

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

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).

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.

Reference	Item	Place	Ward	Page
9/2017/0103	1.1	Swadlincote	Swadlincote	5
9/2017/0448	1.2	Bretby	Repton	16
9/2017/0527	1.3	Repton	Repton	25
9/2017/0639	1.4	Melbourne	Melbourne	35
9/2017/0741	1.5	Shardlow	Aston	46
9/2017/0384	2.1	Aston-on-Trent	Aston	50

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

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

Item **1.1**

Ref. No. **9/2017/0103/BM**

Applicant:
Keystone Lintels Ltd
Ryder Close
Castle Gresley
Swadlincote
DE11 9EU

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

Proposal: **THE VARIATION OF CONDITION 14 OF PLANNING PERMISSION**
 9/2015/0605 (RELATING TO HOURS OF USE OF EXTERNAL
 AREAS) AT KEYSTONE LINTELS LIMITED RYDER CLOSE
 CASTLE GRESLEY SWADLINCOTE

Ward: **Swadlincote**

Valid Date **02/02/2017**

Reason for committee determination

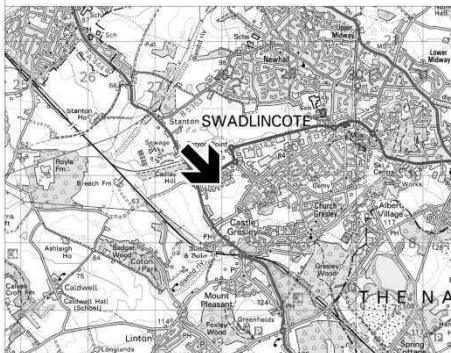
The item is presented to Committee as a major application subject to more than two objections.

Site Description

Keystone Lintels is located on the Cadley Hill Industrial Estate, with access obtained via Ryder Close to the north-west of the site. Swadlincote Lane and the Castleton Park residential development lie beyond the site to the south-east. To the east are now disused kennels and a number of dwellings which front Cadley Hill Road split by intervening pasture and a wooded area protected by a Tree Preservation Order. To the north and west lies the Cadley Hill Industrial Estate containing a mix of general and light industrial and office uses. Further to the south-west is a mixed light industrial and residential development currently under construction with a number of the dwellings now occupied.

The site itself is comprises three main buildings to the sites frontage on to Ryder Close, with permission for a fourth building to the south, and an area of open storage to the south east of the site. The application site is comprised of only part of the overall site as defined on the application site plan.

9/2017/0103 Keystone Lintels, Ryder Close, Castle Gresley DE11 9EU



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

South Derbyshire District Council. LA 100019461. 2014

Proposal

The application is made under Section 73 of the 1990 Act and seeks to vary condition 14 of a previous Section 73 application on the site which approved the erection of 3 buildings to form an additional fabrication unit, spray shop, and storage and distribution unit, with additional parking and ancillary office accommodation. The condition in question states:

“Other than the land shaded green on plan ref: 212-53.05 Rev A; loading and unloading of vehicles and/or stacking/unstacking of products shall only be permitted in the external areas (the extent as defined by the red line of the application site) between 0700 and 2100 hours Monday to Friday, and 0800 to 1600 on Saturdays. There shall be no loading and unloading of vehicles and/or stacking/unstacking of products within the external areas at any time on Sundays or on Bank or Public Holidays. The use of the land shaded green shall revert to the same hours of restricted activity upon the expiry of 1 year from the date of this permission”.

The external areas referred to in the condition are defined by the application site, and approved drawing. The condition therefore only has an influence on part of the site, and not the remaining land within the Keystone Lintels site.

This application seeks to vary the wording of the condition to allow for the permanent use of the area shaded green on the plan (an area of hardstanding to the south of the original buildings), removing the last sentence of the condition.

