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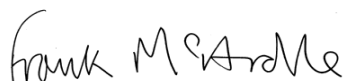
Date: 17<sup>th</sup> June 2019

Dear Councillor,

**Planning Committee**

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, Civic Offices, Civic Way, Swadlincote on **Tuesday, 25 June 2019 at 18:00**. You are requested to attend.

Yours faithfully,



Chief Executive

To:- **Conservative Group**

Councillor Mrs. Brown (Chairman), Councillor Mrs. Bridgen (Vice-Chairman) and Councillors Angliss, Brady, Ford, Muller, Watson and Mrs. Wheelton

**Labour Group**

Councillors Gee, Dr Pearson, Shepherd, Southerd and Tilley

## **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 STRATEGIC DIRECTOR (SERVICE DELIVERY) **3 - 66**
- 5** TREE PRESERVATION ORDER 505: THE LAWNS, 82 MAIN STREET, ETWALL **67 - 69**

### **Exclusion of the Public and Press:**

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

# **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

**SECTION 1: Planning Applications**

**SECTION 2: Appeals**

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

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## **1. PLANNING APPLICATIONS**

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

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
9/2019/0406	1.1	Church Broughton	Hilton	5
9/2018/1335	1.2	Swadlincote	Swadlincote	18
9/2019/0185	1.3	Church Gresley	Church Gresley	31
9/2019/0422	1.4	Melbourne	Melbourne	39
9/2019/0471	1.5	Melbourne	Melbourne	43
9/2019/0480	1.6	Melbourne	Melbourne	51
9/2019/0509	1.7	Aston on Trent	Aston	57

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

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

**Item**            **1.1**

**Ref. No.**        **9/2019/0406/U**

**Applicant:**  
**Mr J Bailey**  
**J Bailey & Son**  
**c/o Agent**

**Agent:**  
**Mr J Imber**  
**JMI Planning**  
**62 Carter Street**  
**Uttoxeter**  
**ST14 8EU**

**Proposal:**    **CHANGE OF USE OF PART OF AGRICULTURAL Paddock FOR THE EXERCISING OF DOGS ALONG WITH THE ERECTION OF BUILDINGS FOR BOARDING KENNELS AND ASSOCIATED STORAGE AND THE CREATION OF A PARKING AREA ON LAND ADJACENT TO GREENACRE BENT LANE CHURCH BROUGHTON DERBY**

**Ward:**           **Hilton**

**Valid Date**    **12/04/2019**

#### **Reason for committee determination**

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

#### **Site Description**

The application site comprises a paddock adjacent to and to the rear of Greenacre, Bent Lane, Church Broughton, a bungalow. The site lies within open countryside to the east of a group of former farm buildings now converted to residential dwellings. The site is approximately 1.7km southeast of the village of Church Broughton and approximately 2km north of Hatton.

#### **Proposal**

The application proposes the erection of a kennel building and separate smaller storage building at the rear of Greenacres. The northern part of the paddock the west would serve as an area for the exercising of dogs and a small parking area would be created to the north of the Greenacres itself. Access to the parking area and kennels would be via a surfaced track currently used to access the field but also used by a neighbouring property.

[illegible]

## **Applicant's supporting information**

The applicant has provided location and block plans as well as plans and elevations of the proposed buildings. In addition the applicant has provided a Supporting Planning Statement, a Business Case as required by Policy E7 demonstrating the need and economic viability of the proposal, a Noise Assessment which recommends the provision of acoustic fencing and concludes that noise can satisfactorily be controlled by the design of the development, and a Barn Owl and Wider Ecology Survey which concludes that the shed and nesting boxes does not show any evidence of past Barn Owls and that the boxes should be moved to adjacent trees.

30 letters of support are provided. The authors include being dog owners or trainers in the majority, with some having known the applicants for some time and verifying their repute. These letters support the need for the kennels and express a desire to take up space at the business, as well as expressing disappointment at the previous refusal.

## **Planning history**

9/1982/060     The erection of an agricultural workers dwelling – approved April 1982.

9/2018/0839   Change of use of agricultural paddock for the exercising of dogs along with the erection of buildings for boarding kennels and associated storage and the creation of a parking area – refused in December 2018 for the following reason:

*“Notwithstanding the submitted evidence, even taking into account the noise mitigation measures recommended in the noise report accompanying the application, there would be significant adverse impacts on quality of life for nearby residents by way of noise levels emanating from the development which could not be reasonably controlled by planning conditions. As such the proposal is contrary to policies SD1 and E7 of the adopted Local Plan Part 1”.*

## **Responses to Consultations**

The Environmental Health Manager notes that the previous application was refused, and the reason for this refusal. The revised scheme is identical to that previously submitted, save for the reduction in the size of the outdoor exercise area and its enclosure with acoustic fencing. The noise data submitted in support of this application has been compared with the previously submitted noise report, and a conclusion to the comparison is that:

- The predicted noise from the external exercise area would be ‘half as loud’ as the original application;
- The noise from the outer run will be slightly less than half as loud as the original application, and;

- The noise from the inner run will be 'perceptibly' less than the original application.

The noise report states that the proposals meet the criteria in BS8233 "Guidance on sound insulation and noise reduction for buildings". It is also useful to compare the predicted noise levels against the measured background noise levels at the development location to provide an indication about how prominent barking noise is likely to be against the existing background noise environment. Based on the noise data collected, the impact of dog noise from the proposed development is considered to be 'low'. Nevertheless, at the noise levels predicted it is still considered that dog noise would be audible at the local noise sensitive receptors. However, the proposal is not considered to result in demonstrable harm to the amenities of nearby residents subject to conditions relating to the provision of sound insulation for the building and the installation of an acoustic fence.

The Highway Authority, having commented on the previous application, note that the proposal differs little in highway terms from the previous application and has no objections. The previous comments stated that Bent Lane is of single width and only serves 12 properties. Whilst not ideal, it is not considered that the traffic generated by 14 kennels to accommodate 28-32 dogs could be considered severe enough to recommend refusal of the application. The Highway Authority therefore recommends conditions relating to access, parking and manoeuvring and location of gates.

The Development Control Archaeologist considers that the proposal would have no archaeological implications.

Derbyshire Wildlife Trust supports the recommendations of the submitted Barn Owl and wider ecology survey, such that any development should be carried out in accordance with the recommendations of the survey. This would secure the relocation of the existing bird boxes and checks on the building for occupation by birds before its demolition. In addition the provision of native hedgerow planting and wildflower meadow establishment is supported.

## **Responses to Publicity**

Church Broughton Parish Council objects on the following grounds:

- a) there is an agricultural tie on the property and possibly the land as well, and the planned development should be allowed to proceed;
- b) the property has been let out to a tenant who now wants to create this business, which is not agricultural and so outside of the constraints of the tie;
- c) the scope for noise from a site housing so many dogs is significant;
- d) noise from the A50, as referred to in the application, is not normally audible and would not cover the sound of barking dogs;
- e) it is not clear on how faeces is to be collected and disposed of, with concerns of cross contamination and threat to health.

A petition signed by 62 people has been received, this raising a number of objections. In addition 45 letters of objection have been received, by many of the same residents whom signed the petition raising the following concerns/points:



### Principle

- a) There are sufficient existing facilities in the area so there is no need for another one. There are 11 within a six mile radius of Hilton.
- b) This rural location is inappropriate for commercial development.

### Amenity Impacts

- c) The proposed measures to reduce noise are laughable.
- d) Dogs barking will be to the detriment of the local population.
- e) 32 dogs will cause a lot of noise.
- f) The frequency, pitch and volume of the dogs 24 hours a day will negate any mitigation.
- g) Happy hounds in Church Broughton is already heard from 2 miles away.
- h) Increased lighting nuisance.
- i) The various activities around the site including the tennis courts will set dogs barking.
- j) The guidance set out in South Derbyshire 'barking dogs leaflet' is noted as regards statutory nuisance. This proposal would constitute a considerable nuisance.
- k) At the last Planning Committee it was stated that the process of enforcement of noise would be a complex issue – no monitoring or enforcement would be practical.
- l) Impact from the development on a recently approved dwelling close to the site.
- m) The assessment is based on just two dogs barking at the same time – this is not a true reflection of how much noise 28 – 32 dogs will make.
- n) Impact on adjacent children's play area (private garden) and the implications of this.
- o) Comparing noise to the ambient noise from the A50 is inappropriate – dog barking is more sporadic and noticeable
- p) Dogs are pack animals and one barking would set others off.
- q) The proposed acoustic fencing is totally ineffectual – how can this work.
- r) Impact upon the pleasant and peaceful surroundings to enjoy outdoor sport.

### Highways

- s) Increased traffic causing disruption to residents and impacting on the road surface.
- t) Access via the single track is narrow and unsuitable for the development.

### Other

- u) Concern for welfare of the dogs due to the small exercise area.
- v) There is no evidence that the barn owl boxes have been relocated as required by the submitted survey.
- w) The buildings would be visible from the public highway.
- x) Cross contamination – removal of faeces is not covered by this application.
- y) The supporting letters within the statement live a long way from Church Broughton.

- z) Impact on existing biodiversity including barn owls with the building to be demolished.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S6 (Sustainable Access), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), E7 (Rural Development), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport)
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows),

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide SPD

## **Planning Considerations**

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

- Principle of the development;
- Design;
- Impact on amenity;
- Highway safety;
- Impact on historic environment; and
- Impact on ecology

## **Planning Assessment**

The Committee should note that this application is a revision to the previously refused scheme considered in December 2018. The main change relates to the extent of the proposed exercise area, which has been reduced in size, located away from the site boundaries, and enclosed to the south, east and west by acoustic fencing.

## Principle of the development

The principle of new development in the countryside is established by BNE5 of the Local Plan Part 2. This states that (inter alia):

*“Outside of settlement boundaries (as defined in policy SDT1) within the Rural Areas of the district planning permission will be granted where the development is... allowed for by policies H1, H22, E7, INF10, H24, H25, H26, H27 or H28”.*

Policy E7 of the LP1 states that: *“development proposals which diversify and expand the range of sustainable employment activities on land outside of settlement boundaries will be supported by the Council provided they support the social and economic needs of the rural communities in the District”.* The policy goes on to state that *“the Council will support proposals for the re-use, conversion and replacement of existing facilities and development of new buildings...”* subject to certain criteria. These include the submission of a sound business case, that the highway network is capable of accommodating the traffic generated, that development will not give rise to any undue impacts on neighbouring land, that the proposal is well designed and at a scale commensurate with the proposed use, and visual intrusion and the impact on the character of the area is minimised. The submission of a business case is fundamental to the principle of the development. Other issues are discussed under relevant headings below.

The applicant has provided a business case which highlights the need for additional high quality dog kennels in the area based on the number of new dwellings being constructed in the area and the associated growth in the population. Using the number of homes that currently have a dog, the applicant estimates the potential additional dog population from the number of new homes to be built over the period of the Local Plan. The business plan then looks at the number of kennel facilities in the area and concludes that there is a shortfall. Given the limited number of other kennel facilities highlighted in the Business Case at the time the previous application was submitted, the applicant was asked to provide additional information. The Council has a publicly available list of licenced premises which totals 36 premises throughout South Derbyshire. The additional information provided assessed this list and reduced to 13 the number of premises that actually provide boarding facilities for dogs. Whilst there is limited evidence of existing kennel spaces available at present and no mention of what kennel facilities might be available in Staffordshire, also within a reasonable catchment area, it is considered that a case has been made for the number of new households in the District which is expected to rise substantially over the plan period and it is reasonable to assume that the dog population would rise in line with the additional housing provision. The supporting letters are also a good indication of the likelihood of take-up of the business. The business case also sets out the start-up costs and expected turnover based on providing the new building to the most recent Licencing standards. The proposal therefore complies with criterion (i) of Policy E7.

