

# **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>
9/2019/0742	1.1	Ticknall	Repton	15
9/2017/1394	1.2	Swarkestone	Aston	28

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 Strategic Director (Service Delivery)'s report or offered in explanation at the Committee meeting require further clarification by a demonstration of condition of site.
2. Further issues of principle, other than those specified in the report of the 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.**        9/2019/0742

**Valid Date**    09/07/2019

**Applicant:**  
Harpur Crewe Ltd

**Agent:**  
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Marrons Planning  
Shakespeare Martineau  
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LE1 1QH

**Proposal:**    **THE DEMOLITION OF OUTBUILDINGS (INCLUSIVE OF RELEVANT  
DEMOLITION CONSENT FOR PART OF THE FRONT BOUNDARY WALL)  
AND THE ERECTION OF A SINGLE STOREY DWELLING AT 31 CHAPEL  
STREET TICKNALL DERBY**

**Ward:**           REPTON

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

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

#### **Site Description**

The application site is located to the north eastern part of the village, and currently forms part of the rear/side garden to 31 Chapel Street. The outbuilding to which this application relates is a single storey building constructed in red brick with sections of stone under a plain clay tiled roof. The building is set back from Chapel Street behind a flat roofed garage and the building forms part of the boundary of the site with the adjacent 35 Chapel Street.

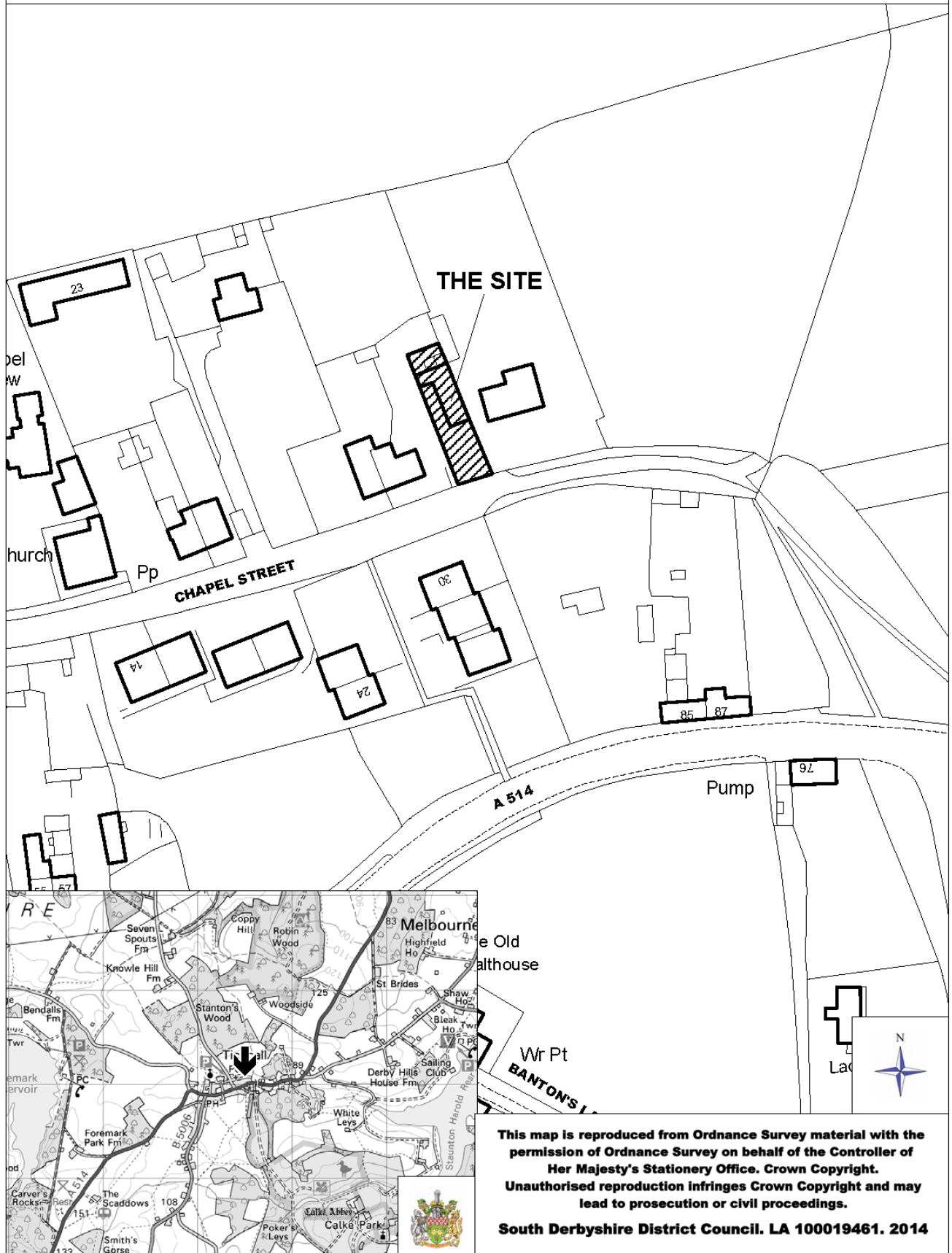
The site is bound to the north, east and west by existing domestic boundaries, with what is now the extended domestic curtilage of 29 Chapel Street beyond the northern boundary of the site. To the south is Chapel Street beyond which lie a number of bungalows with the main road though Ticknall further to the south which runs parallel to Chapel Street.

The application site is located within the settlement boundary for Ticknall as identified within the Local Plan Part 2, and lies within the Ticknall Conservation Area. Whilst the building itself is not identified within the Conservation Area Character Statement the adjacent dwellings (Nos 29, 31 and 35) are identified as other buildings with contribute positively to the special architectural or historic character of the conservation area.

#### **Proposal**

The application proposes the demolition of the existing pre-fabricated garage, part of the front boundary wall and buildings on the site comprising the existing garage and outbuilding. The site is then to be re-developed though the erection of a single storey dwelling similar to the existing outbuilding to be demolished. The proposed building is effectively a replica of

9/2019/0742 - 31 Chapel Street, Ticknall, Derby DE73 7JY



the existing building and is single storey and L-shaped in plan. The proposal includes the creation of a new domestic curtilage by sectioning off part of the existing garden for No 31. An extended car parking area is proposed to serve the existing and proposed dwelling facilitated through the demolition of part of the frontage boundary wall.

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

The Planning, Heritage and Design Statement sets out a description of the site and its surroundings, and the planning history associated with the site. The development proposed is described in detail, with a design statement confirming the design intention for the building to continue to appear subservient to existing properties by virtue of its positioning and height. The building would be finished to a high standard of appearance to reflect the vernacular of the existing building using reclaimed brickwork and plain clay roof tiles – the proposal involves improvements to existing boundary treatments to ensure new occupiers have a good standard of amenity. The general character of the conservation area is described – considering that the proposed development would preserve the architecture, character and setting of the neighbouring buildings and that the proposal would result in an improvement to the appearance of the site. The statement rehearses the provisions of the NPPF noting that the Council currently does have a 5 year housing land supply and therefore housing supply policies from the development plan are not out-of-date. However, there is an overriding need to boost housing supply and this proposal would result in the creation of an additional residential unit within the village settlement. The infill nature of the proposal would mean that there would be no encroachment into open countryside and the character and significance of heritage assets and their setting would be preserved. The proposal would make more efficient use of land and constitutes sustainable development that will support the local village economy. The proposal is considered to comply with the strategic policies S1, S2 and S3 of the plan as the development would not encroach in to open countryside and the reconstruction of the building would provide a new building to modern energy efficient standards. The proposal being within the Ticknall settlement boundary is considered to comply with policy H1, with the proposal having been designed to respect the private amenity of neighbouring occupiers. Sufficient off-street parking is considered to be provided for the proposed development with opportunities within the village for making journeys by alternatives to the private car. Overall the principle of development is considered to be acceptable, with no demonstrable harm to any heritage assets. The proposal is considered to represent good design, with no significant impacts on the private amenity of nearby occupiers – the proposal is considered to constitute a sustainable form of development in compliance with the development plan and the NPPF.

An Archaeological Desk-Based Assessment has been submitted at the request of the County Development Control Archaeologist. The assessment includes a Historic Buildings Appraisal to assess the character, nature, date and significance of the building – which is considered to be 'probably contemporary with the adjacent houses, likely to be of early-mid 19 century date'. The existing building is considered to be of limited local significance, not recorded on the historic environment record and likely to have been used as stables – it is considered that its proposed demolition can be mitigated by a programme of historic building recording. Planning policy and archaeological and historical backgrounds are provided including an assessment of available cartographic evidence – this appears to indicate that the building was constructed in-between 1843 and 1857. The assessment concludes that there is high potential for the discovery of post-medieval remains on the site – but low and negligible potential for earlier remains to be present, and considers that the replacement of the outbuilding with a similar structure for use as a dwelling will have a

negligible impact on integrity of the Conservation Area. It is also considered that the removal of the modern garage will have a positive effect on the Conservation Area.

## **Planning History**

9/2017/0996 Demolition of existing garage and part of frontage wall, and conversion of existing outbuilding to form residential dwelling. Withdrawn.

9/2017/0998 Relevant demolition consent for demolition of existing garage and part of boundary wall. Withdrawn.

Both of the applications below were deferred by Members at Planning Committee pending the commission of a structural survey. An appeal against the non-determination of these proposals was lodged and is subject of an existing undetermined appeal, currently held in abeyance by the Planning Inspectorate until 6 November 2019 pending the outcome of this application. Following the lodging of the appeals members resolved that were they able to determine the applications (not being able to formally determine the application due to the appeals having been submitted) that there was no objection to the demolition of the front boundary wall (9/2018/0269) but that the application for the conversion (9/2018/0289) of the building would have been refused for the following reason:

‘Following the undertaking of an independent structural survey of the building it is clear that a substantial proportion of the building would need to be demolished and re-constructed: the roof structure, front and both gable walls, and part of the rear wall. Due to the extent of the required re-construction it is considered that the application as submitted cannot be approved as the conversion of the building is not now feasible and falls outside the scope of the application as submitted.’

9/2018/0269 Demolition of existing garage and part of frontage wall and conversion of existing outbuilding to form a residential dwelling. Undetermined and the subject of an outstanding appeal.

