drop the County Highway Authority would be left with a hazardous situation which could not be further mitigated and they state that the Local Constabulary are opposed to reducing the speed limit at this location due to enforcement issues and efficacy of the signage. They also advise that closing the slip roads would erode the

efficiency of the junction and the removal of laybys would result in the loss of useful roadside facilities. The Highway Authority recommends refusal of the proposal on the grounds that the proposed means of access on to the A516 is fundamentally flawed in terms of type and design and the introduction of development related traffic using this proposed junction would be prejudicial to safe and effective traffic movement on the public highway contrary to Paragraph 32 of the National Planning Policy Framework.

It is noted that the County Highway Authority question whether the applicant owns all land needed to secure the access as well as the pedestrian/cycle links onto Old Etwall Road. The applicant submitted a revised ownership certificate in which they have served Notice on the Secretary of State for Transport, acknowledging that some land is beyond their ownership and they have also taken legal advice which they have submitted and which shows they are of the view that the pedestrian and cycle link can be legally provided.

It is noted that Local Plan Transport Policy 6 states that planning permission will not be granted for development which interferes with the free and safe flow of traffic and that policy is relevant as it echoes the NPPF at paragraph 32 which states, amongst other things, that safe and suitable access to the site can be achieved for all people; and development should only be prevented or refused on transport grounds where the impacts of development are severe. On the advice of the County Highway Authority it is considered that the proposal would lead to such an adverse degradation of highway safety and it is considered that the proposal would be contrary to the advice contained on Local Transport Policy 6 as well as paragraph 32 of the NPPF and therefore the highway safety aspect of the proposal is considered to be unacceptable.

Impact on the character of the area

Given the location of the site within the open countryside with views of the site from close proximity and more distant there would inevitably be an impact on the character of the area. One of the core planning principles in NPPF at paragraph 17 is to recognise the intrinsic character and beauty of the countryside and states that the countryside has an intrinsic beauty and it has to be acknowledged that the site is located within an attractive rural scene, on the edge of the city. However, this can be mitigated to a certain extent through good design and the illustrative Masterplan shows how this can be achieved. There is a clear opportunity to provide a built form that creates a high quality environment incorporating local distinctiveness in accord with paragraph 60 of the NPPF and saved Housing Policy 11 of the Local Plan. Whilst the detail would be considered at reserved matters stage, the submitted Masterplan and Design and Access Statement provide an appropriate basis for this to happen and the development would appear as an extension to Mickleover.

Urban design & open space

The application is in outline only and all matters, except access, are reserved for future approval therefore it is not possible to carry out a full Building for Life assessment at this stage. Nevertheless the proposal presents some key aspects that would form the basis of a good scheme in urban design terms. It is reasonably well served by the public transport and within an acceptable distance of the numerous facilities within Mickleover, including educational, commercial and community facilities that help to make it a sustainable development. Whilst the Council's Design Excellence Officer and Open Spaces and Facilities Development Manager had concerns in respect of the Masterplan

the applicant has provided a response to those concerns in which they state that they consider that the proposed Illustrative Masterplan demonstrates the key objectives presented within the Design and Access Statement, and that the proposed green corridor network as proposed by Council's Design Excellence Officer and Open Spaces and Facilities Development Manager does not take into account fully the site's context and existing features, resulting in an ill-advised imposition of routes.

Issues relating to design and layout of the houses, how they relate to spaces, crime reduction measures and the provision of parking would be addressed through reserved matters submissions, although the principle objectives for these can be secured by conditions at this stage. Looking at this matter in the round, on balance it is considered that the proposal would accord with Chapter 8 of the NPPF and Saved Recreation and Tourism Policy 4 of the Local Plan.

Ecology

The report submitted with the application concluded that with an appropriate plan for the retention and enhancement of habitats (particularly woodland, trees and hedgerows) implemented, the current development proposals could provide a net gain of biodiversity on the site. The submitted report was assessed by Derbyshire Wildlife Trust who considers that the ecological works have been undertaken appropriately. Their comments related to badger protection; hedgerow removal to avoid bird nesting season; the Reserved Matters providing green infrastructure as per the Masterplan and the submission of a Landscape and Ecology management Plan within the new development and these can be appropriately secured through the imposition of suitably worded conditions. Notwithstanding the submitted comments, subject to the recommended conditions of Derbyshire Wildlife Trust biodiversity at the site would be enhanced.