Objectors have raised the issue of the property being constrained by an agricultural tie. Planning history for the site confirms that Greenacres is a dwelling that was granted consent with condition to limit its occupation to someone working in

agriculture. Whilst the property was recently purchased in 2017, the current owner is employed in agriculture, with the current tenant also working for the owner of Greenacres and employed as a farm manager. As the property is both owned by someone who works in agriculture and his tenant works for him employed in agriculture, there is no breach of this condition. The application, whilst in the name of the owner of Greenacres, is a proposal by the tenant and family to run the kennel business whilst still employed in agriculture. There are also no restrictions on the original permission restricting the setting up of a business from the property.

### Design

Policy E7(iv) states that the new buildings should be “*well designed and of a scale commensurate with the proposed use*”. The proposed kennel and storage building are of functional design being proposed as double skin blockwork construction and timber clad gable ends with the main window and door openings facing north and south. The kennel building is of pitched roof construction with relatively low pitch roof with a height to ridge of just under 4.1 metres and height to eaves of 3.62 metres. The kennel building would be 19.10 metres in length and 11.30 metres in width. The flat roof storage building located to the west of the kennel building would be much smaller being only 3.56 metres in height and measuring 6.30 metres by 5.70 metres.

Whilst these buildings have a relatively large footprint they have been designed to have a minimal impact on the wider area being located to the rear of the existing house and minimising their height through the use of a shallow pitched roof. The materials are similar to that found on modern agricultural buildings, the use of concrete and timber boarding being prevalent in modern agricultural buildings. The kennel building itself would be some 18 metres away from the western boundary of the site and 10 metres away from Greenacres itself. The storage building would be located opposite Greenacres and create a courtyard around the parking area being 21 metres away from Greenacres but closer to the western boundary than the kennel building itself. In addition, the proposal includes the provision of a solid timber fence (acoustic barrier) along the boundary of the exercise area, which could impact upon the character of the area. However, considering that such a fence could be erected without the need for planning permission (up to a height of 2m) and it would be partially screened from the public realm by the existing field boundaries (which could be supplemented further by a landscaping scheme to the outer edge of the fence), the fencing in itself is not considered to be demonstrably detrimental to the character or appearance of the area.

Overall the layout, buildings and proposed development are considered to be of a scale commensurate to the proposed use, and the area in general subject to the submission and agreement of materials and landscaping details and therefore complying with E7(iv) as well as policies BNE1 and BNE4.

### Impact on amenity

The previous refusal of the application is a material consideration in determining the acceptability of the current proposal. The question is therefore whether this application is materially different to the degree that conditions are either not required

to control noise and disturbance from the site or that conditions can be applied which are both enforceable and offer reasonable control.

The design and layout of the building are considered to be acceptable as set out above being functional in appearance and layout. In addition, there would be no overlooking of neighbours being sufficiently distant from neighbouring properties and in any event the buildings are single storey. The proposal also includes a new hedgerow on the southern/eastern side of the acoustic fence minimising the visual impact the proposal would have on the surrounding area.

The nature of the development however could create potential adverse impacts on neighbour amenity affecting their living conditions. Policy SD1 states that: *“the Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments”*. This policy states that the Council will take into consideration certain criteria, including criterion (iii) which states *“the need for a strategic buffer between conflicting land uses such that they do not disadvantage each other in respect of amenity issues, such as odours, fumes, or dust and other disturbance such as noise, vibration, light or shadow flicker”*.

The closest residential dwelling other than Greenacres itself is approximately 55m away. The Noise Assessment has been considered in detail by the Environmental Health Manager such that the proposed kennels and revised exercising area is considered to be capable of being accommodated without causing undue harm in this location subject to the proposed mitigation (i.e. the provision of acoustic insulation for the building and acoustic fencing to surround the outdoor exercise area). The revisions to the scheme are considered to result in the predicted noise from the external exercise area being ‘half as loud’ as the original proposal – a reduction of 9 to 11dBA, with noise from the outer run being reduced by 7.5 to 9.2dBA and the inner run at feeding times by 2 to 4dBA. Each of these measurements results in noise from the operation being below background noise levels.

Whilst a lighting layout and specification has been submitted, the information submitted is insufficient to allow a full assessment of the scheme to be provided. As such, a condition requiring the submission of a full scheme is considered appropriate in order to ensure any lighting installed at the site would not impact on the amenities of nearby residents and reduce sky glow in the evenings/at night.

#### Highway safety

Bent lane, leading to Miry Lane, is one of several roads that were severed by the A50 when constructed in the 1990s. It is now a dead-end and serves a small number of properties. The road is predominantly single width carriageway and therefore does not encourage high vehicle speeds. The Highway Authority states that whilst not ideal, it is not considered that the traffic generated by 14 kennels to accommodate 28-32 dogs could be considered severe enough to recommend refusal of the application. The Highway Authority also notes that the proposed access is across land in third party ownership, but the applicant maintains that he has a right of access to access the paddock across the land adjacent to Greenacres. This is a

legal issue and not a planning one and therefore the Highway Authority recommends conditions relating to access, parking and manoeuvring, and location of gates. The proposal is therefore considered to comply with policies E7(ii) and INF2 and paragraph 109 of the NPPF.

#### Impact on historic environment

The site lies adjacent to but outside the Derbyshire Historic Environment Record (HER) for the World War II airfield at Church Broughton. The County Archaeologist has acknowledged that the proposal would have no impact on any associated archaeological remains. However, the site is within 'Heathhouses', a small settlement attested as early as the 14<sup>th</sup> century, and possibly therefore with potential for medieval settlement archaeology. The site is within a small field with no evidence for occupation on historic mapping, though the form of the field suggests that it may have been a medieval 'croft' or backplot rather than part of the open field as per the rather larger fields in the surrounding landscape. The site also appears on aerial photographs to have some surface earthworks, although the 2009 satellite photography suggests that these are far more likely to be the result of 20<sup>th</sup> century dumping and settlement-edge activity rather than medieval village remains.

As the County Archaeologist considers it very unlikely that this location would be the focus of a medieval settlement and the proposal involves the construction of the kennel and storage buildings at the rear of Greenacres and the creation of hedgerow/tree planting, it is concluded that the nature and location of the proposal set against policies BNE2, BNE10 and the NPPF do not justify the a planning requirement for archaeological work in relation to the current proposals.

#### Impact on ecology

The proposal involves the demolition of an existing three sided timber outbuilding. The building contains two boxes suitable for Barn Owls, the building and surroundings have been surveyed. The surveys have identified no evidence of Barn Owls using the building but evidence that they are currently being used by Little Owl, Stock Dove and Blackbirds. The survey identifies the need to relocate these boxes on to adjacent trees, and surveys undertaken of the building to check for nesting birds before the removal of the shed. Subject to conditions to secure this and an appropriate landscaping scheme, the proposed development would not have a detrimental impact on biodiversity and as such complies with the requirements of policy BNE3.

#### Conclusion

The proposal appears to meet the policy requirements of BNE5 and E7 in terms of the principle of development. The NPPF and policy S2 set out a presumption in favour of sustainable development which arises from the three strands of economic, social and environmental objectives. There would be economic and social benefits to the local area with investment in supporting businesses to the proposal as well as additional kennelling opportunities for residents in the wider area. Whilst the application has the potential to cause harm to neighbouring amenity, these potential impacts are considered to be made acceptable through the imposition of conditions



that would provide the necessary environmental safeguards to ensure the impacts are not a significant or unacceptable harm.

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 the Site Plan received on 12 April 2019, the Elevations and Floor Plans Revision 1.4, Proposed lighting layout Revision 1.1, and Proposed landscaping Revision 1.1, unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).  
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. The development hereby permitted shall be carried out in accordance with the Barn Owl and Wider Ecology Surveys prepared by Turnstone Ecology dated 27 March 2019.  
Reason: To safeguard the long term biodiversity and visual amenities of the area.
4. Before any other operations are commenced the existing vehicular access to Bent Lane shall be modified in accordance with the application drawings, laid out, constructed and provided with visibility sightlines extending from a point 2.4m from the carriageway edge, measured along the centre line of the access, to the extremities of the site frontage abutting the highway in each direction. The land in advance of the sightlines shall be maintained in perpetuity clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.  
Reason: In the interests of highway safety.
5. Prior to first approved use, the kennel building shall be constructed to provide sound reduction against internally generated noise in accordance with the calculations contained in Appendix A3 of the Noise Assess Noise Impact Assessment ref 12523.01.v3 April 2019. The specification of the construction shall be submitted to the local planning authority for written approval prior to first approved use. The approved works shall be retained for the life of the development unless agreed in writing with the planning authority.

Reason: To protect the amenities of nearby residents from internally generated noise and comply with policies SD1.

6. Prior to first approved use, an acoustic fence installed in compliance with the acoustic fence specification and site plan submitted with the application. The acoustic barrier shall be constructed such that there are no gaps which compromise the acoustic integrity of the fence. The fence shall be retained for the life of the development unless agreed in writing with the planning authority.

Reason: To protect the amenities of nearby residents from external dog barking and comply with policies SD1.

7. Prior to the installation of any external lighting a detailed lighting strategy (designed in accordance with the guidelines issued by the Institute of Lighting Engineers, or any equivalent guidelines which may supersede such guidelines) which shall include precise details of the position, height, intensity, angling and shielding of lighting, as well as the area of spread/spill of such lighting, has been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall be designed and operated to ensure that light intrusion into neighbouring residential windows shall not exceed 5 Ev (lux) measured as vertical luminance at the façade of a relevant building between the hours of 07:00 to 23:00 and shall not exceed 1 Ev (lux) measured as vertical luminance at the façade of a relevant building between the hours of 23:00 and 07:00. The lighting scheme floodlighting shall be designed and operated to have full horizontal cut-off such that the Upward Waste Light Ratio does not exceed 2.5%. All lighting shall be installed in accordance with the approved strategy and thereafter retained in conformity with them.

Reason: To safeguard the amenities of neighbouring dwellings.

8. Prior to the construction of the kennel building a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All hard landscaping shall be carried out in accordance with the approved details prior to occupation of the building, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of the building and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

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

9. The premises, the subject of the application, shall not be taken into use until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of visitors, staff and 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.



10. No gates shall be erected within 5m. of the highway boundary and any gates elsewhere shall open inwards only.

Reason: In the interests of highway safety.

Informatives:

1. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport and Communities at County Hall, Matlock regarding access works within the highway. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk), email [Highways.Hub@derbyshire.gov.uk](mailto:Highways.Hub@derbyshire.gov.uk) or telephone 01629 533190.
2. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.
3. That the hedgerows on the application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to July inclusive. If you are in doubt as to requirements of the law in this regard you should contact Natural England: 0300 060 3900.