9/2018/0289 Relevant demolition consent for demolition of existing garage and part of front boundary wall. Undetermined and the subject of an outstanding appeal.

The approval of the current application would it is understood result in the withdrawal of the currently undetermined appeals

## **Responses to Consultations**

The Highway Authority has no objection subject to the parking being laid out. This would ensure parking on Chapel Street is kept to a minimum, noting that Chapel Street is not adopted and that any on-street parking would cause an inconvenience to local users rather than a highway safety issue.

Environmental Health has no objections subject to conditions relating to the control of burning on-site, restrictions on construction times and deliveries, and the submission of a scheme of dust mitigation.

Derbyshire Wildlife Trust concur with their previous comments regarding the site considering that overall, no adverse impacts on bats are anticipated.

The Development Control Archaeologist note that whilst they would always prefer to see traditional buildings retained if at all possible, should the authority deem the proposal to be acceptable recommend that the building is the subject of a programmed of building recording to provide a record of the structure in advance of its demolition.

## **Responses to Publicity**

Ticknall Parish Council objects to the application for the following reasons;

1. The development is in the Ticknall Conservation Area and under Article 4 Direction;
2. The design is not in keeping with neighbouring houses;
3. They are using infill policy to create a very small dwelling;
4. This application demolished the existing dwelling, this contradicts their previous application that wanted to preserve this historic building;
5. It is a modern bungalow wedged in-between two 19 century style houses;
6. No property of historical value in Ticknall should be demolished without good reason;
7. Recent experience of building on Chapel Street isn't exactly encouraging either – The proposed new house isn't reflecting local architectural character.

Nine letters of objection have been received from 5 individuals raising the following concerns;

- a) Highway safety concerns due to an increase in parking;
- b) Increase in traffic, parking, and builders vans;
- c) Chapel Street has no pavements for safe pedestrian access (including children accessing school);
- d) Concern at access requirements for emergency vehicles, and tractors;
- e) In the previous application the old Wheel Wrights workshop was deemed a historic asset to the village;
- f) Overlooking from roof windows;
- g) Impact on existing attached outbuilding;
- h) Noise and disturbance from the building works
- i) The invalidity of the application based on the incomplete heritage assessment, the description of development, including the lack of an archaeological investigation;
- j) Do the authors of the heritage statement have 'appropriate expertise' in the area of conservation of historic assets?
- k) The definitions of heritage assets and significance are set out with the building considered to be a heritage asset – whilst it has some architectural merit, its principal interest and area of significance it in its historical interest. The previously submitted statement evidences that the building was constructed between 1843 and 1882 – and that the building was used to keep animals – the objectors view is that the building was likely used by a blacksmith or farrier and one of the largest remaining in the village from a time when the village population was over 1,200;
- l) The building has been used as an outbuilding since at least 1976;
- m) Buildings such as this are dwindling in number within the village – but none as large;
- n) Views of the building are limited and the removal of the garage would assist in opening up views of the building – but with a building of largely historic interest its visual prominence is an irrelevance – similar to how archaeological remains are viewed.
- o) The wall to the site frontage is a significant feature of the conservation area – giving a sense of enclosure to the street along the northern section of Chapel Street. The

detailing of the wall being an important feature as detailed in the Conservation Area Character Statement;

- p) If the application is approved there would be no way of enforcing that the building works are carried out – leaving a gap in the conservation area. This would be unacceptable and diminishes any weight given to the benefits.
- q) The submitted documents, including the Archaeological Assessment are not heritage statements required for the purposes of paragraph 189 of the NPPF – opinions of this shortcoming is supported by the comments on the ‘Heritage Help’ website. The submission is missing an architectural assessment of the asset – an assessment of the impact of the proposed works on the significance of the asset nor does it include a statement of justification for the works.
- r) Specifically the comment made in the submitted documents that the ‘demolition of the existing outbuilding and its replacement with a similar building for residential purposes will have a negligible impact on the setting and character of the conservation area’. This comment is made without foundation or explanation – the application remains incomplete and not supported by a full heritage statement that meets the legal requirements let alone justifies the proposed demolition of this heritage asset.

One letter of support has been received supporting the application as they consider that a full mobility access bungalow is much needed. The proposal would remove a derelict eyesore and create a community asset – it is also compliant with local policy to oppose new land development and support infill development.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development); H1 (Settlement Hierarchy); H20 (Housing Balance); SD1 (Amenity and Environmental Quality); BNE1 (Design Excellence); INF8 (The National Forest); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness); INF2 (Sustainable Transport); BNE2 (Heritage Assets); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure).
- 2017 Local Plan Part 2 (LP2): BNE10 (Heritage); H28 (Residential Conversions); BNE7 (Trees, Woodland and Hedgerows); SDT1 (Settlement Boundaries and Development).

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide SPD
- Ticknall Conservation Area Character Statement (CACS)

## **Planning Considerations**

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



- The Principle of development;
- Heritage and design matters; and
- Highway safety.

## **Planning Assessment**

### The principal of development

The application site is located within the settlement boundary for Ticknall as defined by the Local Plan Part 2, with Ticknall itself identified by policy H1 as a Local Service Village. Within such settlements the development of sites is considered appropriate and therefore the residential development of the site for residential is considered to be acceptable in principle. This is of course subject to the more detailed assessment of the impact of the proposed development on the character, appearance and significance of the Ticknall Conservation Area and also an assessment of the value of the existing building as a heritage asset in its own right.

### Heritage and design matters

The principal character of Chapel Street is defined by the regular pattern of evenly sized plots along its northern side, to its southern side there are generally unsympathetic modern bungalows. The building the subject of this application is set back from the road frontage by around 12m and is somewhat hidden by the more significant buildings of Chapel Street (Nos 29, 31 and 35) which are identified by the CACS as buildings which contribute positively to the special architectural or historic character of the conservation area and an existing flat roofed garage such that the building is not a prominent building within the conservation area.

The existing brick built outbuilding is currently in a rather poor state of repair with little works having been undertaken on it in the recent past. The building is likely to be of mid - late 19<sup>th</sup> Century origin. Its original use is for all intents and purposes a mystery but it could have been used to keep animals or some form of local industry likely associated with the main dwelling. The application is for the demolition of the existing traditionally constructed barn and the existing garage to the south of the outbuilding. The garage is of blockwork construction with a mono-pitch roof and is of no architectural or historic interest and generally detracts from the character and appearance of the conservation area, such that its demolition would be a positive enhancement of the area.

The main building now proposed for demolition has been the subject of a number of recent applications for its conversion as detailed within the planning history above. The initial surveys undertaken deemed the building to be suitable for conversion subject to the undertaking of various elements of remedial works – following deferral of the application at this Committee for the undertaking of an independent structural survey, this report was found to be inaccurate. The Structural Report commissioned by the Council was clear that on the balance of probability a significant proportion of the existing building would need to be demolished and re-built in order to facilitate the provision of a suitable dwelling – or at least a useable building. The structural works considered necessary to facilitate the provision of a suitable habitable building were identified as the replacement of the roof, front wall, two gable end walls and the upper proportion of the rear wall. As a result of this survey it is considered that the existing principal building on the site is not capable of conversion, and has resulted in the current application for its demolition and re-construction.

Consideration therefore needs to be given as to whether the loss of the existing building, a heritage asset in itself (being located within the conservation area and of some historic interest) is acceptable. The building whilst having an element of historic, aesthetic and evidential value (significance), as an ancillary structure within the conservation area – the proposal which provides for its replacement with a building of an almost identical form and massing is considered to result in an overall neutral impact on the setting, character and appearance of the conservation area. This is due to the limited views of the building from the highway, and the lack of distinctive evidence that the building is of significant interest that would warrant its retention in its current unusable form – noting that the building is not listed, not identified with the CACS as a building of importance or included on the local Historic Environment Record.

The historic and evidential value of the existing building is proposed to be recorded through a historic building recording exercise, which is proposed to be secured by condition and would ensure the building is recorded and documented, as recommended by the Development Control Archaeologist.

The external appearance of the new building would have a similar almost identical appearance as the existing with the re-use of bricks, special bricks and tiles partly reclaimed from the site aiding in assimilating the new building in to its setting – the use of appropriate materials, timber doors and windows, and conservation style rooflights would be key to the successful integration of the development in this sensitive context. These details are proposed to be secured by appropriately worded conditions and generally the proposed replacement building is considered to preserve the character and appearance of the conservation area.

The development is served from Chapel Street, and a section of the existing front boundary brick wall, some 1.2m high, would be demolished to allow the creation of a new extended parking area. There are various boundary treatments along Chapel Street with a mixture of brick walls, timber fencing and soft landscaping to denote and differentiate between the public and private realm. While the proposal would result in the loss of part of the wall, the majority of the wall would be retained and the provision of a wider gap between boundaries is not uncharacteristic along this street. The removal of part of the boundary wall is therefore not considered to result in substantial harm to the character or appearance of the area and the historic sense of enclosure to front boundaries in the area would be maintained to an appropriate degree. In addition, areas of hardstanding are also found to the front of dwellings and with the majority of the front garden retained the proposed degree of parking and hardstanding is not considered to be substantially or significantly harmful.

The existing garden area to no. 31, Chapel Street would be sub-divided to provide private amenity/garden space for the proposed dwelling as well as no. 31. A high level close boarded fence already exists between the house and the garage which closes off the site with the majority of the building obscured by the fencing and the existing garage. The proposed low level retaining wall and post and rail fence would encourage a degree of inter-visibility between the existing building and the street scene opening up currently closed views of the building from the public realm.

The ability to appreciate key groups of historic buildings and key views within the conservation area would remain unchanged as a result of the proposal, and the demolition of the existing flat roofed garage would enhance the character of the conservation area. Overall the proposal (including the demolition of the existing principal outbuilding) is not considered to cause detrimental harm to the character or significance of the Ticknall

Conservation Area – having an overall neutral impact. The demolition of part of the frontage boundary wall would result in harm to the character and significance of the conservation area but this harm is considered to be less than substantial such that the public benefits resulting from the creation of a new dwelling and the albeit limited public benefits created though the building supply chain would outweigh this limited less than substantial harm identified.