Archaeology

The Archaeological Assessment identified only one *non-designated heritage asset* (archaeological site) recorded on the Derbyshire Historic Environment Record within the development site, an area of medieval ridge and furrow cultivation earthworks north-east of New House Farm (HER Monument reference 24308). The County Archaeologist states he recommends that a small amount of trial trenching is required to validate the geophysics, but this can be achieved through a conditioned scheme in line with NPPF para 141. Notwithstanding the submitted comments, this approach is considered to be appropriate and proportionate and as such would be compliant with Saved Environment Policy 14 and NPPF Chapter 12.

Flood risk and drainage

The site is unconstrained by Flood Risk mapping published by the Environment Agency therefore the main focus therefore lies on surface water drainage arising from the development and it is noted that there have been issues with regards to the flooding of properties locally and downstream and therefore this issue is of particular importance. Sustainable Urban Drainage Scheme (SUDS) are to be incorporated within the scheme, as shown on the illustrative Masterplan in the form of surface water attenuation ponds in the north-west corner of the site. The Environment Agency have stated that they raise no objection to the proposal subject to a condition which secures details of surface water drainage alongside Severn Trent Water and the condition would secure appropriate surface water drainage techniques, fulfilling policy objectives to ensure flood

risk is not exacerbated on or off site. Notwithstanding the comments submitted, in terms of flood risk the proposal is considered to be acceptable.

As to foul water, despite concerns from neighbours, Severn Trent Water raises no objection subject to a condition. They do not raise concern either regarding capacity locally.

Notwithstanding the submitted comments, subject to the recommended conditions, the development would be in accord with Chapter 10 of the NPPF and the NPPG.

Residential amenity

The site is immediately adjacent to the established residential properties on Ladybank Road, Howden Close and Paxton Close, as well as New House Farm itself, and the development of the site will clearly have a significant impact on the outlook from those properties. However, the proposed Masterplan shows a significant area of open space adjacent to them and in any case the interrelationship between the new homes and the existing ones would be properly assessed at reserved matters stage. It is considered that the number of homes proposed can be achieved in line with the Masterplan with a layout and design that accords with the Council's adopted residential space guidelines and the internal arrangements of individual dwellings would be assessed at reserved matters stage. The site therefore provides ample scope for reasonable amenities in terms of light, air and privacy for both existing and new dwellings; safe, functional and convenient layouts; private amenity space, and space for landscaping in accordance with Local Plan saved Housing Policy 11.

S106 Contributions

As set out above, the Council's Housing Strategy Manager advises that there is a need for affordable housing in Etwall and requests the developer provide 30% affordable housing with a split of 62.1% social rent, 25.5% Intermediate – shared ownership housing and 12.4% affordable rented properties being appropriate for the site.

The Education Authority have advised that the proposed development falls within the normal areas of Etwall Primary School and John Port School and that they require a financial contribution towards the provision of 45 secondary school places at John Port School at £772,927.65 and 18 post-16 education places at John Port School at £335,302.20. The total financial contribution requested by the County Council for education is, therefore, is £1,792,170.45.

The County Planning Policy Officer, as well as the education contributions, requests access to high speed broadband for future residents as well as cycle links and new homes being designed to Lifetime Homes standards.

A S106 for built and outdoor facilities is considered to be required towards improvements at Etwall Leisure Centre, in line with the Council's Adopted S106 SPD. That document requires "Recreation – Outdoor Facilities" of £220 per person therefore assuming 2.5 people per dwelling that would equate to £165,000 as well as "Recreation – Built Facilities" of £122 per person therefore assuming 2.5 people per dwelling that would equate to £91,500.

The Council's S106 guidance seeks a contribution of £551 per dwelling towards healthcare provision, totalling £165,300.