**Item**            **1.2**

**Ref. No.**        **9/2018/1335/BM**

**Applicant:**  
**Trent & Dove Housing**  
**Trinity Square**  
**Horninglow Street**  
**Burton On Trent**  
**DE14 1BL**

**Agent:**  
**Mr Tony Hindle**  
**Walker Troup Architects Ltd**  
**52 Lyndon Road**  
**Sutton Coldfield**  
**West Midlands**  
**B73 6BS**

**Proposal:**    **THE VARIATION OF CONDITION 2 OF PLANNING PERMISSION  
 REF. 9/2015/0992 (RELATING TO DEVELOPMENT THE ERECTION  
 OF 38 DWELLINGS, ACCESS AND ASSOCIATED  
 INFRASTRUCTURE) ON LAND AT SK2919 4487 YARD CLOSE  
 SWADLINCOTE**

**Ward:**           **Swadlincote**

**Valid Date**    **26/11/2018**

### **Reason for committee determination**

This item is presented to Committee and the proposed application does not accord with the Council's Design Supplementary Planning Document (SPD).

### **Site Description**

The site is located to the north west of Swadlincote town centre, immediately to the west of Yard Close. The Pingle School grounds abut the site to the north and the rear gardens of residential properties on Yard Close and Middle Close bound the site to the east. The recent Morris Homes residential development abuts the site to the west.

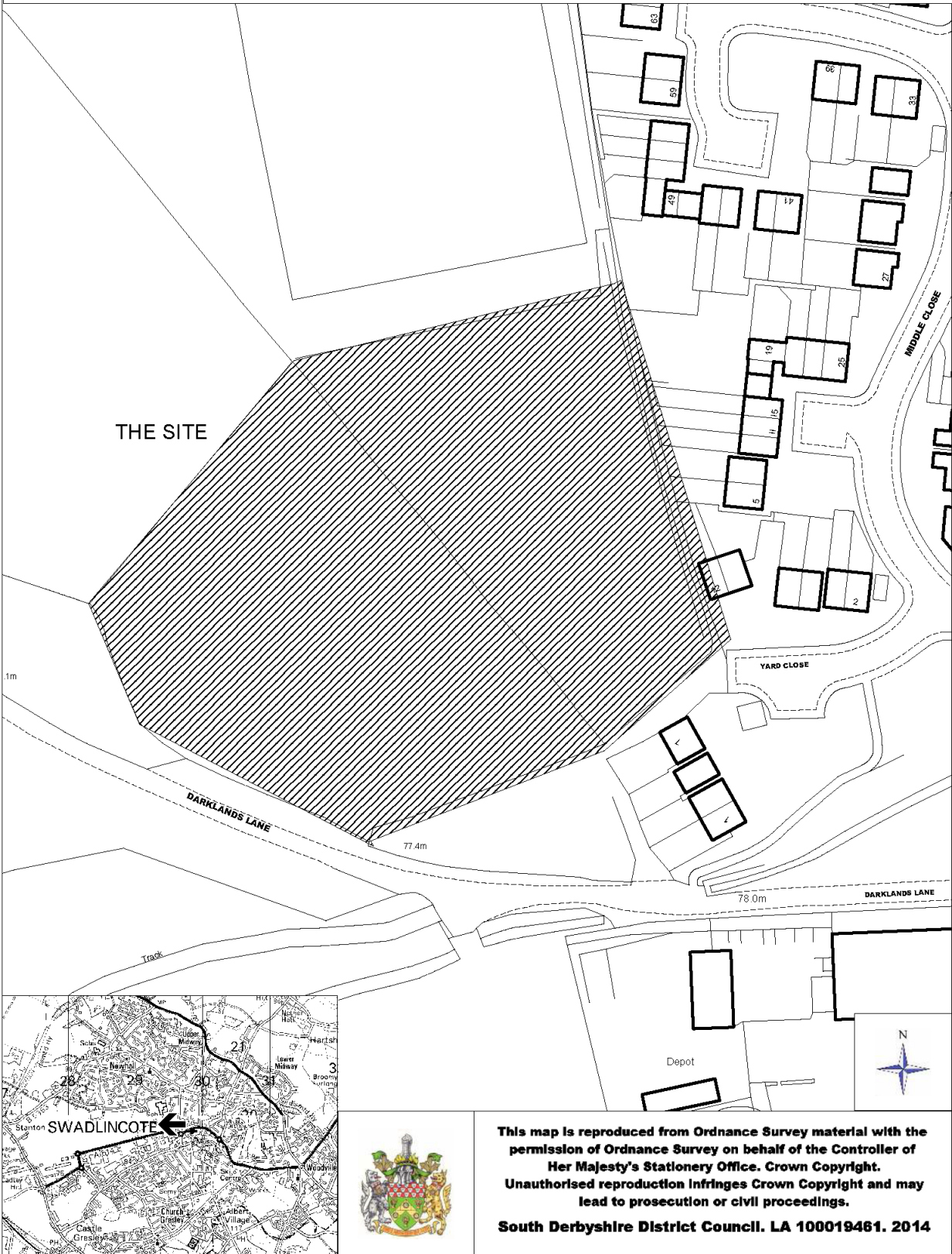
### **Proposal**

The development of this site for residential purposes was established through the granting of planning permission for the erection of 38 dwellings with access off Yard Close under reference 9/2014/0365. A further application was granted under reference 9/2015/0992 for alterations to the approved plans and layout.

The current application has been submitted to vary conditions 2 of planning application 9/2015/0992. Condition 2 relates to the approved plans. The changes to the plans include:

- revisions to other house types in terms of elevations and detailing;
- relocation of the LAP (Local Area of Play) to the south of the site; and

9/2018/1335- Land at Yard Close, Swadlincote DE11 0EE



- seeking to discharge conditions that were imposed as planning application 9/2015/0992.

## **Planning History**

- 9/2015/0992 The variation of conditions 2 and 23 of planning permission ref: 9/2014/0365 (relating to development the erection of 38 dwellings, access and associated infrastructure) - Approved with conditions March 2016
- 9/2014/0365 The variation of conditions 2 and 23 of planning permission ref: 9/2014/0365 (relating to development the erection of 38 dwellings, access and associated infrastructure) – Approved with conditions December 2014
- 9/2012/0365 Erection of 38 dwellings, access and associated infrastructure – Approved with conditions December 2014

## **Responses to Consultations**

There have been no objections raised by the County Highways Authority as the access and highways elements of the site remain unchanged from planning application 9/2015/0992.

No comments have been received from the Environmental Health Officer.

The site is an entirely affordable housing scheme. A Tenure Statement was submitted to discharge planning condition 23 attached to planning application 9/2015/0992. The same tenure statement has been submitted as part of the current application and following discussions with the Strategic Housing Manager there have been no objections raised regarding this information.

There have been no objections raised from the Open Space and Facilities Manager relating to the relocation of the position of the LAP (Local Play Area) to the south of the site.

There have been no objections raised by the Development Control Archaeologist.

No objections have been received from the Lead Local Flood Authority (LLFA) but owing to the slight land level and finished floor level changes from the previous conditions under application 9/2015/0992, they have asked for additional information on the surface water drainage calculations to be submitted and a surface water drainage condition would need to be included as part of the application.

The Crime Prevention Officer recommended the removal of the footpath to the southwest of the site to reduce the connection to the wider development. This has been discussed further and owing to the need to link with the wider residential network, it is considered that retaining the footpath as originally proposed would be suitable. It has been noted that various side facing windows have been removed

from some of the dwelling types but it is acknowledged that this is not a major matter and that this should be left to the Council's discretion.

## **Responses to Publicity**

2 emails/letters have been received questioning what the changes proposed are and that the consultation was initially carried out over the Christmas period.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Access), INF8 (The National Forest) and INF9 (Open Space, Sport and Recreation);
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Hierarchy).

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide SPD

## **Planning Considerations**

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

- Relocation of the LAP and changes to the site plan;
- Alterations to house types; and
- Details relating to conditions.

## **Planning Assessment**

### Relocation of LAP and changes to the site plan

The LAP was originally located in a more central location within the site under previous permissions. The LAP would be moved to the south of the site, adjacent to the proposed footpath linking the site to the wider Morris Homes development to the west.

Policy S6 and INF9 of the Local Plan seek to create good quality open space that would be accessible to development and the wider network to encourage a shift

away from private car use and toward walking cycling and public transport. The revised location of the LAP would make the open space more accessible to the wider network of residential development and would strongly support the principles of these policies. There have been no objections raised by the Open Space and Facilities Manager and it is considered that the revised position of the LAP would be suitable.

The current application originally sought consent to remove the proposed footpath to the south west of the site that would link the development to the Morris Homes development to the west of the site. Comments have been received from the Crime Prevention Officer, who initially supported the removal of the footpath from the scheme. However, the footpath is a crucial connection point to the wider development and is crucial at reducing car usage to access the wider facilities to the development – such as the proposed country park off William Nadin Way. The footpath also provides a level of natural surveillance in this part of the site as opposed to it being blocked up, where this could lead to a vacant area for people to congregate. Whilst the Crime Prevention Officer has expressed an alternative view, the presence of the footpath would be necessary to comply with policies S6 and BNE1 of the Local Plan and the principles of the SPD. The footpath has been retained as per the previous applications.

#### Alterations to house types

The main changes to the house types are the removal of side facing windows and in some instances, changes to the internal layout of properties and the re-alignment of windows. These changes would not have a harmful impact on the amenity of existing local residents and would still achieve compliance with the Design SPD. Despite the loss of side facing windows the development still provides a sufficient level of natural surveillance which would be acceptable and it is considered that these changes to the house types would be consistent with the Design SPD and policy SD1 of the Local Plan.

Over the passage of time and due to the way that adjacent development has been built out and changed ownership, the existing and approved layout of plot 26 would no longer accord with minimum separation distances as contained within the Design SPD. Amended plans have been submitted during the course of the application in order to best respond to this which show the removal of a rear facing bedroom window, removing the ability for future occupiers to overlook the occupied properties to the rear. The kitchen window remains positioned to the rear at ground floor level, maintaining a 15m distance between the occupied neighbouring properties at the rear. The SPD stipulates a 21m distance between a proposed ground floor kitchen window and a ground floor neighbouring window (living room/kitchen). Whilst a 21m separation distance cannot be achieved, it would not be considered that this would pose an overlooking issue as any intervisibility would be interrupted by boundary treatment. On this basis, and subject to an additional condition to prevent alterations to plot 26 to introduce windows, it is considered that there would be a good level of amenity that could be achieved for the proposed and existing occupiers due to these changes and that the proposed layout would result in a better level of outlook and amenity.

### Details relating to conditions

The current application would result in a new permission for the development and the applicant has provided details to address the conditions that would normally be required and as a way of discharging the relevant details:

- Details have been submitted which stipulate that the external walls would be constructed using Old Forge and Red Drag Face bricks and Forticrete Gemini roof tiles. These details are considered suitable and the materials condition could be amended to reflect these details unless alternative materials are first submitted for approval prior to construction.
- Submitted drawings show a combination of brick walls positioned adjacent to public areas and close board fencing to enclose residential gardens. These details are considered to be suitable and the condition would be amended to be in accordance with these details.
- The submitted landscape proposals and associated details are suitable and the condition would be amended to reflect these details.
- The submitted Tenure Statement, relating to affordable housing and detailing the scheme as 100% affordable housing was approved as part of the conditions details for permission ref. 9/2015/0992, and the condition would be amended to reflect this information.
- Condition 24 as part of permission ref. 9/2015/0992 specified the use of wet verge details for the proposed roofs of the dwellings. This is a traditional building technique which is characteristic of the South Derbyshire vernacular and explicitly supported by the SPD over contemporary dry verges, or cloaking tiles. The applicant has withdrawn their initial intention to introduce dry verges and this condition would therefore, remain unchanged.
- The submitted bin details and positions as shown are suitable and this would be reflected the conditions.