### Highway safety

The application as detailed above includes the removal of a small section of wall in order to extend the existing parking area. The proposed parking area would provide three parking spaces albeit ever so slightly short of the guideline minimum (noting that the Councils minimum standards for car parking spaces is 2.4m x 5.5m with an extra 0.5m required where spaces abut a wall as is the case here). As Chapel Street is a private highway and not adopted, any off-site parking (which would be unlikely given the space available) would cause an inconvenience to local users of Chapel Street rather than result in a highway safety issue. As such the proposal is not considered to result in any highway safety concerns and as such complies with the requirements of policy INF2.

### Other matters

Residential amenity: As the site is surrounded by existing dwellings, consideration has been given to the impact of the proposal on the amenity of these dwellings in accordance with the requirements of policies SD1 and BNE1, and the guidance contained within the South Derbyshire Design SPD. Due to the separation distances between the proposal and adjacent dwellings, the single storey nature of the proposed conversion, and the proposed boundary treatments, no issues of overlooking have arisen. Whilst the development would result in a reduction in the amenity space for the existing dwelling sufficient space is retained that would allow for usual domestic activities to take place in comfort.

Protected Species: The subject building has been visited (including an evening activity visit) and assessed by Derbyshire Wildlife Trust as having a very low suitability to support roosting bats with no activity recorded. Given there being no reasonable likelihood of roosting bats using the building no specific bat survey of the building was deemed necessary.

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 drawing numbers 17.183.05 Revision A and 17.183.06, 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. a) No development, including preparatory works, shall commence until a Written Scheme of Investigation for historic building recording (WSI) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:
  - i) the programme and methodology of site investigation and recording;
  - ii) the programme and provision to be made for post investigation analysis and reporting;
  - iii) provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - iv) provision to be made for archive deposition of the analysis and records of the site investigation; and nomination of a competent person or persons/organisation to undertake the works set out within the WSI.
- b) The on-site elements of the approved WSI shall be completed to the written satisfaction of the Local Planning Authority prior to any development commencing and provision shall be made for publication and dissemination of results and archive deposition prior to the first occupation of the development.

Reason: To enable heritage remains and features to be adequately recorded, in the interests of the cultural heritage of the District, recognising that initial preparatory works could have unacceptable impacts.

4. No demolition works shall commence until a contract for the implementation and construction of the development has been secured. If for any reason that development does not then commence within 6 months of the demolition of the existing building(s), a scheme for the restoration of the land shall be submitted to and approved in writing by the Local Planning Authority. The land shall then be restored in accordance with the approved scheme within 3 months of the date of its approval or in accordance with an approved timetable of restoration.

Reason: To ensure that a derelict/vacant site does not prevail to the detriment of the appearance and character of the conservation area.

5. No development, including preparatory works, shall commence until details of the finished floor levels of the buildings hereby approved, and of the proposed ground levels of the site relative to the finished floor levels and adjoining land levels, shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be supplemented with locations, cross-sections and appearance of any retaining features required to facilitate the proposed levels. The development shall be constructed in accordance with the approved details.

Reason: To protect the amenities of adjoining properties and the appearance of the area generally, recognising that site levels across the site as a whole are crucial to establishing infrastructure routeing/positions.

6. No development, including preparatory works, shall commence until a scheme for the protection of trees and hedgerows has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be based on best practice as set out in British Standard 5837:2012 (or equivalent document which may update or supersede that Standard) and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas.

The approved scheme of protection shall be implemented prior to any works commencing on site and thereafter retained throughout the construction period.

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

7. Except in an emergency, no demolition, site clearance, construction, site works or fitting out shall take place other than between 08:00 hours and 18:00 hours Mondays to Fridays, and between 08:00 hours and 13:00 hours on Saturdays. There shall be no such activities whatsoever on Sundays, public holidays and bank holidays.

Reason: To safeguard the amenities of nearby occupiers.

8. No development shall take place until a scheme of dust mitigation measures and for the control of noise emanating from the site during the construction period has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented throughout the construction period.

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

9. Prior to their incorporation into the development hereby approved details of the external joinery, which shall be in timber, shall be submitted to and approved in writing by the Local Planning Authority. The details shall include drawings to a minimum scale of 1:10 of the external joinery, including horizontal and vertical sections, precise construction and method of opening. The external joinery shall be constructed in accordance with the approved drawings.

Reason: In the visual interest of the building(s), the significance of the heritage asset(s) and the surrounding area.

10. Prior to their incorporation in to the building hereby approved, a sample panel of pointed brickwork no less than 1 sq. m shall be prepared for inspection and approval in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved sample, with the approved sample retained on site throughout the duration of construction works.

Reason: In the visual interest of the building(s), the significance of the heritage asset(s) and the surrounding area.

11. Prior to their incorporation in to the building(s) hereby approved, details and/or samples of the tiles (roofing material) 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), the significance of the heritage asset(s) and the surrounding area.

12. Prior to their incorporation in to the building(s) hereby approved, details of the [eaves, verges, cills and lintels] shall be submitted to and approved in writing by the Local Planning Authority. The details shall include drawings to a minimum scale of 1:10. The [eaves, verges, cills and lintels] shall be constructed in accordance with the approved drawings.

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

13. All verges shall be finished in a mortar finish. There shall be no use of dry verge (cloaking tile) systems.

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

14. Gutters and downpipes shall be in cast metal and finished in black and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

Reason: In the visual interest of the building(s), the significance of the heritage asset(s) and the surrounding area.

15. Prior to the first use of the development 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 first use of the development, 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 use of the development or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

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

16. Notwithstanding the plans hereby approved, prior to the first use of the development details of the proposed boundary treatments including details of their position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the first use of the development or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area and the amenities of neighbouring dwellings.

17. Prior to the use of the building hereby permitted the parking and manoeuvring area shall be laid out in accordance with the approved plan(s) and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, such space shall be maintained throughout the life of the development free of any impediment to its designated use as such.

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

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

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

#### Informatives:

1. The developer is encouraged to install recharge points for electric vehicles to comply with the following criteria:
  - Residential: 1 charging per unit (dwellinghouse with dedicated parking) or 1 charging point per 10 spaces (or part thereof) where individual units have shared or courtyard parking;

- Commercial/Retail: 1 charging point for every 10 parking spaces;
- Industrial: 1 charging point for every 10 parking spaces;

To prepare for increased demand in future years, appropriate cable provision should be included in scheme design and development. Residential charging points should be provided with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket should be located where it can later be changed to a 32amp EVCP. Non-residential charging points should be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2 (or equivalent standard that may replace it). Measures should be taken to prevent subsequent occupiers of the premises from removing the charging points.

**Item**            **1.2**

**Ref. No.**        **9/2017/1394**

**Valid Date**    **21/12/2017**

**Applicant:**  
Marston's Inn and Taverns

**Agent:**  
Mr Paul Harris  
Cerde Planning Limited  
Vesey House  
5-7 High Street  
Sutton Coldfield  
Birmingham  
B72 1XH

**Proposal:**    **THE ERECTION OF A 10 BED LODGE (C1 HOTEL USE) AT THE CREWE  
AND HARPUR ARMS WOODSHOP LANE SWARKESTONE DERBY**

**Ward:**           **ASTON ON TRENT**

**Reason for committee determination**

This item is presented to Committee at the request of Councillor Watson as local concern has been expressed about a particular issue

**Site Description**

The application site is located within Swarkestone, one of the District's rural villages. The site is comprised of the Crewe & Harpur pub/restaurant, which is located in an imposing grade II listed building which fronts the River Trent; the site also contains an existing 7 bed hotel located in a former coach house (also a Grade II Listed Building) which fronts Derby Road. A large proportion of the site is made-up of car parking, with a U shaped brick wall located within the parking area which screens part of the site from Derby Road.

The site is surrounded to the north, east and west by existing residential development on Barrow Lane and Woodshop Lane with the boundaries generally formed by close boarded fencing and hedging. A number of trees exist along the northern and western boundaries of the site.

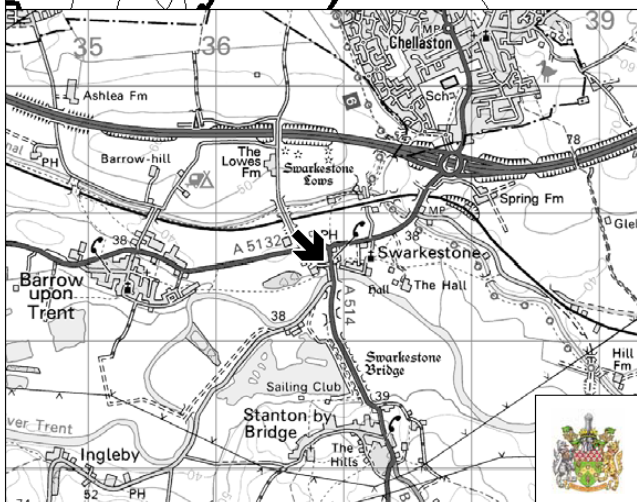
**Proposal**

The application has been amended significantly since its first submission, with the original proposal being for a two-storey 23 bedroom lodge/hotel. The scheme has been revised to now propose a single storey 10 bedroom lodge/hotel.

The proposal takes the form of a single storey 'L shaped' building sited in the north-eastern corner of the site (on an area of existing car park). The building has a simple form and appearance in order to reflect its position and subordinacy in the hierarchy of buildings on the site. The proposal also includes a remodelling of the existing car park.



This detailed site plan shows the layout of the Greve and Harpur Arms (PH) and its immediate surroundings. The pub is the central feature, shaded with diagonal lines. To its north are 'The Beeches' and 'The Gables'. To the west are 'Willow Cottage', 'Damson House', 'The Orchards', and 'The Laurels'. Further west is 'Wengen'. To the south of the pub are 'Bridge House', 'Old Beams', and 'The Dimble'. To the east are 'The Nook', 'Bridge Barn', and 'Bridge Farm Hotel'. A road labeled 'A 5132' runs along the top, with a '39.6m' elevation marker. A 'TCB' (Trent Catchment Boundary) is indicated on the right. A 'Posts' line runs along the bottom. An inset map in the bottom left shows the location relative to Swarkestone, Chellaston, and Barrow-upon-Trent. A north arrow is in the bottom right corner.