Applicant's supporting information

The Noise Assessment undertaken in support of the previous application has been updated based on noise measurements undertaken June 2017. The original assessment measured the loading/unloading trucks at a distance of 10 metres from the source and also at the new residential development south of Swadlincote Lane. The report concludes that, assuming partially open windows at noise sensitive properties on Portsmouth Road that there would be no significant adverse impacts on residential properties during the daytime or night time periods. The updated assessment undertook measurements during the night time period with the site in operation in order to establish a 'real time' measurement rather than the predicted measurement upon which the original application was based. The report concluded that the ambient and maximum noise levels measured were lower than those predicted within the original assessment, and that the assessment of absolute noise levels indicate that noise levels from the loading and un-loading operations at night are within the WHO and BS 8233 levels and that there is no significant adverse effects from operations at the site.

Planning History

9/2015/0605 Variation of condition 15 of planning permission 9/2014/0411 relating to the hours of use of external areas – Approved October 2015.

- 9/2014/0411 Revised scheme to permission ref: 9/2013/0370 for the erection of 3 buildings to form an additional fabrication unit, spray shop, storage & distribution unit, with additional parking and ancillary office accommodation – Approved August 2014.
- 9/2013/0370 Erection of 3 buildings to form an additional fabrication unit, spray shop, storage & distribution unit and additional parking – Approved August 2013.
- 9/2011/0685 Change of use of approx. 2.5 ha of grassland into hard standing for use as a stock yard – Approved May 2012.
- 9/2005/0341 Erection of a distribution warehouse and marshalling yard and access – Approved June 2005.

Responses to Consultations

The Environmental Health Manager (EHO) notes that they have received no noise complaints from the site within the temporary time period of operation, and are content that the extended operating hours would not be likely to result in any new complaints. As a result of this and subject to the provision of the following there are no objections to the proposal;

- White noise reversing alarms on vehicles only;
- Maintenance of noise monitoring / CCTV system;
- Outdoor operations permitted are for vehicle loading/unloading only.

Responses to Publicity

Four letters of objection has been received which raise concerns about noise from the facility noting that they are constantly disturbed. One of the objections was received from the planning agents for the adjacent St Modwen Homes site. This includes a letter from an Acoustic Noise Consultant who raises concern that the submitted information fails to take account of the impact of the development on the nearby residential site at Cadley Hill.

It is noted that the planning applications for the development of the Cadley Hill site (9/2015/0743) was supported by a noise assessment, which considered the potential for night time uses at the industrial estate (including the application site).

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development); S1 (Sustainable Growth Strategy); E2 (Other Industrial and Business Development); E3 (Existing Employment Areas) and SD1 (Amenity and Environmental Quality).

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: None relevant to the current proposals.

National Guidance

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

Local Guidance

- Industrial & Office Design & Layout (2004) SPG

Planning Considerations

The main issue central to the determination of this application is whether the proposed variation of the condition would give rise to an aural environment which would provide an acceptable balance between the continued operation and development of Keystone Lintels and the standard of amenity and health enjoyed by nearby residents.

Planning Assessment

Legal and policy background

Members are entitled to take three approaches to an application made under Section 73 of the 1990 Act. The application can be granted as applied for (i.e. the condition is re-worded as requested), the condition can be re-worded to meet the same objectives; or the application can be refused. In the first two options, additional conditions may be added where they meet the usual tests for applying conditions (i.e. they are necessary, enforceable, precise, relevant, etc.) whilst any varied condition should also meet these tests. Any grant of permission would also stand as a separate and distinct permission with other existing conditions 're-attached' and reviewed where necessary.

The economic benefits of the proposal must also be appreciated from the outset given the significance of Keystone Lintels as a local employer in the District and the significance that the NPPF and Local Plan policies S1 and E2 place on the need to support economic growth and existing businesses.

Noise impacts

Reference should be made primarily to the applicant's supporting documents and the response of the EHO, both outlined above. The current situation is that the site has been operating in accordance with the requirements of the imposed condition since the 28 October 2015 (i.e. with a 24 hour operation in place at the site within the specified area (highlighted in green on the submitted plan)). It is also relevant in that the Keystone operation existed long before the new housing development in the

area, such that consideration for noise should be in the context of an industrial setting.