### Conclusion

The proposed amendments to the scheme would consist of the various changes to the house types and the relocation of the LAP to the south of the site. For the reasons outlined above, it would not be considered that these changes would have a harmful effect on the amenity of the area or nearby occupiers.

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 hereby permitted shall be carried out in accordance with plans/drawings 1808-2000-P11, 1808-1080-P6, 1808-1081-P5, 1808-1040-P6, 1808-1041-P5, 1808-1111-P3, 1808-1110-P5, 1808-1001-P5, 1808-1000-P6, 1808-1010-P6, 1808-1011-P6, 1808-1101-P2, 1808-1100-P3, 1808-1031-P5, 1808-1030-P6, 1808-1071-P5, 1808-1070-P7, 1808-1061-P5, 1808-1060-P6, 1808-1051-P5, 1808-1050-P5, 1808-2011, 1808-1021-P8 (received on 4th June 2019) , 1808-1020-P9 , 1808-2010-P1, 300 Rev F, 14262 Rev A, 14264 Rev A and 14262 Rev A; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt.

2. Prior to the occupation of the proposed dwellings, 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, shall be submitted to and approved in writing by the Local Planning Authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100 year plus 30% (for climate change) critical rain storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To prevent the increased risk of flooding, both on and off site.

3. The dwellings shall be constructed using Old Forge and Red Drag Face bricks and slate grey Forticrete Gemini roof tiles, unless prior to their incorporation into the dwellings, alternative details are first submitted to and approved in writing by the Local Planning Authority.

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

4. The boundary treatment scheme as approved under condition 1 shall be completed in accordance with the approved details before each respective plot they serve is occupied.

Reason: In the interests of the amenity of future occupiers of the scheme and the appearance of the area.

5. 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 Local Planning Authority 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.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; none of the dwellings hereby permitted shall 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.

7. 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: To minimise the potential for anti-social and criminal behaviour.

8. The landscaping and hard surfacing shall be carried out in accordance with plans/drawings approved under condition 1 with the hard landscaping works for each dwelling completed prior to the first occupation of that dwelling, and with hard surfacing relating to public open space areas completed no later than the occupation of the 32nd dwelling on the site.

Reason: In the interests of the appearance of the area and to ensure connectivity between the site and adjoining development.

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

Reason: In the interests of the appearance of the area and in compensation for loss of hedgerow.

10. The mitigation measures set out in paragraph 4.3 of the AA Environmental Ecology Report dated March 2014 as received with application ref. 9/2014/0365 shall be implemented in full at the appropriate times during construction.

Reason: To minimise disturbance to protected species.

11. 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.

12. Throughout the period of construction within any phase vehicle wheel cleaning facilities shall be provided and retained within the site. All 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.

13. Prior to the occupation of any of the dwellings new estate streets between each respective plot and the existing public highway shall be laid out in accordance with the application drawings to conform to the County Council's 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.

14. Prior to occupation of any of the dwellings space shall be provided within the application site in accordance with the application drawings 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.

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 the 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: In the interests of highway safety.

16. No gates shall be erected within 5m. of the highway boundary and any gates elsewhere shall open inwards only.

Reason: In the interests of highway safety.

17. 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 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.

18. The occupation of the dwellings hereby approved shall be in accordance with the Tenure Statement received with the application (received 26 November 2018).

Reason: To ensure the provision of affordable housing.

19. The proposed dwellings shall be constructed using a wet verge roofline detail.

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

20. Plots 1-7, 13 and 14 (where they are fronted only by a narrow margin) shall be maintained free from obstruction exceeding 600mm in height relative to road level for a distance of 2m back from the carriageway edge.

Reason: In the interests of highway safety.

21. The proposed bin store details shall be laid out and constructed in accordance with the approved plans/drawings prior to the first occupation of any plot they serve.

Reason: In the interests of minimising storage of bins on the roadside to the detriment of highway safety.

Informatives:

1. 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](http://www.coal.gov.uk/services/permissions/index.cfm).
2. 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.
3. Submitted with this application was William Saunders' Phase I Geo-environmental Report (Job No: 10901/12, November 2013). The Council's Contaminated Land Officer has reviewed this report and is happy that the investigatory and environmental risk assessment goes as far as to satisfy part of the conditions above. He agrees with the report's recommendations (Section 9) and supports the proposed further investigation scope put forward. Any potential remaining phased risk assessment and validation reporting should continue be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 2A. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance. For further assistance in complying with planning conditions and other legal requirements applicants should consult 'Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated'. This document has been produced by local authorities in Derbyshire to assist developers, and is available from [www.south-](http://www.south-)

[derbys.gov.uk/environment/pollution/contaminated\\_land/default.asp](http://derbys.gov.uk/environment/pollution/contaminated_land/default.asp). Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the Environmental Protection Officer (contaminated land) in the Environmental Health Department:

[environmental.health@southderbyshire.gov.uk](mailto:environmental.health@southderbyshire.gov.uk). Further guidance can be obtained from the following:

- CLR 11: Model Procedures for the Management of Contaminated Land
- CLR guidance notes on Soil Guideline Values, DEFRA and EA Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
- Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency
- Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency. ISBN 0113101775
- CIRIA C665: Assessing risks posed by hazardous ground gases to buildings.

4. Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.
5. 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.
6. 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.
7. 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.
8. 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.

9. The Lead Local Flood Authority advises the surface water drainage scheme shall include:-
  - Surface water drainage system/s to be designed 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 surface water 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 on any attenuation system, and the outfall arrangements.
  - Details of how the on site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.
10. The Environment Agency advises the following:-

During the period of construction, oil and fuel storage will be subject to the Control of Pollution (Oil Storage) (England) Regulations 2001. The Regulations apply to the storage of oil or fuel of any kind in any kind of container which is being used and stored above ground, including drums and mobile bowers, situated outside a building and with a storage capacity which exceeds 200 litres. A person with custody or control of any oil or fuel breaching the Regulations will be guilty of a criminal offence. The penalties are a maximum fine of £5000 in Magistrates' Court or an unlimited fine in Crown Court. Further details of the Regulations are available from the Environment Agency. It is recommended that the installation of fittings that will minimise water usage such as low, or dual, flush WC's, spray taps and economical shower-heads in the bathroom are installed. Power showers are not recommended as they can consume more water than an average bath. Water efficient versions of appliances such as washing machines and dishwashers are also recommended. For outdoors consider installing a water butt, or even a rainwater harvesting system, to provide a natural supply of water for gardens. Simple treatment systems exist that allow rainwater to be used to supply WC's within the home. Following the above recommendations will significantly reduce water consumption and associated costs when compared to traditional installations. Rainwater harvesting utilises a free supply of fresh water and reduces the cost to the environment and the householder.
11. 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.

**Item**            **1.3**

**Ref. No.**        **9/2019/0185/U**

**Applicant:**  
**Mrs Emma Harper**  
**65 George Street**  
**Church Gresley**  
**Swadlincote**  
**DE11 9NY**

**Agent:**  
**Mrs Emma Harper**  
**65 George Street**  
**Church Gresley**  
**Swadlincote**  
**Derbyshire**  
**DE11 9NY**

**Proposal:**    **CONTINUED USE OF FORMER SUBSTATION LAND AS  
 RESIDENTIAL GARDEN (USE CLASS C3) AND THE ERECTION OF  
 A DETACHED GARAGE AT 65 GEORGE STREET CHURCH  
 GRESLEY SWADLINCOTE**

**Ward:**           **Church Gresley**

**Valid Date**    **07/04/2019**

#### **Reason for committee determination**

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

#### **Site Description**

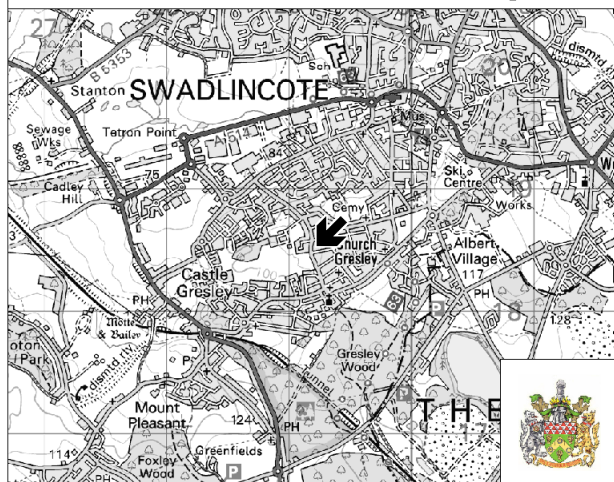
The application property lies on George Street Church Gresley, with the host dwelling being a large two-storey property with a tiled cross hipped roof, built from red facing bricks. The property is traditional in character with features such as large chimney stacks, a ground floor bay window, arched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

#### **Proposal**

The application seeks retrospective planning consent for the change of use of the land from a former sub-station for an extension to the residential garden (use class C3). In addition, a detached garage is proposed to the southern side of the host dwelling on the land subject of the change of use.



9/2019/0185 - 65 George Street, Church Gresley, Swadlincote DE11 9NY



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## **Applicant's supporting information**

A Coal Mining Risk Assessment identifies that the proposed development site may have been subject to past coal mining activity, namely possible unrecorded shallow mine workings. The risk to the site from legacy mining features was found to be a medium level. Nevertheless, subject to the undertaking of appropriate site investigations and any potential necessary remedial measures as outlined in the report, it is considered that the site may be made safe and stable for future development and the risk to the development reduced to low. The recorded coal mining legacy issues present within the site do not pose any particular implications for the layout of the proposed development. The report recommends that the developer undertake a detailed Gas Risk Assessment where proposed development occurs over shallow coal reserves as is the case for this site. An amended Coal Mining Risk Assessment was received with updated information regarding past mine gas emissions.

## **Planning History**

None.

## **Responses to Consultations**

Derbyshire Wildlife Trust (DWT) considers that the proposal is not likely to result in any ecological impacts and as such no recommendations are made for further survey, mitigation or compensation measures.

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

The Coal Authority (CA) initially raised fundamental concern as the site falls within the defined Development High Risk Area and that a Coal Mining Risk Assessment or equivalent report was required to support the application. As a result of these comments, the applicant later submitted the requested report. After reconsultation the CA concurs with the recommendations of the Coal Mining Risk Assessment Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. There are no objections subject to pre-commencement conditions to ensure the necessary investigations of the site are carried out. The applicant submitted an amended version of the CMRA in order to remove the need for these conditions but at the time of this report, a further response from the CA had not yet been received.