**South Derbyshire District Council. LA 100019461. 2014**

## **Applicant's supporting information**

The Planning Statement sets out the 'site characteristics' and describes the proposed development – which includes a background to the applicants business i.e. Marstons heritage in the brewing industry and the recent move in to the hospitality business through the provision of hotels and lodges. The proposed building is described along with reference to the other supporting documents prepared. The building is described as functioning in a similar way to a 'Travel Lodge/Premier Inn type' hotel – so generally early evening arrivals and single night occupancy especially during the working week. The planning policy background to the site is rehearsed with the NPPF quoted and summarised. The principle of development is assessed highlighting the Councils Economic Development Strategy of encouraging visitors to the District – the strategic objectives of the plan are also outlined including promoting the continued growth of local tourism supported by Policy S1. Policy INF10 is also highlighted which supports tourism development in locations where identified needs are not met by existing facilities. The driver for this proposal is a feasibility study undertaken which considered existing levels of hotel supply within 5 miles of the site and their occupancy rates, which are high – a trend which continues year on year demonstrating an unmet need in the area. The proposal is considered to work in synergy with the existing business providing additional employment opportunities. Marstons utilise a Local Employment Initiative Action Plan to help support the employment of local residents and businesses. Consideration is given to access and parking provision at the site included parking surveys, which concluded that there is sufficient car parking within the proposed development to cater of existing demand and the new lodge/hotel. Design and siting wise the location of the building is considered to be such that it would not compete with the principal listed buildings on the site. The development is considered to comply with the Councils standards in respect of residential amenity in terms of daylight, privacy and outlook. The statement concludes that the proposal would serve an identified need recognised in the sub and regional evidence base and through the applicant's own market research – it will expand and diversify an existing business creating sustainable opportunities for local people.

A Built Heritage Statement prepared in support of the application has assessed the impact of the development on existing heritage assets within the site, the Swarkestone Conservation Area (including the listed buildings contained therein), Swarkestone Bridge and Causeway, and the Swarkestone Old Hall Registered Park & Garden. The impact of the development is considered to be limited to the listed buildings comprising the Crewe and Harpur and its stable block, and the Swarkestone Conservation Area. The positioning and design of the proposed development is not considered to impact upon the heritage values of the listed buildings as individual buildings, nor the strong group value which contributed positively to their respective significance – the relationship between the public house and coach house remains legible and the development is considered to preserve the character and appearance of the conservation area. Whilst the development will cause a degree of change, it is not considered that this would constitute a harmful impact on built heritage assets.

An Archaeological Desk-Based Assessment notes that a number of now-demolished structures are evident on the site on historic maps, and it is possible that some remains survive on the site. There is also moderate potential for significant prehistoric and medieval evidence to survive on the site along with moderate potential for archaeology relating to Roman, Saxon post-medieval and modern evidence to survive.

The Transport Statement sets out the current situation in respect of the sites location, existing parking provision and the location of nearby bus stops on Swarkestone Road. Parking surveys were undertaken on a typical Friday, Saturday and Sunday (9-11 June 2017) between 11:00 – 20:00 with observations of arrivals and departures undertaken and hourly checks on actual numbers of cars in the car park. The Friday peaks were at lunchtime (14:00 – 13:00) with a maximum of 39 cars and between 19:00 – 20:00 there was a maximum of 51 cars. Saturday's peaks were at similar times with 39 cars between 13:00 – 14:00 and 46 cars between 18:00 – 19:00, the Sunday peak was at lunchtime between 13:00 – 14:00 where the maximum number of cars within the car park was 64. The existing car park has a capacity of 96 spaces, which with the proposed development and reconfiguration of the car park would reduce the number of spaces to 74. The assessment of trip rates was based on a development of a 23 bedroom lodge (the original proposal) which predicted an additional 6 vehicles per hours in the two-way morning peak and 4 vehicles per hour in the evening peak hours. Sunday peak flows generated by hotel uses is between 10:00 – 11:00 would result in a two-way flow of 13 vehicles – the total peak traffic generated not deemed to be significant. The maximum parking 'stress' on the car park is predicted to be on a Sunday combining the Sunday lunch peak and hotel 'check-out' and would result in the use of 70 spaces (predicted for a 23 bed hotel) – within capacity for the car park. The statement also highlights the accessibility of the site by bus and footpath overall concluding that there are no highway, traffic or transport reasons why planning permission cannot be granted.

A Nocturnal Bat Survey Report has been undertaken of the site which identifies maternity roosts within the main pub building and stable block – neither of which would be impacted upon by the proposed development. The main impacts would be from indirect disturbance – noise and impact on flight lines. As a result of this recommendations are made as to the timing of the works (October – May), and that bat commuting routes are retained in an unlit state. Subject to these recommendations the proposed development would not impact adversely on the bat populations on site.

## **Planning History**

9/0993/0534: The erection of single storey extensions to provide additional dining kitchen and toilet accommodation on the eastern and western flanks of the Public House. Approved 09/03/1994.

9/2003/0931: LBC Alterations to premises and conversion of former stables into hotel letting rooms. Approved 14/01/04.

9/2003/0932: Alterations to premises and conversion of former stables into hotel letting rooms. Approved 14/01/04.

9/2003/1364: LBC The erection of two 2 storey extensions to form an additional eight hotel letting rooms and paving to part of existing beer garden. Refused 08/01/04.

9/2003/1365: The erection of two 2 storey extensions to form an additional eight hotel letting rooms and paving to part of existing beer garden. Refused 08/01/04.

9/2004/0079: The erection of an extension to provide an additional four hotel letting rooms. Approved 24/03/04.

9/2004/0080: LBC The erection of an extension to provide an additional four hotel letting rooms. Approved 24/03/04.

Various applications for minor works, including tree works and advertisement consent applications.

## **Responses to Consultations**

The Highway Authority has no objection to the proposal considering the parking survey, and that parking standards are the maximum not minimum required. As such it does not consider that an objection on highway grounds could be sustained.

The Senior Environmental Health Officer has no objections in principle but recommends conditions relating to noise and contaminated land.

The Development Control Archaeologist comments on the proposal and the potential for the site to support archaeological remains and that based on the submitted desk-based assessment and known evidence in the area, conditions are recommended relating to the undertaking of an archaeological assessment of the site.

Derbyshire Wildlife Trust has no objection subject to compliance with the submitted surveys and the retention of existing trees to the western boundary of the site.

## **Responses to Publicity**

Consultation on the original proposal attracted thirty five letters of objection, which raised the following concerns:

### Heritage / Design

- a) Out of character with the area;
- b) Will ruin the historical heritage of the area
- c) The proposal is uninspired and over-dominant, copying the nearest building but with inferior proportions and detailing;
- d) The Heritage Statement is not thoroughly done and misses easily accessible information.
- e) Maybe something less dominant and challenging to the host building could be devised. The proposals are harmful;
- f) The proposal will spoil the charm and character of the small village;
- g) A motel type building is not in keeping with the Conservation Area;
- h) The proposal is an eyesore and should it be allowed should mirror the architecture of the Crew and Harper;
- i) The two storey structure will dominate the car park and village aspect;
- j) If any construction is allowed then the same materials as use don the Crewe and Harpur should be used not modern bricks and pantiles;
- k) A full archaeological report should be undertaken and not just test pits;
- l) Reference to The Planning (Listed Building and Conservation Areas) Act 1990 including section 69-80 and the Councils duty in relation to preserving and enhancing the character and appearance of the area;
- m) Reference and quotes from previous planning refusals and appeals within Hilton, Milton, and Swarkestone;

### Transport

- n) Increased traffic congestion at an already dangerous junction;

- o) Adverse affect on Swarkestone Causeway, which is already grid locked;
- p) The existing car park is full at weekends. And this development would lead to additional car being parked on the lanes of Swarkestone;
- q) The loss of parking spaces will cause a problem;
- r) The car parking survey should have been undertaken as a survey of multiple weekends;
- s) Parking in Woodshop Lane will increase as it would be used as overflow parking;
- t) Barrow Lane is currently under investigation for traffic issues due to recent accidents, one of which was tragically fatal;
- u) Impact of the existing refuse collection on Woodshop Lane;
- v) Lack of impartiality or independence of the transport consultants;
- w) Reference to the Local Plan Part 2 Consultation Statement and the comments on the impact of new development on Swarkestone Bridge;
- x) The transport survey does not take in to account staff parking, cars parked in Woodshop Lane, fisherman and other users of the car park;
- y) Various inaccuracies within the Transport Statement;
- z) Section 106 monies should be provided to add safety measures in the area with the installation of speed activated illuminated on the A5132. Also motion activated no through route signage on Woodshop Lane;
- aa) Consideration should also be given to the use of S106 monies from the three major developments that heavily impact on the level of traffic that uses this section of road; the expansion of Swarkestone Quarry, housing development at Infinity Park and this application.

#### Impacts on amenity

- bb) Impact on privacy of neighbouring properties;
- cc) Previous extension restricted noise and light pollution;
- dd) Overlooking from the proposed bedrooms, if allowed any bedroom windows facing the existing dwellings should be opaque glass any bedrooms overlooking ;
- ee) Increased noise levels with early starters and late nighters;
- ff) Loss of lights, and increased light pollution;
- gg) Loss of views;
- hh) Increased pollution from parked cars

#### Other

- ii) The pub has enough rooms to stay in already and this would be unnecessary;
- jj) This is an outrage with no regard for the area;
- kk) Other facilities are available in other nearby areas of Derby;
- ll) The proposal would double the occupancy of the village and put a burden on resources in the area;
- mm) Too close to the boundary fence, trees and dwellings;
- nn) Previous permissions were refused due to the capacity and capability of local infrastructure including the sewers. The increase in rooms would exacerbate an existing problem.
- oo) How can planners possibly allow this when less than 50 foot away place a TPO on a tree that causes nothing but trouble;
- pp) Increase in rats in the locality;
- qq) The proposal would only be of benefit to Marston's and not the local tax paying population;
- rr) The site notice being placed on-site until 2 days after it was dated. The dates for consultation responses to be due differ;

- ss) Misrepresentations within the application forms relating to the description, pre-application advice, waste storage and collection, materials, parking, foul sewerage, existing use, trees and hedges, trade effluent, employees, hours of opening.
- tt) Reference to the local plan for the Stenson Area, and comments on the suitability of the area for new development;
- uu) Impact of increased parking adjacent to private gardens and the security and safety consequences of this.