The NPPF highlights the need to ensure that residential amenity is protected through planning decisions and that "...decisions should aim to avoid noise giving rise to significant adverse impacts on health and quality of life as a result of new development..." and that "...decisions should aim to mitigate and reduce to a minimum other adverse impacts on health and quality of life as a result of new development, including through the use of conditions...". Local Plan Policies E2 and SD1 reasserts the need to provide an acceptable impact on existing amenities, but equally E2 and the NPPF are explicit in their support for the expansion of existing businesses.

The application is supported by a 'real time' assessment of the noise environment at the site in order to ascertain whether the impact assessment undertaken at the site was accurate and whether the site should be allowed to operate on a permanent basis. The assessment is considered by the EHO to represent an appropriate assessment, which indicates that the actual impacts of the development on nearby residents are less than those predicted at the time of the previous application. It is therefore considered that the removal of the 12 month temporary element of condition 14 is acceptable to allow the unrestricted use of the area shaded green for the loading/unloading of vehicles.

In the interests of ensuring that the use of the site is suitably controlled so as to not give rise to unacceptable impacts, similar conditions are recommended to the previous approval including CCTV with audio is utilised to ensure that (a) operations are only within areas permitted, and (b) management can identify and control noisy events upon receipt of complaints from residents. In the context of the above discussion and the need to be able to respond to any future complaints over compliance with conditions, these conditions are considered to meet the relevant tests. In addition, the development should comply with the recommendations of the noise assessment submitted in support of the 2014 permission which required all forklift truck and other vehicles using the site to be installed with white noise reversing alarms.

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 for a variation of condition 14 and subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with plans/drawings 212-53.01, 212-53.02 Rev E, 212-53.03 Rev B, 212_53.04, 212-53.05 Rev A, 212-53.06 Rev A, 212-53.07 Rev B and KSD/500/701 together with the recommendations of the JMP Transport Assessment (April 2014), GRM Development Solutions Mining Risk Assessment (February 2013), Clear Environmental Flood Risk Assessment (January 2012) as

amended by SG Design Studio letter 'Variation to previously approved FRA', the D Costello Design of Attenuation of Storm Water report (March 2013) and the Acute Acoustics Ltd Noise Assessment Report (April 2014) - some of which were received and approved under planning permission ref: 9/2014/0411; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt.

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

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

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

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

4. No further construction work relating to the provision of buildings or hard standings shall take place on the site until details of a scheme for the disposal of foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: In the interests of pollution control.

5. Prior to being discharged into any watercourse, surface water sewer or soakaway system; all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor, designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: In the interests of pollution control.

6. No floodlighting shall be erected until precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity

with them. The submitted scheme shall comply with the Institute of Lighting Engineers "Guidance notes for the Reduction of Obtrusive Light" (2005) or any equivalent guidance that may replace it.

Reason: To preserve the amenities of neighbouring occupiers and the wider area.

7. The new buildings, subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application drawings for the parking of both the existing and proposed buildings vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: To ensure that adequate parking and manoeuvring space is available within the site to prevent parking and manoeuvring on adopted highway.

8. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated 19 January 2012 (ref: CL1113/05/01) as amended by the letter from SG Design and the report by D Costelloe dated March 2013, drawing no. KSD/500/701, and the mitigation measures detailed within the FRA that proposes the limiting the surface water run-off generated by all rainfall events up to the 100 year plus 20% (for climate change) critical rain storm such that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period which has been first submitted to and agreed in writing by the Local Planning Authority.

Reason: The condition is imposed to prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to reduce the risk of flooding of the proposed development and future occupants.

9. The landscaping on the northern, eastern and part of the southern boundary of the site comprising a 1.0m high bund, planting and seeding as approved by this permission as detailed on plan no. 212-53.02 Rev C shall be carried out in coming planting season (i.e. October 2015 - April 2016). Any trees which within a period of 10 years, or other plants which within a period of 5 years, from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

10. The landscaping on the remaining part of the southern and western boundaries of the site comprising a 1.0m high bund, planting and seeding as approved by this permission and detailed on the plan no. 212-53.02 Rev C shall be carried out in first planting season (October - April) following the completion of the retaining wall on that part of the site. Any trees which within a period of 10 years, or other plants which within a period of 5 years, from the completion of the development die, are removed or become seriously

damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

11. Notwithstanding the submitted drawing 213-53.03 Rev B, the Phase 2 fabrication building shall be constructed in accordance with the recommendations of the Acute Acoustics Ltd Noise Assessment Report dated 23rd April 2014 and the noise mitigation measures shall be retained in place for the duration that the building occupies the site.