The Environmental Health Officer (EHO) has determined that there is a potential exposure of existing sensitive receptors to new sources of air, noise, contamination and light associated with the development. Having considered the nature of the development and due to the potential for disturb contamination and ground gas, thus creating pollutant receptors; there are no objections subject to conditions relating to noise/air to ensure the amenity of neighbours is protected and the necessary

procedures are carried out to protect the health of the public and the environment from hazards arising from previous uses of the site and/or adjacent land.

## **Responses to Publicity**

None received.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity) and INF2 (Sustainable Transport).
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development) and H27 (Residential Extensions and Other Household Development).

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

## **Planning Considerations**

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

- Principle of development;
- Layout, scale and design; and
- Effect on neighbours.

## **Planning Assessment**

### Principle of development

The site is located within the settlement boundary of the Swadlincote urban area within a predominantly built up residential area. LP1 Policy H1 states that development of all sizes is considered acceptable within the settlement boundary of the urban area. The change of use is acceptable in this respect, and is suggested to have continued for the best part of 10 years. The erection or alteration of outbuildings within residential gardens will be permitted provided that the proposals:

- i) Are of a scale and character in keeping with the property; and

- ii) Are not unduly detrimental to the living conditions of adjoining properties or the general character and appearance of the area.

### Layout, scale and design

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

When assessing the impact on the host dwelling, the garage would be well separated from the host and its size and height to ridge/eaves would be of a level that allows it to appear subordinate to the host dwelling. The proposed design and gable roof is considered acceptable in terms of its design, although the proposed glazing to the gable end on the eastern side does not match the traditional detailing of the host, there would be no views of it from the public realm so it is not considered to be harmful.

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

### Effect on neighbours

The levels of the site are broadly the same as that of neighbouring dwellings. As required by the SPD, single storey extensions/buildings are considered on their own merits and as a result of the garage's single storey nature and intervening obstructions (fencing), no issues of overshadowing arise. That being said, the proposal includes some usable space within roof area. As such, to prevent any potential overlooking of neighbours to the south, a condition would be attached to ensure that the proposed skylights to the southern side of the roof must be fitted with obscure glazing. It is considered that the proposed development would not demonstrably impact the residential amenities of neighbouring properties, in terms of

an overbearing impact, loss of light or privacy as measured against the benchmark of the standards set out in the SPD and therefore the proposal complies with Policy SD1 which seeks to protect the amenity of neighbouring properties.

## **Recommendation**

**GRANT** permission subject to the following conditions:

1. The operational development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the Proposed Plans and Elevations, Location Plan, Site Plan and Block Plan, received on 07 April 2019, unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).  
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. All roofing materials used in the garage hereby permitted shall match those used in the existing dwelling in colour, coursing and texture unless prior to their incorporation into the development hereby approved, alternative details have been first submitted to and approved in writing by the Local Planning Authority.  
Reason: To safeguard the appearance of the existing building and the locality generally.
4. Prior to their incorporation in to the garage hereby approved, details and samples of the facing bricks to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved facing materials.  
Reason: In the visual interest of the building(s) and the surrounding area.
5. No development shall commence until a scheme of intrusive site investigation for coal mining legacy has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details and a report of the findings arising from the intrusive site investigations, along with any remedial works required (including a timetable for the carrying out of such works), shall be submitted to and approved in writing by the Local Planning Authority prior to any construction works commencing. The approved remedial works shall thereafter be implemented in accordance with the approved timetable.  
Reason: To protect the health of the public and the environment from hazards arising from past coal mining which might be brought to light by development of the site, recognising that failure to address such matters prior to

development commencing could lead to unacceptable impacts even at the initial stages of works on site.

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

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

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

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

8. a) No development shall commence 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, 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 of the Council's 'Guidance on submitting planning applications for land that may be contaminated' (herein referred to as 'the Guidance'), unless the Local Planning Authority dispenses with any such requirement specifically and in writing.

b) Prior to occupation of the development (or parts thereof) an independent verification report which meets the requirements given in Box 2 of Section 3.1 of the Guidance shall be submitted to and approved in writing by the Local Planning Authority. With the prior written agreement of the Local Planning Authority pursuant to part (a) of this condition, this may be carried out on a plot-by-plot basis.

c) In the event that it is proposed to import soil onto site in connection with the development, this shall comply with the specifications given in Box 3 of Section 3.1 of the Guidance.

d) If required by the conceptual site model, no development shall commence until monitoring at the site for the presence of ground gas and a subsequent risk assessment which meets the requirements given in Box 4, Section 3.1 of the Guidance has been completed in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

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

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the rooflights in the southern

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

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

Informatives:

1. 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.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property](http://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property).
2. Any phased risk assessment for contamination 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. For further assistance in complying with planning conditions and other legal requirements, applicants and developers 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 at [www.south-derbys.gov.uk/our-services/environment/pollution/contaminated-land](http://www.south-derbys.gov.uk/our-services/environment/pollution/contaminated-land). Reports in electronic formats are preferred. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the Environmental Protection Officer (Contaminated Land) in the Environmental Health Department: [environmental.health@south-derbys.gov.uk](mailto:environmental.health@south-derbys.gov.uk). Further guidance can be obtained from the following:
  - CLR 11: Model Procedures for the Management of Contaminated Land;
  - CLR guidance notes on Soil Guideline Values, DEFRA and EA;
  - Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001;
  - Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency; and
  - Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency (ISBN 0113101775).



**Item**            **1.4**

**Ref. No.**        **9/2019/0422/B**

**Applicant:**  
**Mr Stephen Hollingsworth**  
**Limeyards Stables**  
**136 Main Street**  
**Ticknall**  
**DE73 7JZ**

**Agent:**  
**Mr Stephen Hollingsworth**  
**Limeyards Stables**  
**136 Main Street**  
**Ticknall**  
**DE73 7JZ**

**Proposal:**    **THE VARIATION OF CONDITION 4 OF PLANNING PERMISSION  
REF. 9/2013/0759 (RELATING TO THE DEVELOPMENT OF A F.A.  
COMPLIANT 7V7 ARTIFICIAL TURF PITCH WITH ASSOCIATED  
FENCING, FLOODLIGHTING AND ACCESS PATHWAY) AT  
MELBOURNE SPORTS PAVILION COCKSHUT LANE MELBOURNE  
DERBY**

**Ward:**           **Melbourne**

**Valid Date**    **26/04/2019**

#### **Reason for committee determination**

This item is presented to Committee because the Council has an ownership interest in the land.

#### **Site Description**

The site is a floodlit all weather football pitch located in a central position within the Melbourne Playing Fields complex.

#### **Proposal**

The proposal seeks to extend, by 30 minutes, the time the floodlights can be used, changing that specified in condition 4 of the original permission from 9.30pm to 10.00pm.

#### **Applicant's supporting information**

The pitch has been used for 3 years and demand for the facility has been very high, particularly in the winter months. There has been a need to ration usage as a consequence of the current condition and the extra 30 minutes would help to satisfy demand.

#### **Planning History**

9/2013/0759    Creation of an all-weather pitch – Approved November 2013

The map shows a large rectangular building labeled "THE SITE". To its west is a "Pond" and a "Track". A "Drain" runs along the northern boundary. To the east is a "Recreation Ground". Further east are several other buildings and areas: "Breedon View", "The Oaks", "Fairview", "Blue Orchard", "The Cottage", "Shaw House", "High Trees", and "GP". A "Path (un)" is shown at the top right. A "Sports Facility" is located south of "THE SITE". A north arrow is in the bottom right corner.

## **Responses to Consultations**

The Environmental Health Officer (EHO) reports that no complaints have been received about light trespass or loss of amenity due to the floodlights and considers that the proposal would not have any adverse effect on the local community.

## **Responses to Publicity**

None

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S2, SD1 and INF9.

## **Emerging Policies**

Whilst the Melbourne Neighbourhood Development Plan (NDP) is under preparation, there are no relevant policies to this proposal.

## **National Guidance**

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

## **Planning Considerations**

The main issue central to the determination of this application is the effect on neighbouring amenity.

## **Planning Assessment**

Condition 4 was imposed before the pitch was brought into use in order to preserve the living conditions of adjoining residential occupiers. The EHO reports that the floodlights have not resulted in any complaints and considers that were the lights to be left on until 10.00pm there would not be adverse impacts on the local community. Based on this assessment the proposal is compliant with policy SD1.

By enabling the facility to be put to greater use, the proposal would also contribute to the enhancement of the high quality sport and recreation facilities at the Melbourne Sports Pavilion site, in accordance with policy INF9.

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. Subject to Conditions 2 & 3 below the floodlights shall be retained and maintained in accordance with the Lighting Impact Statement submitted under application ref. 9/2013/0759.

Reason: In the interests of the appearance of the area and to protect residential amenity and highway safety.

2. All external light sources shall be shielded from highway traffic.

Reason: To prevent danger to road users.

3. The floodlighting shall be turned off no later than 10.00pm and shall not be turned on again until the following afternoon.

Reason: To preserve the amenity of neighbouring properties.

Item 1.5

Ref. No. 9/2019/0471/FH

**Applicant:**  
**Mr & Mrs Andrew & Anna Hewlett**  
**15 Potter Street**  
**Melbourne**  
**Derby**  
**DE73 8DW**

**Agent:**  
**Mr James Boon**  
**James Boon Architects**  
**Stackyard**  
**4a New Road**  
**Middleton**  
**Matlock**  
**DE4 4NA**

**Proposal: THE REPLACEMENT OF MODERN ROOF WITH GLASS ROOF AT  
15 POTTER STREET MELBOURNE DERBY**

**Ward: Melbourne**

**Valid Date 02/05/2019**

### **Reason for committee determination**

This item is presented to Committee as the applicants are related to a Ward member.

### **Site Description**

The application property is a Grade II listed late 18<sup>th</sup> Century Georgian detached house of coursed squared stone and rubble stone, stone dressings and plinth and a steeply pitched plain tile roof with brick gable stacks and stone coped gables. The application site is located in the historic core of the key service village and conservation area of Melbourne.

### **Proposal**

The application seeks planning permission for the replacement of the existing tiled roof of the modern infill extension located to the rear of the property with a glazed roof and the alteration of a rear ground floor window into a glazed door to provide access into the rear garden.

### **Applicant's supporting information**

The plans are accompanied by a Design and Access Statement (DAS) and Historic Building Appraisal and Heritage Statement (HBHS).

The DAS covers the evolution of the plot over the centuries where the house on the plot has been; a chantry in the Middle Ages (16<sup>th</sup> Century); the house of a founder of one of Melbourne's charities (17<sup>th</sup> Century); in the tenancy of an upwardly mobile

9/2019/0471 & 0480 - 15 Potter Street, Melbourne, DE73 8DW





family in the 18<sup>th</sup> Century where the house became the centre of a farm on the Melbourne Estate but later became unsuitable due to Parliamentary Enclosure between 1781 and 1791; the home of a significant local quarry operator and a wheelwright (19<sup>th</sup>); and the village's telephone exchange in the 20<sup>th</sup> Century.