Following significant amendments to the scheme and re-consultation, 20 representations have been received raising the following concerns:

- a) Concern at the impact of cars parking in Woodshop Lane and the heavy load on the car park during late summer evenings;
- b) The existing 17<sup>th</sup> Century buildings create an important feature to the character of the area – any new development will not fit in with the common architectural features of the buildings;
- c) The proposal would be detrimental to the listed buildings close by and the ancient monument of Swarkestone Causeway;
- d) Impact of noise and light pollution;
- e) Is there a need for this development? The existing hotel does not appear to be operating at capacity;
- f) The parking survey undertaken is now over 2 years old – the pubs popularity has increased over that time;
- g) What protection from overlooking will there be?
- h) The existing car park has been used for fly-tipping;
- i) Disturbance from cars arriving after closing time;
- j) Marstons use Woodshop Lane for deliveries – the new build will need to make provision for deliveries;
- k) The staff state that the rooms are never at capacity;
- l) What are the actual distances to the boundaries? What type of glass is proposed? What CCTV is proposed?
- m) The proposal would neither preserve nor enhance the character or appearance of the conservation area or heritage site;
- n) The scale of the development is out of proportion with a rural village with no services;
- o) There is a problem in the area with rats due to the commercial waste – the garden in the summer months is a mess and unhygienic;
- p) Due to the length of time the application has been submitted the assessments undertaken are now out of date – especially the bat survey and transport statement;
- q) The addition of 10 new rooms in a separate building is a commercial venture that will totally change the character of the pub – there is no need for the development out of 23 nights in august the rooms were only fully booked for 5 nights;
- r) The pub is poorly managed – down to the lack of budget to manage the pub properly;
- s) The scale of development is disproportionate to the size of the village – and what is a conservation area of historic significance which could ruin the ambiance of an area that has largely gone unspoilt for centuries;
- t) Loss of privacy from the proposed hotel;
- u) Copies and quotations direct from the Planning (Listed Buildings and Conservation Areas Act 1990;
- v) The lack of specific reference to materials – with little design narrative. The proposal is allowed would be an injustice and a flagrant breach of Government policy on new developments within a Conservation Area – If allowed this would be subject to Judicial Review applications;
- w) Impact of the development on existing trees within the conservation area;

- x) Examples of previous reasons for refusal of applications for reasons of preserving the character and setting of the surrounding area, these were in Milton, Hilton, Weston on Trent, and a 2016 refusal and 2017 appeal decision in Swarkestone;
- y) Reference is made to the profile of the Stenson area within the Local Plan;
- z) The Transport Statement prepared by a consultant from Colchester, Essex appears biased and sympathetic to the application – ignoring relevant factors such as peak times and existing traffic problems in the area;
- aa) The pub is terrible for customer service, with long queues for food and drinks and food left in the pub garden for long periods – this exacerbates the rat problem in the area;
- bb) A full archaeological survey should be undertaken not just trial pits.

## **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); SD2 (Flood Risk); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); SD4 (Contaminated Land and Mining Legacy Issues); INF10 (Tourism Development); INF1 (Infrastructure and Developer Contributions); INF2 (Sustainable Transport); BNE1 (Design Excellence); BNE2 (Heritage Assets); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness).
- 2017 Local Plan Part 2 (LP2): BNE10 (Heritage); SDT1 (Settlement Boundaries and Development).

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Economic Development Strategy 2016 - 2020
- South Derbyshire Design Guide SPD
- Swarkestone Conservation Area Character Statement

## **Planning Considerations**

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

- Principle of development;
- Design and Heritage matters; and
- Highway safety.

## **Planning Assessment**

### Principle of development

The application site is located within the settlement boundary for Swarkestone as defined in the local plan, and as detailed in policy STD1: new development within the District's

settlement boundaries will be permitted where it accords with the development plan, i.e. those policies specific to the development proposed.

The local plan sets 13 strategic objectives, one of which is pertinent to the determination of this application: 'To make the most of the economic, social, and environmental opportunities presented by the District's central location within the National Forest and promote continued growth of local tourism and leisure offer across the whole of the District.' The Council's Economic Development Strategy (2016-2020) identifies the growing tourism sector as one of the District's opportunities for growth and one of the area's key to its promotion. Policy S1 enshrines this within the local plan through part iv: 'Supporting and encouraging tourism with the District which makes an important contribution to the local economy'.

Policy INF10 supports new tourist development, including overnight accommodation within or adjoining the urban area or the Key Service Villages; or in other appropriate locations where identified needs are not met by existing facilities. Whilst the site is not within or adjoining the urban area or a Key Service Village it is within the Swarkestone settlement boundary – this coupled with the significant support for tourist development and overnight accommodation within the local plan, and the Derbyshire and South Derbyshire Economic Development Strategies lends significant support to the development. The feasibility study undertaken by Colliers International on behalf of the applicant has assessed existing hotel supply within 5 miles of the site along with occupancy rates, which are generally high and continue to grow, giving a strong indication of there being an unmet need in the local area. In addition, the proposal would support an existing business within the District – further supporting the economic health of the District both directly and indirectly through supporting and enabling new visitors to the District and. In principle therefore the proposed development is considered acceptable subject to the more detailed considerations set out below.

### Design and heritage matters

The site contains important listed buildings which are prominent features of the Swarkestone Conservation Area, i.e. the Crewe and Harpur and its Coach House which are both grade II listed buildings. However, the car park, the area proposed for redevelopment, has a neutral impact on the setting of these listed buildings, and the conservation area overall.

Previous iterations of the proposed development when taking a two-storey form were considered too large and unduly prominent within this area such that its scale and appearance was considered to result in harm to the setting of these buildings and the conservation area in general. However, the revised and current proposal is comprised of a single storey 'L shaped' plan building to the north western corner of the site. The building has a traditional and simple form, appearance and scale – proposing a building which appears as a subservient structure both in design terms and scale to the principle (the Crewe & Harpur itself) and secondary (the Coach House) listed buildings on the site.

The siting of the building in the north-west corner of the site, its screening by the existing brick wall central to the car park is considered to result in a form of development which would not impact negatively on the setting of the listed buildings or the conservation area in general. The building would be partly visible from Swarkestone Road but this would mainly be views of the roof of the building such that the building though its scale, siting and appearance would maintain the neutral contribution that the current area makes to the setting of the listed buildings and character and appearance of the conservation area. It is



important that the existing trees along the site's boundary to the west are retained and protected and conditions to this effect are recommended.

The design of the building has been deliberately kept simple, so as to not compete with the principal buildings on site. There are a number of elements of the scheme's detailed design which would need to be secured by condition such as the materials proposed, the window designs (including appropriate cills and headers), and the provision of a brick surround for the proposed air conditioning compound (currently proposed in timber). Subject to the imposition of such conditions it is considered that the proposal would not result in harm to, or the loss of, the significance of any of the identified heritage assets. Overall the proposed development is considered to be an appropriately designed development within this sensitive location complying with the requirements of policies BNE1, BNE2, BNE10 and INF10 and the provisions of the NPPF.

### Highway safety

The thrust of local (S6 and INF2) and national policy relating to highway matters seek to ensure that safe and suitable access can be achieved for all users, and that any significant impacts arising from the development on the existing transport network or on highway safety can be adequately mitigated. The NPPF seeks to ensure that opportunities are taken to promote sustainable transport and is explicit that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual impacts on the road network would be severe. Here there are two main areas for consideration: highway capacity and safety on the existing network; and the car parking capacity at the site.

The existing vehicular access would be utilised for access to the site, and car parking area which is considered to provide safe and suitable access for the development. In addition the traffic generated by the proposed development is not considered to be of such a magnitude so as to have a demonstrably negative or severe impact upon surrounding road network.

The existing car park provides 96 parking spaces, with the proposed development proposed on part of the existing car park this would reduce the total to 74 parking spaces for the site (noting that the development includes an extension to and reconfiguring of the car parking area). Parking provision at the site and the impact of the public house and hotel on parking in the surrounding area in particular is of concern to local residents. As such the application is supported by a Transport Statement which includes a parking survey of the site in order to provide an overview of a typical weekday and weekend. The surveys were undertaken on Friday 9 June – Sunday 11 June 2017, a weekend with fine and dry weather.

As detailed above within the summary of the Transport Assessment, the parking surveys coupled with an assessment of the traffic generation from the proposed development demonstrate that sufficient parking capacity would be available at peak times to accommodate existing demand and the proposed development. The Highway Authority is content that sufficient parking provision is provided within the site such that an objection on highway safety grounds could not be sustained.

### Other issues

Residential amenity: As the site is surrounded by existing residential dwellings, the protection of amenity is an important consideration. The building is located 5m from the site's western boundary, 3m in width at its narrowest point on the northern boundary, and

5m to the southern boundary adjacent to the building. Due to the layout of the building, all of the bedroom windows are located on the western elevation – the adjacent dwellings to the west which have rear elevations facing the site are located a minimum of 22m from the building. To the north the rear elevation of the nearest dwelling is located 14m from the north elevation of the proposed building which is blank, the nearest dwelling to the south is located over 30m from the southern elevation of the building. These distances to habitable room windows, the single storey nature of the building and the existing boundary treatments, result in the proposed building not having a demonstrable undue impact on the amenity of existing nearby dwellings through overbearing, overlooking or overshadowing. The car parking area is proposed to extend in to an area currently used for storage and outdoor seating along the south-western boundary, bringing car parking closer to an existing domestic boundary. However, having given careful consideration to the existing public house and its servicing area, existing and replacement (where necessary) boundary treatments and landscaping, with controls on the illumination of the new building and car parking area, the proposed development would not unduly impact on the amenities of the neighbouring dwellings to such an extent so as to warrant an objection to this element of the proposal.

**Protected species:** A nocturnal bat survey has been undertaken in support of the application which identifies bat roosts in the main pub building and the coach house, neither of which would be directly impacted upon by the proposals. However, in order to minimise indirect disturbance to the bat population, the trees to the western boundary of the site should be retained along with the recommendations contained within the submitted report (i.e. the timing of the works and lighting design post development).