Reason: The use of the building for purposes within Class B2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) has the potential to cause disturbance to the occupiers of nearby dwellings. The Local Planning Authority seeks to ensure that the construction method used in erection of the building is of a standard where noise is mitigated to acceptable levels.

12. Where installed, details of any fume extraction system(s) or similar equipment for the buildings hereby approved shall be first submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved scheme prior to the first use of the building to which the details refer.

Reason: To protect the amenities of the locality generally in the interests of pollution control.

13. The use of the buildings hereby permitted shall not be used outside the following times, or at any time on Sunday, Bank or Public Holidays: 6am to 10pm Monday - Friday and 8am to 4pm on Saturday for the period of 2 years from the date of this permission. When this period has expired the hours of use shall be 7am to 9pm Monday to Friday and 8am to 4pm on Saturday.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

14. Other than the land shaded green on plan ref: 217-05-01; loading and unloading of vehicles and/or stacking/unstacking of products shall only be permitted in the external areas (the extent as defined by the red line of the application site) between 0700 and 2100 hours Monday to Friday, and 0800 to 1600 on Saturdays. There shall be no loading and unloading of vehicles and/or stacking/unstacking of products within the external areas at any time on Sundays or on Bank or Public Holidays. Outside the above times the use of the land shaded green shall only be used for the loading and unloading of vehicles.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties, and to afford a period of monitoring and review of the use of the land shaded green.

15. Prior to the first use of the land shaded green on plan ref: 217-05-01 outside of the hours of restriction as specified in condition 14 for the remainder of the site, CCTV with audio and time/date stamp recording functionality shall be installed to provide coverage of this area, and barriers/enclosures shall be

provided to clearly demark the southern boundary of this area in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The scheme submitted shall contain details of the barriers/enclosures, including their height and type, as well as any proposed breaks in the barrier/enclosure to facilitate access to land to the south of the area shaded green. CCTV, barriers or enclosures installed pursuant to this condition shall thereafter be retained as such and/or in good working order.

Reason: So to ensure that loading operations hereby permitted can be monitored adequately.

Informatives:

1. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
2. Where development is proposed, the developer is responsible for ensuring that development is safe and suitable for use for the purpose for which it is intended. The developer is thus responsible for determining whether land is suitable for a particular development or can be made so by remedial action. In particular, the developer should carry out an adequate investigation to inform a risk assessment to determine:
 - whether the land in question is already affected by contamination through source -
 - pathway - receptor pollutant linkages and how those linkages are represented in a conceptual model;
 - whether the development proposed will create new linkages, e.g. new pathways by which existing contaminants might reach existing or proposed receptors and whether it will introduce new vulnerable receptors; and
 - what action is needed to break those linkages and avoid new ones, deal with any unacceptable risks and enable safe development and future occupancy of the site and neighbouring land.A potential developer will need to satisfy the local authority that unacceptable risk from contamination will be successfully addressed through remediation without undue environmental impact during and following the development. In doing so, a developer should be aware that actions or omissions on his part could lead to liability being incurred under Part IIA, e.g. where development fails to address an existing unacceptable risk or creates such a risk by introducing a new receptor or pathway or, when it is implemented, under the Environmental Liability Directive (2004/35/EC). Where an agreed remediation scheme includes future monitoring and maintenance schemes, arrangements will need to be made to ensure that any subsequent owner is fully aware of these requirements and assumes ongoing responsibilities that run with the land.
3. Where development is proposed over areas of coal and past coal workings at shallow depth, The Coal Authority is of the opinion that applicants should consider wherever possible removing the remnant shallow coal. This will

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

4. The applicant is advised that the existing lighting affixed to the southern elevation of the original manufacturing building is causing disturbance to nearby residents. The applicant is encourage to submit an alternative lighting scheme under the terms of condition 6 of this permission to secure the removal or replacement/repositioning of these lights.
5. That the Company considers setting up a residents liaison group.