A pedestrian crossing in the vicinity of Ladybank Road/Old Etwall Road, in line with suggestions made by the Design Excellence Officer would be appropriate, subject to agreement with Derby City Council Highways as any crossing would be within their administrative area.

Derby City Council have requested nomination rights over an element of the affordable housing as well as financial contributions towards highway improvements in the Uttoxeter Road corridor of an unspecified amount, as well as unspecified improvements to health facilities.

From a planning point of view, legislation states that there are legal tests for when a S106 agreement can be utilised and these are set out in regulation 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 as amended (and as set out in para. 204 of the NPPF). In this case it is considered that the provision of the affordable housing, contributions towards education, as well as for built and outdoor facilities contributions are compliant in principle. However, the applicant does not at this stage agree to the justification behind the level of education contribution sought by the Education Authority based on the information they have provided and they consider a sum totalling £1.3m would satisfy the tests set out in the Framework and the CIL Regulations and they would be willing to accept such a contribution. They have also requested further clarification on proposals for improvements to Etwall Leisure Centre before agreeing to those contributions.

The status of local GP surgeries, as illustrated by the letters received from local residents and Mickleover Medical Centre as well as the letters from Derby City Council and their local ward members, is clearly a significant issue locally and there is scope to request a financial contribution towards healthcare provision as set out in the Council's guidance. However, in order to levy such a contribution clear evidence of that need must be provided by the NHS England as well as evidence of a clearly deliverable solution that any monies would be used to contribute to. In the absence of such information a contribution towards healthcare is not justified or compliant in this instance. It is also noted that at present there is no policy basis on which to secure the requested for new homes to be designed to Lifetime Homes standards, high speed broadband or flood defence improvements downstream.

Conclusions

Whilst the proposal does not relate to one of the Council's preferred sites put forward for housing development through the Local Plan it would be likely to be able to contribute to the early delivery of homes, helping the Council meet its requirement for a five year supply of deliverable housing.

By reference to the NPPF's (Para 7) three sustainability dimensions (economic, social, environmental) the provision of new housing would support economic growth, ensuring an attractive place to live for South Derbyshire's economically active population as well as helping to supporting the vitality and viability of Mickleover. Construction jobs would also be created. This is supported by the site's accessibility to Derby, served by public transport. The proposed scheme would have a significant positive impact on local communities by providing new homes (market and affordable).

In terms of healthy communities the illustrative Masterplan includes open space and pedestrian/cycle links which would help to support active lifestyles and encourage alternatives to the car for accessing local facilities and employment opportunities.

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

However, the suitability of the vehicular access to the site remains the key issue when assessing the merits of the proposal. It is considered that the proposed access arrangements onto the A516 Mickleover By-Pass would lead to an adverse impact on highway safety to such an extent that this would outweigh the benefits highlighted above.

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

Recommendation

REFUSE permission for the following reason:

1. The A516 Mickleover By-Pass is a busy, principal road which experiences a high number of high speed vehicular movements. South Derbyshire Local Plan Transport Policy 6 states that planning permission will not be granted for development which interferes with the free and safe flow of traffic and that policy is considered to be consistent with the National Planning Policy Framework at paragraph 32 which states, amongst other things, that safe and suitable access to the site can be achieved for all people. In the opinion of the Local Planning Authority the proposed means of access onto the A516 is fundamentally flawed in terms of type and design and the introduction of development related traffic using this proposed junction would be prejudicial to safe and effective traffic movement on the public highway, contrary to the advice contained in NPPF paragraph 32 and Local Plan Transport Policy 6.

Informatives:

Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections to the proposal. However, despite such efforts, not all of the planning objections and issues have been satisfactorily addressed. 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.

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 5
DATE OF MEETING:	28 TH OCTOBER 2014	CATEGORY: DELEGATED/ RECOMMENDED
REPORT FROM:	DIRECTOR OF COMMUNITY AND PLANNING	OPEN/EXEMPT PARAGRAPH NO:
MEMBERS' CONTACT POINT:	RICHARD RODGERS	DOC:
SUBJECT:	TPO381	REF:
WARD(S) AFFECTED:	MELBOURNE	TERMS OF REFERENCE:

1.0 Recommendations

- 1.1 That this tree preservation order be confirmed.