**Archaeology:** Whilst the site itself is somewhat peripheral to the historic core of the village (which was generally along the river bank), the area is generally associated with archaeological activity of a prehistoric date and as such there is the potential for archaeological remains beneath the site – a suitably worded condition is recommended to enable investigations to be carried out.

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 drawing numbers 4963-P124 Revision B, 4963-P125 Revision B, and 4963-P126 Revision C, 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 shall be carried out in accordance with the recommendations on page 24 of the Nocturnal Bat Survey Report (Ref 16277/E1) this includes development works only being carried out between 1 October and 1 May inclusive.

Reason: In order to safeguard protected and/or priority species from undue disturbance and impacts, noting that initial preparatory works could have unacceptable impacts.

4. a) No development, including preparatory works, shall commence until a Written Scheme of Investigation for archaeological work (WSI) has been submitted to and approved in writing by the Local Planning Authority, and until all pre-commencement elements of archaeological fieldwork identified in the WSI have been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:
  - i) the programme and methodology of site investigation and recording;
  - ii) the programme and provision to be made for post investigation analysis and reporting;
  - iii) provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - iv) provision to be made for archive deposition of the analysis and records of the site investigation; and nomination of a competent person or persons/organisation to undertake the works set out within the WSI.
- b) The development shall take place in accordance with the approved WSI and shall not be occupied until the site investigation and post investigation reporting has been completed in accordance with the programme set out in the approved WSI and the provision to be made for publication and dissemination of results and archive deposition has been secured.

Reason: To enable potential archaeological remains and features to be adequately recorded, in the interests of the cultural heritage of the District, recognising that initial preparatory works could have unacceptable impacts.

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

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

6. No development, including preparatory works, shall commence until details of the finished floor levels of the buildings hereby approved, and of the proposed ground levels of the site relative to the finished floor levels and adjoining land levels, shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be supplemented with locations, cross-sections and appearance of any retaining

features required to facilitate the proposed levels. The development shall be constructed in accordance with the approved details.

Reason: To protect the amenities of adjoining properties and the appearance of the area generally, recognising that site levels across the site as a whole are crucial to establishing infrastructure routeing/positions.

7. No development, including preparatory works, shall commence until a scheme for the protection of trees and hedgerows has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be based on best practice as set out in British Standard 5837:2012 (or equivalent document which may update or supersede that Standard) and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The approved scheme of protection shall be implemented prior to any works commencing on site and thereafter retained throughout the construction period.

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

8. Except in an emergency, no demolition, site clearance, construction, site works or fitting out shall take place other than between 08:00 hours and 18:00 hours Mondays to Fridays, and between 08:00 hours and 13:00 hours on Saturdays. There shall be no such activities whatsoever on Sundays, public holidays and bank holidays.

Reason: To safeguard the amenities of nearby occupiers.

9. Prior to the installation of any externally sited plant or equipment, full specifications of the plant or equipment shall be submitted to and approved in writing by the Local Planning Authority. The specification shall include details of noise levels as predicted at the boundary of the site with any sensitive receptors and include mitigation measures to reduce noise levels at those receptors to acceptable levels. The externally located plant or equipment, along with any mitigation measures required, shall be implemented prior to first use of said plant or equipment and thereafter maintained in accordance with the agreed levels.

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

10. Prior to their incorporation into the development hereby approved details of the external joinery, which shall be in timber, shall be submitted to and approved in writing by the Local Planning Authority. The details shall include drawings to a minimum scale of 1:10 of the external joinery, including horizontal and vertical sections, precise construction and method of opening. The external joinery shall be constructed in accordance with the approved drawings.

Reason: In the visual interest of the building(s), the significance of the heritage asset(s) and the surrounding area.

11. Prior to their incorporation in to the building hereby approved, a sample panel of pointed brickwork no less than 1 sq. m shall be prepared for inspection and approval in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved sample, with the approved sample retained on site throughout the duration of construction works.

Reason: In the visual interest of the building(s), the significance of the heritage asset(s) and the surrounding area.

12. Prior to their incorporation in to the building(s) hereby approved, details and/or samples of the tiles (roofing material) 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), the significance of the heritage asset(s) and the surrounding area.

13. Prior to their incorporation in to the building(s) hereby approved, details of the [eaves, verges, cills and lintels] shall be submitted to and approved in writing by the Local Planning Authority. The details shall include drawings to a minimum scale of 1:10. The [eaves, verges, cills and lintels] shall be constructed in accordance with the approved drawings.

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

14. All verges shall be finished in a mortar finish. There shall be no use of dry verge (cloaking tile) systems.

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

15. Gutters and downpipes shall be in cast metal and finished in black and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

Reason: In the visual interest of the building(s), the significance of the heritage asset(s) and the surrounding area.

16. Prior to the first use of the development 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 first use of the development, 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 use of the development or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

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

17. Notwithstanding the plans hereby approved, prior to the first use of the development details of the proposed boundary treatments including details of thier position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the first use of the development or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area and the amenities of neighbouring dwellings.

18. Prior to the installation of any street lighting or lighting affixed to external faces of the building, an external lighting strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall demonstrate that light spill onto foraging corridors for bats has been minimised as far as is practicable. This strategy shall be implemented in full as part of the installation of external lighting across the site, with the lighting thereafter subsequently maintained as such.

Reason: In order to safeguard protected and/or priority species from undue disturbance and impacts.

19. Prior to the use of the building hereby permitted the parking and manoeuvring area shall be laid out in accordance with the approved plan(s) and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, such space shall be maintained throughout the life of the development free of any impediment to its designated use as such.

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

20. Notwithstanding the plans hereby approved, prior to the construction of the AC compound, revised details of its design and materials of construction (which shall be facing brickwork) shall be submitted to and approved in writing by the Local Planning Authority. The AC compound shall be completed in accordance with the approved details before the first use of the development or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

Informatives:

1. The site is affected by a Building Line prescribed under the Roads Improvement Act 1925. The line will need to be revoked before any building works can begin. The applicant should contact Derbyshire County Council (email [Highways.Hub@derbyshire.gov.uk](mailto:Highways.Hub@derbyshire.gov.uk) or telephone 01629 533190) and is advised that there is a fee payable to cover administration and legal costs.
2. Pursuant to Section 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

## **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>
P9/2017/0893	Aston	Aston	Allowed	Committee	44
9/2019/0249	Etwall	Etwall	Dismissed	Delegated	54
E/2018/0205	Willington	Willington & Findern	Dismissed	Committee	57



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## Appeal Decision

Hearing Held on 3 September 2019

Site visit made on 3 September 2019

**by Thomas Hatfield BA (Hons) MA MRTPI**

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

**Decision date: 3<sup>rd</sup> October 2019**

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**Appeal Ref: APP/F1040/W/19/3223052**

**Land north west of Shardlow Road, Aston-on-Trent, Derbyshire, DE72 2AQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Matthew O'Brien against the decision of South Derbyshire District Council.
  - The application Ref 9/2017/0893, dated 9 August 2017, was refused by notice dated 18 October 2018.
  - The development proposed is described as "*material change of use of land to use as residential caravan site for 6 gypsy families, including erection of two amenity buildings, laying of hardstanding and access improvement*".
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### Decision

1. The appeal is allowed and planning permission is granted for a change of use to a residential caravan site for 6 gypsy families, including erection of two amenity buildings, laying of hardstanding and access improvement at land north west of Shardlow Road, Aston-on-Trent, Derbyshire, DE72 2AQ in accordance with the terms of the application, Ref 9/2017/0893, dated 9 August 2017, subject to the conditions set out in the attached schedule.

### Preliminary Matters

2. The Derby, Derbyshire, Peak National Park Authority and East Staffordshire Gypsy and Traveller Accommodation Assessment 2014 (GTAA) is the most recent assessment of the need for gypsy and traveller pitches in the District. It identifies a need for 38 pitches in South Derbyshire between 2014 and 2034, 14 of which relate to the period 2014-2019, with a further 7, 8, and 9 pitches in each of the following 5 year periods to 2034. In this regard, the Council acknowledges that it is currently unable to demonstrate a 5 year supply of deliverable sites to meet this need.
3. The GTAA incorrectly states that 63 pitches existed in the District at the base date of the study in 2014, whereas the actual figure at that time was 74 pitches. However, this error does not affect the findings of the GTAA, as the figure of 63 existing pitches does not feed into the assessment of future need, as set out in Table A.21 of that document. This was acknowledged at the hearing by the Council's Planning Policy Team Leader who was involved in the production of that study.



4. The Government's definition of 'gypsies and travellers' has changed since the GTAA was published in 2015, and now excludes those who have permanently ceased to travel. However, there is no clear evidence before me that this would reduce the requirement identified in the GTAA. In this regard, whilst a third of the respondents to the GTAA stated that they had not travelled in the last 12 months, that may indicate a temporary rather than a permanent cessation of travelling. Separately, whilst the GTAA identifies very different levels of need for each of the participating authorities, this reflects existing gypsy and traveller populations, historic patterns of site provision, and proximity to key routes.
5. Derbyshire County Council are currently seeking to commission a new GTAA. However, that study has not yet been undertaken, and at present the GTAA 2014 represents the most up-to-date assessment of need that is available.
6. Pre-commencement conditions are attached to this Decision. As required by Section 100ZA(5) of the Town and Country Planning Act 1990, the appellant has agreed to these conditions in writing in the Statement of Common Ground.

### **Main Issue**

7. The main issue is the effect of the proposal on the character and appearance of the countryside.

### **Reasons**

8. The explanatory text to Policy BNE5 of the South Derbyshire Local Plan Part 2 (2017) states that gypsy and traveller sites are acceptable in principle in rural areas, subject to compliance with Policy H22. In this regard, Policy H22 requires that development does not result in an unacceptable impact on the surrounding landscape unless it is capable of sympathetic assimilation.
9. The appeal site is located in open countryside a short distance from the edge of Aston-on-Trent. It is set within a mostly flat agricultural landscape that is characterised by relatively small fields separated by hedgerows. The nearby temporary gravel works buildings dominate the surrounding area, and pylons and fast moving traffic along Shardlow road are also prominent visual features. The Council's Landscape and Visual Impact Appraisal (LVIA) describes the landscape value of the site and the surrounding area as 'low', except in relation to the Aston Cursus to the east. I concur with that view.
10. The countryside surrounding the appeal site is well used for recreational purposes, as I observed during my site visit. There are a number of footpaths in the surrounding area, including paths that run along both the northern and western boundaries of the site. The proposal would be particularly prominent in views from the footpath to the west, and it would significantly alter views across the site from this route. In this regard, the Council's LVIA identifies the visual impact from along this path as being 'major adverse'. However, appropriate planting and landscaping along the site's western boundary could be secured by a suitably worded planning condition. At the hearing, the Council stated that this would reduce the visual impact of the proposal to 'minor to moderate adverse' once any new planting had matured. Whilst a significant visual change would still be experienced from the adjacent path in the short term, these effects would be mitigated over time. Such a condition would also allow for a more detailed landscaping scheme to be secured that

addresses the Council's other concerns regarding the type of planting proposed. The appeal proposal would otherwise not be prominent in longer public views from the surrounding area.