The DAS goes on to describe the rear part of the house that is affected by the current proposals:

- 1) The east projecting wing is of 2-storey while the west projecting wing is single storey. The east wing is currently the kitchen with a quarry tile floor, which is in poor repair, and has a large inglenook fireplace and an original cupboard in a recess. The south end of the room (pantry/larder) is distinguishable by its thrawls and brick floor which is slightly higher than the kitchen area. Ceiling beams and common precedent would suggest there was originally a small back staircase along the dividing line between these 2 areas. Walls are generally plastered and painted white with low level white painted timber boarding where modern kitchen units are not fitted. The ceiling has exposed black painted timber beams with plaster infill between.
- 2) The west wing has a large room to the north and a smaller one to the south separated by a brick partition. Originally the larger room could only be accessed externally and has a large fireplace with a simple bresummer (lintel) cross the whole width of the gable. The room appears to have been a large wash house, possibly a bake house but there is no clear evidence of this. The current informal lounge (denoted as the Den on the existing floor plan) has a modern concrete floor with walls being a mix of white painted stone, brick and plaster. The ceiling is white painted plaster with an exposed tie beam. The door through to the current lounge appears to be the original external door to the wash house.
- 3) The existing modern rear hall replaced a small covered link that provided internal access from the main house to the kitchen. The current rear hall has a flat roof with a raised rooflight which meets a smaller pitched roof to its north side. Internally, the floor is quarry tiles and the former external walls have remained as exposed stone. There is a modern timber glazed door providing access to the garden.
- 4) Externally there are no ground floor windows looking out over the garden from the current kitchen in the east wing. The west wing has one rear facing window and 2 west side windows. The rear gable of the west wing is random rubble stone with quoins and a brick chimney.

The DAS also contains a schedule of works detailing how the proposed works would be carried out, including details of the proposed foam glass aggregate and limecrete floor that would replace the modern concrete floor in the current den (which would become the new kitchen).

The DAS summarises the impact that the proposed works would have on building, which is the comprehensive and detailed subject of the submitted HBHS, as follows:

- 1) Re-siting of the kitchen: The main focus of the application is the provision of a new kitchen in the former washhouse/bakehouse (rear west wing). The current kitchen suffers from the same drawbacks as many old kitchens and as

a working room was not designed to be the light and airy living spaces expected today. The presence of the single-storey rear wing provides a good space for a new kitchen, with fewer historic features to constrain its layout and functionality. The main change would be the removal of a brick partition wall and rather ad-hoc area of ceiling that currently separates the utility and WC area from the proposed kitchen space. Although “historic”, the wall is of no particular demonstrable significance, and is not structural. Additionally, nibs would be retained to identify the previous subdivision. It is also proposed to lengthen a modern window in the north wall to provide a view down the garden.

- 2) New glazed link between the rear wings: The present link between the rear wings is modern, replacing a much smaller link connecting the present kitchen and WC / utility rooms. Historically, the remainder of the space was open. Advancements in glazing technology now mean that a more visually lightweight structure can be substituted, which would bring more light into the house and preserve the original sense of a space between the two rear wings. It is an opportunity to add a contemporary touch to the house without intruding upon its strong historic character.
- 3) Re-division of the old kitchen: The proposals allow the existing kitchen to be re-divided much as it was originally, when it was a kitchen, pantry and rear lobby. The modern kitchen fittings can be removed along with the existing black and red quarries which are in poor condition. The pantry thralls, currently with seats fixed to the tops, can also be retained. It should be noted that the HBAHS makes reference to converting the existing study to a WC but this element has been omitted from the current proposals.

To conclude, the proposals do involve some minor loss of fabric, but not of anything that contributes to the key significances of the house as a historic building. It is suggested that removing the kitchen fittings from the current kitchen space, and re-dividing this area, is an enhancement that compensates for any perceived harm, and that overall the modifications are suitable to keep the house in tune with modern living standards without compromising its historic interest and character.

## **Planning History**

9/0990/0606 and 0607 – The erection of a porch and the conversion of a store to a sitting room at the rear – approved with matching roof tile condition only in November 1990. This addition is the subject of the current application.

## **Responses to Consultations**

The Conservation Officer has no objection subject to conditions to secure details of joinery including roof of glazed link; details indicating how the new link would affix to the existing masonry and single storey building; details of vents; a sample area of paint removal to timber beams; and making good with like-for-like materials.

## **Responses to Publicity**

Melbourne Civic Society has no objection.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): Policy S2 (Presumption In Favour of Sustainable Development), Policy SD1 (Amenity & Environmental Quality), Policy BNE1 (Design Excellence – A1 e) Local character and pride, h) Neighbouring uses and amenity and g) Visual attractiveness), Policy BNE2 (Heritage Assets – A(i) Conservation Areas, A(iii) Listed Buildings)
- 2017 Local Plan Part 2 (LP2): H27 (Residential extensions and other householder development), BNE10 (Heritage)

## **Emerging Policies**

The Melbourne Neighbourhood Development Plan (NDP) is in preparation. It is a designated area only at the present time, with no policies published.

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide (SPD): November 2017 – Appendices A & G
- Melbourne Conservation Area Character Statement (CACS) – Adopted 2011

## **Planning Considerations**

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

- The impact on the external character and setting of the listed building;
- The impact on the character and appearance of the conservation area; and
- The impact on the living conditions of the adjoining properties and the general character and appearance of the area.

## **Planning Assessment**

Exchange House (15 Potter Street) is Grade II listed and therefore of special interest. Architectural interest is derived from its traditional form and construction with a coursed square stone façade and detailing that elevates it beyond the more traditional houses of the area; although internally the plan form notes a more typical farmhouse development. Historic interest is derived from its 1780s origins, built on a former developed site, subsequent phased alterations and reflection of the wealth associated with the owner and settlement of Melbourne, although historically it has only been associated with building trades. As a stone building with boundary wall and railings, it is a distinctive and distinguished addition to the predominantly brick streetscape in this part of the conservation area and makes a positive contribution to the character and appearance of the area and the Grade II listed Wesley Hall opposite forming part of a historic cluster.

### The impact on the significance (external character and setting) of the listed building

The existing rear link extension is a later addition, infilling between the two earlier rear wings, and is of no historic or architectural merit. The proposed single storey link extension would be glazed and a more contemporary and lightweight version of the existing. The proposed extension would be considered an enhancement to the rear part of the building, which is functional in history and character, replacing a heavier modern addition.

The proposal would therefore conform to the requirements of the NPPF and with policy BNE2 of the LP1 and policy BNE10 of the LP2 in that the significance of the heritage asset would not be harmed and the special interest of the listed building would be preserved.

### The impact on the character and appearance of the conservation area

The proposed external works would be located to the rear of the building and there would be limited visibility from the public realm. As such there would be limited impact on the character of the conservation area or the setting of the listed building on the opposite side of the road (Wesley Hall). The link would replace an existing modern link and be more lightweight and contemporary in appearance and easily read as a later addition. The proposed works would therefore preserve the positive contribution that the building makes to the setting of the Hall on the opposite side of the highway and the character and appearance of the conservation area.

The proposal would conform to the requirements of policy BNE2 of the LP1 and policy BNE10 of the LP2 in that the significance of the heritage asset would not be harmed and the historic environment would be conserved.

### The impact on the living conditions of the adjoining properties and the general character and appearance of the area

The proposed alterations to the existing single storey rear link, which is recessed between a 2-storey projection to the east side and a single storey projection to the west, would involve work to its roof form and access with the existing footprint being retained as it is. The existing north side ground floor window of the single storey projection currently lights an informal lounge area and this would be altered to a door access for the new kitchen. There are no alterations proposed to the existing windows to the east and west side elevations.

Due to its location and the existing boundary treatments around the site, the proposed alterations to the existing rear link would have no impact on the adjacent neighbours (11 Potter Street to the west and 19 Potter Street to the east) and the current privacy levels at ground floor would be preserved in line with the Council's SPD.

The proposed alterations would be to the rear of the building only with minimal views from the public realm and as such there would be no impact on the character of the area or the existing street scene.

The proposal would therefore conform to the requirements of policy BNE1 of the LP1 and policy H27 of the LP2 in that the proposed development would be of a scale that is in keeping with the host property and would not be unduly detrimental to the living conditions of adjoining properties or the general character of the area. The proposal would conform to policy SD1 of the LP1 in that it would not lead to adverse impacts on the environment or amenity of existing and future occupiers within and around the proposed development.

The proposal would conform to the requirements of the NPPF and the PPG and with policy S2 of the LP1 in that planning applications received by the Council that accord with the policies in the Local Plan Part 1 (and where relevant, with policies in neighbourhood plans) will be dealt with positively and without delay unless material considerations indicate otherwise. 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 the submitted plans (drawing no's 1804(08) 01A, 02A, 03A and 04A) and documents, made valid on 2nd May 2019, unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).  
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. Large scale drawings to a minimum scale of 1:10 of the roof of the glazed link 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 any of these elements are incorporated into the development. 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.
4. Large scale section and details of how the new link will affix to the existing masonry and the single storey building shall be submitted to and approved in writing by the Local Planning Authority before any works to install this link begin. The link extension 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 type and finish of all new heating and/or ventilation flue outlets shall be agreed in writing with the Local Planning Authority before their installation. The approved outlets shall then be incorporated into the development.

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

6. A sample area of paint removal to the timber beams shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of paint stripping. The works shall be carried out in accordance with the approved sample.

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

7. All works of making good shall be carried out with matching/like for like materials

Reason: In the interests of maintaining the character and integrity of the Listed building.



**Item**            **1.6**

**Ref. No.**        **9/2019/0480/L**

**Applicant:**  
**Mr & Mrs Andrew & Anna Hewlett**  
**15 Potter Street**  
**Melbourne**  
**Derby**  
**DE73 8DW**

**Agent:**  
**Mr James Boon**  
**James Boon Architects**  
**Stackyard**  
**4a New Road**  
**Middleton**  
**Matlock**  
**DE4 4NA**

**Proposal:**    **LISTED BUILDING CONSENT FOR THE REORDERING OF THE  
GROUND FLOOR LAYOUT OF THE REAR RANGES TO RELOCATE  
KITCHEN AND THE REPLACEMENT OF THE REAR LINK TILED  
ROOF WITH A GLASS ROOF AT 15 POTTER STREET  
MELBOURNE DERBY**

**Ward:**           **Melbourne**

**Valid Date**    **01/05/2019**

#### **Reason for committee determination**

This item is presented to Committee as the applicants are related to a Ward member.

#### **Site Description**

See the associated committee report for planning permission (ref. 9/2019/0471).

#### **Proposal**

The application seeks listed building consent for the replacement of the existing tiled roof of the modern infill extension located to the rear of the property with a glazed roof and the alteration of a rear ground floor window into a glazed door to provide access into the rear garden.

The proposal also includes internal works to the listed building which include:

- the reordering of the current internal layout where the existing informal lounge (annotated as a 'den' on the floor plans) would become a new kitchen and the existing kitchen would become an informal lounge;
- the removal of an internal wall between the existing den and cloaks/WC as part of the new kitchen works;
- the erection of walls within the existing kitchen area (to south side of room) to form an new enclosed utility room; and



- alterations to existing internal door openings to accommodate the new internal configuration.

### **Applicant's supporting information**

See the associated committee report.

### **Planning History**

See the associated committee report.

### **Responses to Consultations**

None.

### **Responses to Publicity**

Melbourne Civic Society has no objection and comments that the proposal looks like an interesting project.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): Policy BNE2 (Heritage Assets – A(iii) Listed Buildings)
- 2017 Local Plan Part 2 (LP2): BNE10 (Heritage)

### **Emerging Policies**

Melbourne Neighbourhood Development Plan (NDP) is under preparation but as a designated area only there are no policies published.