2.0 Purpose of Report

- 2.1 To consider confirmation of this tree preservation order (TPO).

3.0 Detail

- 3.1 This woodland tree preservation order was made on 16 June 2014 in respect of trees within the grounds of Lambert House, Ashby Road, Melbourne.
- 3.2 The TPO was made at the request of the Area Planning Officer following receipt of a planning application (9/2014/0216 for a new dwelling) which put a number of well-established trees on the site under threat.
- 3.3 The woodland is well seen from a number of public vantage points (public footpaths etc.) and contributes to the landscape setting of the adjoining conservation area, itself part of the setting to Melbourne Hall and its registered garden. The woodland therefore provides important visual amenity and contributes to the character of the locality.
- 3.4 Comments relating to the proposed Order have been received and are summarised as:
- With few exceptions the trees are all self-set and there are no individual trees of merit. The 'Woodland' Order supports the contention that there are no individual trees of merit;

- The tree evaluation report appears to be limited only to the application area;
- It is not explained or justified why the entire site was included in the order, when only part of it made up the planning application. The order covers an area up to six times the application site;
- Large parts of this site (including the house and planning application site) were left out of recent boundary change to the Conservation Area. If all of the trees here were seen to make a positive contribution they should all have been included in that boundary revision;
- Mr Dunnicliff has restored the site here (previously an unused quarry), tending and managing the land allowing it to flourish as a haven for wildlife. The woodland has matured with the aid of careful management. There is no threat to the bulk of the woodland, the order is merely a thinly disguised knee jerk reaction to the situation;
- Should the planning appeal be successful, the order will have no effect in preventing the removal of a relatively small number of trees;
- But for the planning application this order would not have been made, or even occurred to the Council to make it;
- The applicant will have to make an application every time he wishes to carry out maintenance to the trees. This will result in delays as well as additional cost - expense in engaging a tree consultant.

3.5 In answer to the comments made, officers have the following response:

- The Planning Inspectorate recently commented on the value of the trees here (following the related planning appeal) stating '*...the ground falls away from the quarry to the south, giving it a prominent and commanding position in the landscape which is considerably softened by the landscaping and surrounding woodland which provides visually continuity with the wider, bocage landscape*'. As such it is deemed that all the trees here contribute in some way, providing a well seen 'green canopy'.
- The tree evaluation report is a little unclear as to which trees it refers. The Councils Tree Officer is however fully supportive of protecting the wider 'woodland'.
- There is no reported explanation as to why some of the site was left out of the recent change to Conservation Area boundary. In this instance the inclusion of the house and the trees closest to it may have been seen to be too onerous, especially in regards the restrictions it brings in regards extensions/alterations to Lambert House which has limited appeal in a conserving situation.

The Council is obligated to protect trees of value to their landscape setting (and this is supported by saved Environment Policy 9). All trees

cannot be saved. However should a planning application carry a threat to valuable trees, the Council should not ignore that obligation.

- The Planning Inspectorate has subsequently dismissed the planning appeal. As described above the woodland was referenced as contributing positively to the landscape offer.
- In such woodland situations the Council is minded to accept a 5 year tree management plan. This ensures good long term management of the woodland (in accord with free advice from the Councils Tree Officer) and lessens the administrative burden on the applicant.

4.0 Planning Assessment

- 4.1 It is expedient in the interests of amenity to make the trees the subject of a tree preservation order.

5.0 Conclusions

- 5.1 It is expedient in the interests of amenity to preserve.

6.0 Financial Implications

- 6.1 None.

7.0 Corporate Implications

- 7.1 Protecting visually important trees contributes towards the Corporate Plan theme of Sustainable Development.

8.0 Community Implications

- 8.1 Trees that are protected for their good visual amenity value enhance the environment and character of an area and therefore are of community benefit for existing and future residents helping to achieve the vision for the Vibrant Communities theme of the Sustainable Community Strategy.

9.0 Background Information

- 9.1 16th June 2014 Tree Preservation Order
9.2 30th June 2012 – Letter from agent.
9.3 Planning Inspectorate Appeal Decision