11. My attention has been drawn to a number of appeal Decisions where proposals for gypsy and traveller sites have been dismissed based on landscape harm and/or visual impact. However, the full details of those cases including the surrounding landscapes and topography, are not before me. I am therefore unable to assess any direct comparability to the current appeal proposal, and I have determined the appeal on its own merits.
12. For the above reasons, I conclude that the proposal would result in some localised harm to the landscape. I return to this matter in my Overall Balance and Conclusion, below.

### **Other Matters**

13. The Council is currently in the process of producing a Gypsy and Traveller Site Allocations Development Plan Document (DPD) in order to allocate additional sites in the District. However, this emerging document is currently at a very early stage, and it is not expected to be adopted until November 2021 at the earliest. Any new allocations would also require an additional lead-in time in order to secure planning permission, discharge conditions, and be built out. Any availability of new gypsy/traveller sites is therefore somewhat off.
14. The appeal site is within walking distance of Aston-on-Trent, which is identified as a Key Service Village in the South Derbyshire Local Plan Part 1 (2016). It contains a number of services and facilities, including a primary school, a post office/local shop, a church, a public house, and a bus service to Derby, albeit this is relatively infrequent. A footpath leads directly from the site to Aston-on-Trent, and whilst this is not surfaced, it provides a good connection into the village. Given its location, I do not consider that the site is 'away from' existing settlements for the purposes of the Planning Policy for Traveller Sites. Whilst it is asserted that there are no spaces available at the local primary school and that the doctor's surgery is at capacity, there is no detailed evidence before me to confirm this. In any case, the number of pupils/patients generated by the proposal would be likely to be small. I further note that neither the Education Authority nor the doctor's surgery have objected to the proposal on these grounds.
15. The appeal site would be accessed directly off Shardlow Road, which is a busy route that is subject to a 60 mph speed limit. However, the proposed access would have good visibility in both directions and would be capable of incorporating adequate visibility splays. Conditions could also be attached to ensure that vehicles waiting to enter the site do not cause an obstruction. I further note that the Highway Authority has not objected to the development on highway safety grounds.
16. My attention has been drawn to appeal decision Ref APP/K2420/C/13/2205416. That Inspector took a different view from the Council in respect of highway safety and dismissed the appeal. However, the access arrangements in that case, and the surrounding road layout, are not before me and so it is unclear whether there is any direct comparability to the current appeal proposal.

17. The development proposes 6 pitches, which would not generate a significant amount of traffic. Accordingly, any impact on congestion within Aston-on-Trent would be minor.
18. The site is near to the remains of the Aston Cursus, which is a Scheduled Ancient Monument. The appeal site is separated from the Cursus by Shardlow Road and by the hedgerows on either side of it, and I do not consider that it would harm its setting. In addition, a Geophysical Survey<sup>1</sup> has been submitted by the appellant which indicates that the appeal site has little archaeological potential. I further note that the Derbyshire County Development Control Archaeologist raises no objection to the proposal, subject to trial trenching of the site being secured by condition.
19. The appeal site is within Flood Zone 1 (low probability of river flooding). Whilst waterlogging is reported by local residents, appropriate drainage measures could be secured by condition. I further note that neither the Lead Local Flood Authority nor the Environment Agency have objected to the proposal on flood risk grounds.
20. Interested parties have raised concerns about the potential discharge of effluent into the adjoining brook. However, any such discharge would require an environmental permit, which is outside of the planning regime.
21. The Council's Officer Report states that the site consists of Grade 3 agricultural land. It is unclear from the information before me if it is Grade 3a or Grade 3b, and whether the site therefore consists of 'best and most versatile' agricultural land. However, any loss of 'best and most versatile' land would be relatively small in this case. Nevertheless, any such loss would add, albeit modestly, to the weight against the proposal.
22. At the hearing, concern was raised that the proposal could set a precedent for new housing developments on the edge of Aston-on-Trent. However, the explanatory text to Policy BNE5 of the South Derbyshire Local Plan Part 2 (2017) states that gypsy and traveller sites are acceptable in principle in rural areas, subject to compliance with Policy H22. That is not the case for bricks and mortar housing.
23. The size of the development is relatively modest, and it would not dominate any nearby settled community in my view.
24. In terms of biodiversity, the vast majority of the existing hedgerows would be retained, and significant areas of new planting would be created. This would provide an opportunity for biodiversity enhancements. I further note that the Council's Officer Report states that *"the site is currently an area of improved grassland with no features suitable to host protected species"*.
25. A number of representations refer to an increased fear of crime should the proposal be allowed. However, there is no evidential basis linking the proposal with criminal activity. Whilst it is asserted that a previous unauthorised gypsy site in the area attracted anti-social behaviour, there is no indication that the current appellant was involved in that.

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<sup>1</sup> TVAS, Ref LRS 17/231, dated November 2017

26. Any effect on the gap between Aston-on-Trent and Shardlow would be modest, and the proposal would not undermine the separation between these 2 settlements.
27. Appropriate lighting details are capable of being secured by condition in order to control any light pollution arising from the proposal.
28. The appeal site is not located within the Green Belt.
29. It is a long-established principle that the planning system does not exist to protect private interests such as the value of land and property.

### **Conditions**

30. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary in the interest of certainty. I have also imposed conditions relating to archaeology, which are necessary in order to ensure that any archaeological remains are appropriately investigated and recorded. A further condition requiring the installation of protective fencing around retained trees and hedgerows is necessary to ensure that they are protected during the construction process. Conditions relating to surface water and foul water drainage are necessary in order to ensure that the proposal does not increase flood risk elsewhere and that foul water is appropriately addressed. Another condition relating to the access onto Shardlow Road is necessary in the interests of highway safety. These conditions are pre-commencement in nature as any construction works could affect the site's archaeology or harm hedges and trees that are to be retained. Similarly, all site works will be informed by the proposed drainage arrangements, and the proposed access will be in use during the construction phase.
31. Conditions relating to landscaping, boundary treatments, hard surfacing, construction materials, the storage of commercial vehicles, and restricting the use of the site for commercial purposes, and to 12 caravans, are necessary in order to protect the character and appearance of the area. A condition relating to lighting is also necessary in the interests of character and appearance and to control any light pollution associated with the site. A further condition relating to the proposed access gates is necessary in the interests of highway safety. Another condition requiring that the private driveway, turning head, and parking spaces be installed prior to first occupation is necessary in order to ensure that those facilities are available to future occupiers. A condition requiring the submission and approval of details relating to a pedestrian gate is also necessary so that future occupiers are able to access services and facilities in the village. A further condition restricting the occupancy of the site to gypsies and travellers is necessary given that I have attached weight to the general need for gypsy and traveller sites in the District. Finally, a condition removing permitted development rights in relation to boundary treatments is necessary in order to protect the character and appearance of the area.
32. The Council also suggested a condition that would have required the submission and approval of a Landscape Management Plan. However, that would be disproportionate for a scheme of this size. Moreover, the site is relatively flat, and given the nature of the proposal I do not consider it necessary for details of proposed site levels to be submitted and approved. In

addition, it is unnecessary for the condition requiring the submission and approval of a scheme of soft landscaping to be pre-commencement in nature, and I have instead made this a pre-occupation condition.

33. At the hearing, interested parties suggested a number of other conditions. However, I do not consider that there is any reasonable planning justification for restricting the tenure of the site to prevent rental of pitches. Moreover, the proposal is residential in nature and is around 100 metres from the nearest dwelling. I therefore do not consider that conditions requiring the submission and approval of a noise impact assessment or requiring that the site be connected to mains electricity are necessary in this case.

### **Overall Balance and Conclusion**

34. As set out above, the proposal would result in some localised harm to the character and appearance of the countryside. However, this harm could be mitigated by planning conditions. In addition, some loss of 'best and most versatile' agricultural land may result from the proposal.
35. Set against this is the lack of a 5 year supply of gypsy and traveller sites and a significant unmet need in the Borough that is unlikely to be resolved in the near future. Moreover, the appeal site is in a relatively accessible location close to a Key Service Village. These considerations carry significant weight in favour of the proposal.
36. In the circumstances of this appeal, the relatively limited harm that would arise is clearly outweighed by the benefits of allowing the appeal. Moreover, on balance, I do not consider that the proposal would result in an unacceptable impact on the surrounding landscape or the local environment. It would therefore accord with Policies SDT1, BNE5 and H22 of the South Derbyshire Local Plan Part 2 (2017).
37. For the reasons given above I conclude that the appeal should be allowed.

*Thomas Hatfield*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Layout Plan; Amenity Building; Proposed Shower Block.

#### *Pre-commencement conditions*

- 3) No development shall take place until a Written Scheme of Investigation for archaeological monitoring has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and:
  - i) the programme and methodology of site investigation and recording;
  - ii) the programme and provision to be made for post investigation analysis and reporting;
  - iii) provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - iv) provision to be made for archive deposition of the analysis and records of the site investigation;
  - v) nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the approved Written Scheme of Investigation.