### **National Guidance**

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

### **Local Guidance**

- South Derbyshire Design Guide (SPD): November 2017 – Appendix G

### **Planning Considerations**

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

- The impact on the significance (historic fabric, external appearance and setting) of the listed building; and
- The impact on the character and appearance of the conservation area.

## Planning Assessment

Exchange House (15 Potter Street) is Grade II listed and therefore of special interest. Architectural interest is derived from its traditional form and construction with a coursed square stone façade and detailing that elevates it beyond the more traditional houses of the area; although internally the plan form notes a more typical farmhouse development. Historic interest is derived from its 1780s origins, built on a former developed site, subsequent phased alterations and reflection of the wealth associated with the owner and settlement of Melbourne, although historically it has only been associated with building trades. As a stone building with boundary wall and railings it is a distinctive and distinguished addition to the predominantly brick streetscape in this part of the conservation area and makes a positive contribution to the character and appearance of the area and the Grade II listed Wesley Hall opposite forming part of a historic cluster.

### The impact on the significance (historic fabric, external appearance and setting) of the listed building

Glazed Link: the existing rear link extension is a later addition, infilling between the two earlier rear wings, and is of no historic or architectural merit. The proposed single storey link extension would be glazed and a more contemporary and lightweight version of the existing. The proposed extension would be considered an enhancement to the rear part of the building, which is functional in history and character, replacing a heavier modern addition. It is not proposed to treat any of the internal walls which would remain exposed and thus indicate the former development and evolution of the plan form – the exposed stone would be repaired as part of the works and made good. Considering the poor quality of the existing link and its lack of interest as well as the lightweight design of the proposed replacement, the proposal would be considered acceptable. A condition should be imposed to ensure that the details of the fixing of the new link would be appropriate and to ensure minimal disruption to the existing fabric, although this is accommodated under the recommendation on the associated planning application.

Kitchen: it is proposed to move the existing kitchen into what is identified in the HBAHS as the bakehouse/washhouse. This would involve the removal of a solid wall and modification to a modern opening on the gable end. The wall, although solid and historic, has limited interest in the overall understanding and interest of the building and, as noted in the HBAHS, the rooms lack any features of interest. The Statement also identifies that this is not a structural wall and therefore no further intervention beyond its removal would be necessary. As advised at pre-application stage, nibs have been retained to indicate the former division and alterations have also been made to the modified opening on the rear wall which has been simplified to a glazed door. A new extractor vent would be located on the side elevation which has limited visibility; again details of which would be conditioned under the planning proposal to ensure a sympathetic installation.

Re-division of the old kitchen: There is evidence of previous sub-division within the existing kitchen and the reinstatement along a similar line would be a positive aspect; the thravls where possible would be retained. An extractor fan would run from the utility through the ceiling of the adjacent study and out onto the side

elevation at ground floor level; again details should be conditioned to ensure this is appropriate. The floor, likely of 1848 as identified in the HBAHS, is in poor condition. There would be a preference to retain this but it is understood that it is in poor condition. A quarry tile finish would be the most appropriate to reference the character and function of the former space. A new log burner is proposed in the inglenook, any details of new additions such as cowls should be clarified as part of these works.

Other works: the proposal includes the removal of the existing modern concrete floors and their replacement with an underfloor limecrete system. This would be more sympathetic to the fabric of the building and would therefore be considered acceptable. Details have been provided as part of the submission. It is proposed to remove the paint from the existing timbers with a TORC system. It is advised that a sample area is required for removal to ensure this is the most appropriate method.

While there would be some minor loss of fabric with the creation of new openings and a further degree of sub-division, these would take place in the rear part of the building which is functional in history and character and retains only a few features of interest. There would be enhancements to the existing building including the new lightweight glazed link which would replace a heavier modern addition and the installation of more appropriate limecrete floors where concrete has previously been used. The proposed works would be considered to balance each other and would therefore preserve the special interest of the listed building.

The proposal would therefore conform to the requirements of the NPPF and with policy BNE2 of the LP1 and policy BNE10 of the LP2 in that the significance of the heritage asset would not be harmed and the special interest of the listed building would be preserved.

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 works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the submitted plans (drawing no's 1804(08) 01A, 02A, 03A and 04A) and documents, made valid on 1st May 2019, unless as otherwise required by condition attached to this permission.

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

3. A sample area of paint removal to the timber beams shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of paint stripping. The works shall be carried out in accordance with the approved sample.

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



**Item**            **1.7**

**Ref. No.**        **9/2019/0509/TP**

**Applicant:**  
**Mr Martin P Buckley**  
**South Derbyshire District Council**  
**Civic Offices**  
**Civic Way**  
**Swadlincote**  
**DE11 0AH**

**Agent:**  
**Mr Martin P Buckley**  
**South Derbyshire District Council**  
**Civic Offices**  
**Civic Way**  
**Swadlincote**  
**DE11 0AH**

**Proposal:**    **THE PRUNING OF A SYCAMORE AND YEW TREE COVERED BY SOUTH DERBYSHIRE DISTRICT COUNCIL TREE PRESERVATION ORDER NO. 131 AT 28 WILLOW PARK WAY ASTON ON TRENT DERBY**

**Ward:**           **Aston**

**Valid Date**    **13/05/2019**

#### **Reason for committee determination**

This item is presented to Committee because the Council is the applicant.

#### **Site Description**

The site is an area of wooded public open space off Maple Drive. The subject trees are close to the boundary of a residential property.

#### **Proposal**

Two trees are affected by the proposal; a large (19 metre high) mature Sycamore and a young mature Yew (6 metres high). Pruning works are proposed to both.

#### **Applicant's supporting information**

- The works to the Yew are desirable; and
- The Sycamore presents urgent public safety issues (during storms earlier in the year, branch fall caused damage to the neighbouring property). The works include more detailed inspection and the applicant notes that additional unforeseen safety measures may need to be undertaken as a result.

#### **Planning History**

The trees became subject to statutory protection when the former Aston Hall Hospital was re-developed in the late 1990s.



## **Responses to Consultations**

None

## **Responses to Publicity**

None.

## **Development Plan Policies**

The relevant policies are:

- Local Plan Part 1 (LP1): BNE4
- Local Plan Part 2 (LP2): BNE7

## **National Guidance**

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

## **Planning Considerations**

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

- Whether the works are justified; and
- Whether the resultant amenity value remains acceptable.

## **Planning Assessment**

### Whether the works are justified

The submitted report identifies various defects in Sycamore and recommends urgent action on safety grounds. These circumstances amount to very strong justification. The adjacent Yew tree lies under the canopy of the Sycamore and while the works are not urgent they are nonetheless considered to be desirable.

### Whether the resultant amenity value remains acceptable

The trees are set back from the public highway with other trees occupying the foreground. Subject to other urgent safety related work being necessary to the Sycamore on detailed arboricultural inspection, the amenity value of the trees would be preserved insofar as is practicable. The relevant policy tests, to respect landscape character and amenity, are thus satisfied by the proposals.

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** consent subject to the following conditions:

1. The work hereby approved shall be carried out within two years of the date of this consent.

Reason: To conform with Regulation 17(4) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, in order to enable the local planning authority to consider any proposals beyond this period in the interests of safeguarding the amenity value of the tree(s).

2. The work shall be carried out in accordance with BS3998:2010 - Tree Work.

Reason: To safeguard the health of the trees.

## **2. PLANNING AND OTHER APPEALS**

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

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/Delegated</b>	<b>Page</b>
9/2018/0920	Manchester Lane, Hartshorne	Woodville	Allowed	Delegated	62



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## Appeal Decision

Hearing Held on 8 May 2019

Site visit made on 8 May 2019

**by A Blicq BSc (Hons) MA CMLI**

**an Inspector appointed by the Secretary of State**

**Decision date: 04 June 2019**

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### **Appeal Ref: APP/TPO/F1040/7065**

**Land to the rear of 45-49 Manchester Lane, Hartshorne, Swadlincote, Derbyshire DE11 7BE**

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake work to trees protected by a Tree Preservation Order.
  - The appeal is made by Mr Stephen Bostock of S W Bostock Ltd against the decision of South Derbyshire District Council.
  - The application Ref: 9/2018/0920, dated 21 August 2018, was refused by notice dated 16 October 2018.
  - The work proposed is: lay a hawthorn hedge
  - The relevant Tree Preservation Order (TPO) is South Derbyshire District (Land to the rear of 45 – 49 Manchester Lane, Hartshorne, DE11 7BE), TPO 472 (2017) which was confirmed on 16 January 2018.
- 

### **Decision**

1. The appeal is allowed and consent is granted to lay a hawthorn hedge, protected under South Derbyshire District (Land to the rear of 45- 49 Manchester Lane, Hartshorne, DE11 7BE) TPO 472 (2017) in accordance with the terms of the application Ref: 9/2018/0920, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than two years from the date of this decision.
  - 2) All works shall be carried out in accordance with British Standard BS 3998: Tree work: Recommendations (or an equivalent British Standard if replaced).

### **Main Issues**

2. The main issues are the effect of the works on the character and appearance of the area and whether sufficient justification for the works has been demonstrated.

### **Reasons**

3. The appeal concerns a length of overgrown hawthorn hedge in a rural location, and which separates vacant land and an arable field. The appellant wishes to lay the hedge, in line with standard procedure, and in so doing to return it to a height commensurate with other field boundaries in the area.

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<https://www.gov.uk/planning-inspectorate>

4. An inspection of the hedge indicates that it is of some age. Some of the constituent plants within the body of the hedge have pleachers of considerable size, and I also noticed young single stemmed growth, presumably from natural regeneration, on the periphery. It appears that the hedge has not been maintained for some time and it now forms a continuous line of vegetation between 5 – 6 metres high, comprising a mix of single and multi-stem plants with contiguous canopies.
5. The hedge sits towards the crest of a low ridge, and is visible across the arable field from a long distance footpath some 150 – 200 metres away. From the footpath the hedge is seen largely against the sky and partially screens the roofs and upper floors of dwellings fronting Manchester Lane.
6. The hedge lies within the Coalfield Village Farmlands character area of Derbyshire County Council's Landscape Character Assessment (LCA). This states that key characteristics of the area include a mix of pastoral and arable farming, scattered hedgerow trees and locally dense trees along watercourses, with patches of semi-natural woodland. The introduction to the description states that there is a scarcity of hedgerow trees and that hedges tend to be low cut.
7. The landscape in the vicinity of the hedge has a limited visual envelope. I observed a mix of complementary features including arable and pastoral fields, maintained and unmaintained boundary hedges, and the occasional hedgerow tree, all on rolling topography. This is entirely consistent with the description of the Coalfield Village Farmlands set out in the LCA. There is nothing before me to suggest that the landscape is considered of high local importance.
8. Although the hedge is prominent in views from one stretch of the footpath, from other sections of that path views of the appeal hedge are screened. Whilst I appreciate that the appeal hedge's height and length give it some prominence for footpath users, it is but one component of the overall mosaic of landscape features in the valley. To my mind is neither more nor less important in this landscape than any other feature. Moreover, the hedge cannot be seen from the public domain other than from the footpath. As such, I conclude that it makes a minor contribution to the character and appearance of the area.
9. I now turn to the likely visual impact of the proposals.
10. The hawthorns were clearly planted as a hedge, intended to mark a field boundary, and were maintained as such for at least part of their life to date. Whatever the reasons for the appellant's failure to maintain the hedge over the last ten years or so, I am satisfied that its primary function remains as a field boundary within a working agricultural landscape. Moreover, it is in the appellant's ownership.
11. In considering the appeal I am comparing the landscape and visual effects of replacing an overgrown hedge with a maintained hedge, not the loss of the hedge itself. A maintained hedge would have a slightly lesser visual impact in this context. However, although regular footpath users would perhaps notice a change in the landscape if the appeal was allowed, I am not satisfied that a laid hedge would appear any less appropriate, particularly as the appeal hedge abuts a significant length of maintained hedge for part of the same field boundary. As such, even taking the high sensitivity of receptors from the