- 4) No development shall take place until protective fences have been erected around all trees and hedgerows shown to be retained on the approved plans. Such fencing shall conform to best practice as set out in British Standard 5837. The fences shall be retained in situ during the course of ground and construction works, with the protected areas kept clear of any building materials, plant, debris and trenching, and with existing ground levels maintained; and there shall be no entry to those areas except for approved arboricultural or landscape works.
- 5) No development shall take place until a scheme of surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of the development.
- 6) No development shall take place until a scheme for the drainage of foul water from the site has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of the development.
- 7) No development shall take place until the existing access to Shardlow Road has been modified in accordance with the application drawings. The junction shall be laid out, constructed and provided with visibility sightlines of 160m in both directions, both measured to a point 1m in from the nearside edge of the carriageway, as measured from a point located centrally and 2.4m back into the access. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in

height (0.6m in the case of vegetation) above the nearside carriageway channel level.

*Pre-occupation conditions*

- 8) Prior to the first occupation of the development hereby approved, the site investigation and post investigation assessments shall have been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 3, and provision shall have been made for the publication, dissemination, and archive deposition of the results.
- 9) Prior to the first occupation of the development hereby approved, a scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall include landscaping of the full extent of the western boundary of the site. 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 a pitch or the completion of the development, whichever is the sooner; and any 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.
- 10) Prior to the first occupation of the development hereby approved, details of all external lighting (including the type of light appliance, the height and position of fitting, illumination levels and light spillage) to be installed shall be submitted to and approved in writing by the Local Planning Authority. The lighting details shall thereafter be installed as approved.
- 11) Prior to the first occupation of the development hereby approved, details of a pedestrian gate and access from the site to the adjacent public footpath (to the west) shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be carried out prior to the first occupation of any pitch and shall thereafter be retained.
- 12) The private driveway, turning head, and parking spaces for each pitch indicated on the approved plans shall be surfaced and made available for use prior to the first occupation of the development hereby approved, and shall thereafter be retained.

*Other conditions*

- 13) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
- 14) No more than 12 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 6 shall be static caravans) shall be stationed on the site at any time.
- 15) No more than one commercial vehicle per pitch shall be kept on the land for use by the occupiers and they shall not exceed 3.5 tonnes in weight.
- 16) No commercial activities shall take place on the land, including the storage of materials.

- 17) Prior to the construction of any hard surfacing, details of the proposed hard surfacing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out using the approved materials.
- 18) Prior to their incorporation into the buildings hereby approved, samples of the facing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved facing materials.
- 19) Any entrance gates erected in the private driveway shall be set back by a minimum distance of 15m from the road as measured from the nearside edge of the carriageway.
- 20) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no boundary treatments shall be erected other than those expressly authorised by this permission.



## **APPEARANCES**

### **FOR THE APPELLANT:**

P Brown	Planning Consultant
M O'Brien	Appellant
M O'Brien	
S Spencer	Derbyshire Gypsy Liaison Group

### **FOR THE LOCAL PLANNING AUTHORITY:**

I McHugh	Planning Consultant
N Northrop	Landscape Consultant
R Stewart	South Derbyshire District Council
K Beavin	South Derbyshire District Council

### **INTERESTED PERSONS:**

P Watson	Ward Councillor
T Hurrell	Aston-on-Trent Parish Council
M Selby	Aston-on-Trent Parish Council
L Dixon	
E Evan Tawse	
R Meakin	
G Meakin	
J Gidlow	
C Sellek	
M Sellek	
S Graham	
P Jesper	
L Anderson	
G Hudson	
A Caulow	
J Barnes	
G Simpson	
J Lambert	
G Bridges	
C Eley	
P Hudson	
P Ashdown	

## **DOCUMENTS SUBMITTED AT THE HEARING**

- 1 Completed Statement of Common Ground, dated 3 September 2019



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## Appeal Decision

Site visit made on 17 September 2019 by Andreea Spataru BA (Hons) MA MRTPI

**Decision by Susan Ashworth BA (Hons) BPL MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 October 2019

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**Appeal Ref: APP/F1040/D/19/3230699**

**2/4/6/8 Portland Street, Etwall, Derby, Derbyshire DE65 6JF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Andrew Whitehouse against the decision of the South Derbyshire District Council.
  - The application Ref 9/2019/0249, dated 27 February 2019, was refused by notice dated 14 May 2019.
  - The development proposed is described as "A joint application for new windows and doors of a similar design but the use of wood look uP.V.C instead of timber. House numbers 2,4,6, and 8 of Portland Street Etwall all require new windows and doors due to the failure of timber which was put in on the original build in 2011."
- 

### Decision

1. The appeal is dismissed.

### Appeal Procedure

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

### Procedural Matter

3. The proposal as submitted to and assessed by the Council relates to development at Nos 2,4,6, and 8, Portland Street. I understand that the appellants wish the appeal to be considered in relation to No 4 only. In the interests of fairness, I have considered the proposal on the same basis that it was determined by the Council. Nevertheless, my determination includes the impact of the proposal as it relates to No 4.

### Main Issue

4. The main issue is whether the proposal would preserve or enhance the character or appearance of the Etwall Conservation Area.

### Reasons for the Recommendation

5. The group of residential properties formed by houses nos. 2,4,6,8 is a relatively new development within the Etwall Conservation Area. The properties are located within proximity of the junction of Portland Street and Willington Road and are visible on both roads. Therefore the group of houses is an important feature in the street scene.
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6. The proposal seeks the replacement of the original timber windows and doors with uPVC wood grain Georgian look style windows and timber/composite wood look cottage style doors.
7. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. In this respect national policy on heritage assets, which includes conservation areas, is set out in the National Planning Policy Framework (the Framework). At paragraph 185, it sets out matters which should be taken into account including sustaining and enhancing the significance of the heritage asset and the desirability of new development making a positive contribution to local character and distinctiveness.
8. From all I have seen and read, the group of buildings was carefully designed to respond to the character and appearance of the Conservation Area in terms of scale, form and detailed design. The use of traditional timber joinery makes a positive contribution to the appearance of the dwellings.
9. I note that the design and colour intended for the proposed windows and doors would be similar to those of the original ones. The appeal statement also indicates that the existing lead sills will be retained. However, uPVC and composite are not traditional materials and tend to be bulkier, flatter, smoother and glossier in finish than traditional timber units, giving them a modern and less refined appearance. Whilst I acknowledge that the appellant is proposing units with a 'wood grain' effect these materials would fail to reflect the detailed appearance of timber joinery. In this case, because the windows and doors are an important aspect of the buildings' character, the use of uPVC and composite units would cause significant harm to the appearance of the buildings. Given the prominence of the group of buildings and its importance in the street scene, the proposal would also have an adverse effect on the character and appearance of the Conservation Area.
10. I acknowledge that because of the siting of the buildings in relation to Portland Street and neighbouring properties, some parts of the buildings are more prominent than others. Thus, not all windows and doors have the same level of visibility within the street scene. Notwithstanding this, they all contribute to the character and appearance of their host buildings, and any harm to the appearance of the group of buildings would be detrimental to the character and appearance of the area.
11. The appellant argues that the existing windows and doors are falling into a state of disrepair. Moreover, I have seen no evidence to show that the windows and doors could not be repaired as part of the routine maintenance of the property, and lack of such maintenance does not justify the use of inappropriate and harmful replacement materials. My attention has also been drawn to examples of uPVC replacement windows and either composite or uPVC doors within proximity of the appeal site, which I did note during the site visit. However, they do not constitute examples of sympathetic development in a Conservation Area, and do not therefore justify the appeal proposal.
12. Therefore, the scheme before me would constitute a form of development detrimental to the character and appearance of the Conservation Area. In terms of the approach set out in the Framework, given that the proposal would affect only part of the Conservation Area, harm to the significance of the

heritage asset would be less than substantial. This is not the same as a less than substantial objection. In such cases, harm should be weighed against the public benefit of the proposal in accordance with paragraph 196 of the Framework.

13. I acknowledge that the proposal may improve thermal efficiency although there is no specific evidence before me to support this assertion. Consequently, this matter, even if it was considered a public benefit, carries little weight in support of the proposal. As such, public benefits are not sufficient to outweigh the harm I have identified, harm which, given the weighty requirements of the Act, carries great weight.
14. For the above reasons, the proposal would fail to preserve or enhance the character or appearance of the Etwell Conservation Area and as such would not meet the statutory requirements of the Act. Furthermore, the development would be contrary to Policies BNE1 and BNE2 of the Part 1 Local Plan 2016, and Policy BNE10 of the Part 2 Local Plan 2017, which collectively state that, amongst other matters, development should be appropriate to its context and protect and enhance historic assets.

**Recommendation**

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

*Andreea Spataru*

APPEAL PLANNING OFFICER

**Inspector's Decision**

16. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

*S Ashworth*

INSPECTOR



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## Appeal Decision

**by Ken McEntee**

a person appointed by the Secretary of State for Housing, Communities and Local Government

**Decision date: 3 October 2019**

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**Appeal ref: APP/F1040/C/19/3226016**

**Land at 11 The Green, Willington, Derbyshire, DE65 6BP**

- The appeal is made under section 174 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991.
- The appeal is brought by Mr Patrick Hammond (Bespoke Commercial Property Ltd) against an enforcement notice issued by South Derbyshire District Council.
- The notice was issued on 6 March 2019.
- The breach of planning control as alleged in the notice is "Without planning permission, the alteration of a sun canopy by enclosing it with full height glazing".
- The requirement of the notice is: "Reinstate the sun canopy in accordance with drawing number 23 B, received on 15 December 2017 under planning permission reference 9/2017/1357, a copy of which is enclosed, by permanently removing the full height glazing".
- The period for compliance with the requirements of the notice is: 60 days beginning with the day on which this notice takes effect.
- The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

**Summary of decision: The appeal is dismissed and the enforcement notice is upheld without variation.**

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### Reasons for the decision

1. The basis of the appellants' case is that more time is required to comply with the notice as it will take 6 months to reinstate the canopy permitted. In addition, they contend that to remove the existing canopy in the summer months would have serious implications on the viability of the public house. They therefore request that the compliance period be extended to 9 months.
2. However, I note that some 6 months have elapsed since the appeal was submitted with enforcement action effectively suspended. As the compliance period will begin again from the date of this decision, the appellants will effectively have had the 9 months they desire to comply with the requirements of the notice.
3. In these circumstances, I see no good reason to extend the compliance period further and consider the 60 days given in the notice to be adequate. The ground (g) appeal fails accordingly.

**Formal Decision**

For the reasons given above, the appeal is dismissed and the enforcement notice is upheld.

*K McEntee*