- footpath into account, I am not satisfied that the magnitude of the change would be sufficient to result in any more than a slight adverse effect on the appreciation of the landscape for those footpath users. With regard to the underlying landscape character, for the reasons set out above I conclude that the hedge-laying would have a largely neutral effect.
12. With regard to shading, I appreciate the Council's argument that farmers cannot eliminate shading from boundary features. Nonetheless, I noticed that crops in the lee of the hedge were noticeably lower and less dense than the same crop beyond the area of shade. Whilst the gain from removing the shade may be marginal in the context of this large field, this small benefit weighs in favour of the appeal.
  13. I acknowledge that the Council placed great weight on the hedge's visual impact when considering the TPO application and the TEMPO assessment scored the hedge as 'TPO defensible'. However, I do not have the breakdown of that assessment before me, and am unable to discern which of the various factors contributing to the assessment carried the greater weight. In any case, I have based my reasoning on my own observations as well as from the evidence before me.
  14. The Council argues that the individual plants could grow and spread. Nonetheless, these are specimens which are closely spaced, and their laying history is likely to have affected their future stability. Given the canopies are already contiguous, it is difficult to see how the plants could grow or spread much more, particularly given their origins and past husbandry.
  15. I also appreciate that the hedge gives additional screening to the dwellings fronting Manchester Lane, but as the hedge is located on the outskirts of Hartshorne it seems reasonable that dwellings should form part of the landscape. In any case, the dwellings are sited below and on the far side of the ridge, and are partially screened from the footpath by topography.
  16. The Council has suggested that the lower portion of the hedge could be laid, with a series of standards developed from the existing plants. This would appear as a hedgerow with specimen trees. However, the plants making up the overgrown hedge have grown in close companionship for a long period. Trees develop their resistance to wind through growth over a period of time and opening up the canopies now would be highly likely to result in some plants becoming susceptible to wind loading, leading to breakage and damage. In addition, few specimens within the hedge appeared to have a form suitable for development as standards, and as noted above, their laying history and previous proximity to companion plants would be likely to result in vulnerable supporting structures.
  17. As such, it seems highly unlikely that standard trees of any significance or longevity could be formed from this hedge. Even if it was possible, managing the canopies of those standards to ensure continued separation would involve a level of maintenance that would seem unreasonable and at odds with standard agricultural practice. Moreover, I am not satisfied that this approach would secure the hedge's longevity, as argued in the officer's report.
  18. Consequently, given the species involved and their age and growth pattern I am not satisfied that there are reasonable management alternatives to laying this hedge. Moreover, if left unchecked, it is likely that the plants would

- become leggy and gappy at the base. Whilst such remnant hedges can be attractive features in a landscape, I can appreciate that the appellant would like a secure and easily managed boundary, whether he chooses to keep stock in the foreseeable future or not. The fact that the field is currently arable should not be particularly determinative, as farming needs may change.
19. I fully appreciate the biodiversity and biomass benefits of a taller and overgrown hedge. However, although the Council confirmed at the hearing that the hedge is situated in a secondary area of environmental sensitivity, there is little before me to suggest that it is a habitat of significant value. Moreover, the other maintained hedges nearby are also within that same sensitivity category.
20. Planning Practice Guidance advises that where there is limited visual amenity derived from protected trees, and the impact of the proposed works would be negligible, it may be appropriate to grant consent even where there is no arboricultural need for the work. I acknowledge that the proposals would slightly reduce the visual impact of the existing hedge. However, as noted above, it is but one feature in the landscape and a laid hedge would not be incongruous. Moreover, the hedge's public visibility is limited and in its current form it is having some adverse effect on crop growth. The proposals would also return the hedge to active management. As I have found little harm associated with the proposals, I conclude that there is sufficient justification for the works.
21. It was agreed that if the appeal was allowed, the appellant would accept a requirement that three standard trees be planted along the hedge. However, having reviewed the LCA and the other evidence before me I am not satisfied that this would be necessary to make the proposals acceptable in planning terms. Consequently, I have imposed two conditions only, one to impose a time limit in line with standard practice and the other to ensure works are carried out in accordance with best practice.
22. The Council has cited Policy BNE4 of the Local Plan (LP) in its decision notice. This requires the retention of established hedgerows. However, the hedge is not going to be removed, and I have concluded that the proposals would have little effect on landscape character. As such I am satisfied there would be no particular conflict with this policy if the appeal was allowed. LP Policy BNE7 is concerned with the removal of trees and hedgerows and as such weighs neither for nor against the appeal.
23. In the light of the above, the appeal should be allowed.

*A Blicq*

INSPECTOR

## **APPEARANCES**

### **APPELLANT**

Gareth Hare	Lupus Consulting
Stephen Bostock	S W Bostock Ltd
Simon Spencer	National Farmer's Union

### **COUNCIL**

Chris Nash	South Derbyshire District Council
Neil Worthrop	Weddle Landscape Design

### **INTERESTED PARTIES**

Kevin Banton  
John Orgill  
Rachel Evans  
Darren Evans

### **ADDITIONAL EVIDENCE**

1. Photographs of shading
2. Derbyshire County Council, Landscape Character Assessment

<b>REPORT TO:</b>	<b>PLANNING COMMITTEE</b>	<b>AGENDA ITEM: 5</b>
<b>DATE OF MEETING:</b>	<b>25<sup>th</sup> JUNE 2019</b>	<b>CATEGORY: Delegated</b>
<b>REPORT FROM:</b>	<b>STRATEGIC DIRECTOR (SERVICE DELIVERY)</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>Chris Nash (01283) 595926</b> <a href="mailto:chris.nash@southderbyshire.gov.uk">chris.nash@southderbyshire.gov.uk</a>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>TREE PRESERVATION ORDER 505: THE LAWNS, 82 MAIN STREET, ETWALL</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>ETWALL</b>	<b>TERMS OF REFERENCE:</b>

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## **1.0 Recommendations**

- 1.1 That this tree preservation order should be confirmed.

## **2.0 Purpose of Report**

- 2.1 To consider confirmation of this tree preservation order.

## **3.0 Detail**

- 3.1 This tree preservation order (TPO) was made on 16<sup>th</sup> November 2018 in respect of two groups of trees, one comprising 7 Sycamore and another comprising 10 London Plane, along with an individual Lime tree, all situated on land at The Lawns, 82 Main Street, Etwall.
- 3.2 The TPO was made following receipt of a conservation area notification for works to reduce the crowns of the trees by one-third (ref. 9/2018/1285). The Sycamore and London Plane trees provide an excellent feature in the townscape, with the canopies coalescing and creating an archway over the drive. The further single lime is also a feature tree in the street scene.
- 3.3 Works to reduce the crowns of the trees by one-third amounts to crown topping rather than crown reduction and was not considered to be a suitable form of management, harmful to their form and visual amenity.
- 3.4 When made, a conservation area notification can be dealt with in one of three ways:
- make a TPO if justified in the interests of amenity, preferably within 6 weeks of the date of the notice;
  - decide not to make a TPO and inform the person who gave notice that the work can go ahead; or
  - decide not to make a TPO and allow the 6-week notice period to end, after which the proposed work may be done within 2 years of the date of the notice.

3.5 A notification is not, and should not be treated as, an application for consent under an Order, so the Council cannot refuse consent or grant consent subject to conditions. With this in mind, and given the public amenity value offered by the trees and the immediate threat they were under, a Tree Preservation Order was the only option to prevent the inappropriate works taking place.

3.6 Four letters of objection has been received through consultation stating:

- the form and visual amenity of the trees is unlikely to be unduly compromised if they are sympathetically reduced in height and width by professional pruning;
- only the tops of the trees can be seen from the roadside and the driveway opening;
- whilst agreeing that such features required careful monitoring and management to enhance the village, the trees are large and do shade a number of adjoining properties;
- loss of light to habitable rooms, especially on summer evenings;
- London Planes are of a brittle nature and sizeable branches and twigs are falling on adjoining property;
- appropriate management is required to address safety and damage concerns from dead/dying branches;
- would be most appropriate to reach agreement on the extent and form of tree management;
- there has been no maintenance of the trees for several years and the refusal of works and making of a TPO is a disappointment;
- lack of maintenance could contribute to disease;
- height and spread of the canopy is of concern, as is the spread of roots into adjacent gardens and potentially towards foundations and drainage of dwellings, with damage to patios and borders to date;
- leaf drop is an inconvenience, especially in the autumn where fortnightly green bin collections are inadequate, and they block drains and gutters;
- shading is leading to moss growth on roofs, contributing to the replacement of two roofs and refurbishment of two others;
- the trees attract pigeons which in turn leads to excessive droppings and a health risk;
- costs of maintenance related to many of the above secondary impacts of the trees; and
- concern about a row of Thuja (conifer) on the boundary with 82 Main Street which causes shading and maintenance issues.

3.7 In answer to the comments made officers have the following response:

- The principle of works to maintain the trees and reduce their canopies is not in dispute – it was down to the manner in which the works were proposed to be carried out, and the inability to command alternatives, which led to the TPO being made. Nonetheless, the amenity value of the trees is sufficient in its own right to command long term control, and it is possible for the owner (or others) to apply for a management plan so to enable repeat works without the need for multiple applications for consent.
- The lack of maintenance for a number of years is unfortunate, with the amenity value of the trees enhanced in the interim. The TPO recognises the latter such that future maintenance will need to respect this protection, but

protection in itself is not a barrier to appropriate works being proposed and accepted.

- Many of the issues raised, such as shading, canopy spread, branch/twig drop, the extent of leaf drop and root spread would be curtailed to some noticeable degree upon the agreement and carrying out of suitable works. The resulting secondary costs arising to adjoining occupiers are would subsequently not be considered to be unreasonable given the trees have existed in this situation and resulted in a degree of impact for some time.

3.8 It is noted that the applicant for the 2018 notification has approached the Council for advice and officers will endeavour to assist with facilitating a more suitable proposal for works to the trees.

#### **4.0 Planning Assessment**

4.1 It is expedient in the interests of amenity to make the trees the subject of a TPO in accordance with advice set out in the PPG.

#### **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**

7.0 Protecting visually important trees contributes towards the Corporate Plan theme of Sustainable Development.

#### **8.0 Community Implications**

8.0 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**

- a. 17 January 2019 – Tree Preservation Order.
- b. 25<sup>th</sup> January and 1<sup>st</sup>, 5<sup>th</sup> and 20<sup>th</sup> February 2019 – Letters of objection.