Item **1.2**

Ref. No. **9/2017/0448/MAF**

Applicant:
Mr D Willshee
c/o Agent

Agent:
Mr Brian Mullin
Marrons Planning
1 Meridian South
Meridian Business Park
Leicester
LE19 1WY

Proposal: **THE ERECTION OF AGRICULTURAL STORAGE AND LIVESTOCK HOUSING UNIT AT SHADES FARM FROM GEARY LANE TO TOWN FARM BRETBY BURTON ON TRENT**

Ward: **Repton**

Valid Date **27/04/2017**

Reason for committee determination

The item is presented to Committee as it is a major application subject to more than two objections.

Site Description

The application site comprises some 0.80 ha of agricultural land, part of a larger agricultural unit associated with Shades Farm, Bretby. Access to the site is via the main entrance to Shades Farm to the east of the application site from an unnamed road accessed from Watery Lane and is edged blue on the Location Plan. The site is elevated from the road and separated from it by residential dwellings and a field and is adjacent to the Bretby Conservation Area boundary that runs along the southern boundary of the application site. The site gently falls away to the west but rises to the north up to the ridge affording extensive views across the Trent valley to the north and to the south across Bretby village. Along the southern boundary of the site is extensive deciduous tree and hedgerow planting forming a strong boundary to the majority of the site from the south.

Proposal

Consent is sought for the erection of an agricultural storage and livestock housing unit. The building would be split into 24 bays with a total GIA of 1013 sq m and the building orientated so that the maximum amount of floorspace can be dedicated to the keeping of agricultural products and the housing of livestock.

THE SITE

Bretby

Pond

Track

Glenhaven

Hillside

Fern-Lea

THE SQUARE

Sinks

GP

Hillgrove

The School House

Rose Cottage

The Old Smithy

Ppg Sta

Issues

TCB

LB

The Green

War Meml

Honeysuckle Cottage

93.6m

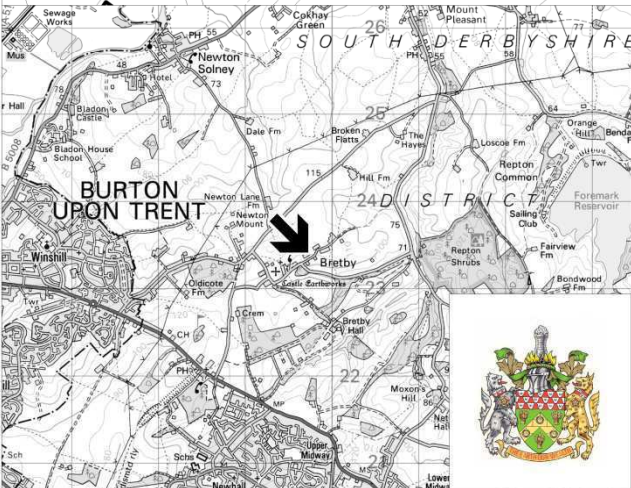
103.9m

BURTON UPON TRENT

SOUTH DERBYSHIRE

24 DISTRICT

N



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

South Derbyshire District Council. LA 100019461. 2014

Applicant's supporting information

The Planning, Design and Access Statement – describes the proposal and sets out the local and national policy context and how it complies with relevant policies in the Adopted and Emerging Local Plans and noting the core objectives of Paragraph 17 of the NPPF and Para 28 supporting the rural economy concluding that the proposal is considered to be wholly acceptable, being well designed using appropriate materials and is located suitably distant from residential receptors. It is considered that it does not give rise to any adverse impacts by way of its siting, design or scale.

The Heritage Statement – considers the heritage effects of the proposal, reduced in size following officer comments to a GIA of 541.8 sq m, and summarises the legislation and policy relating to heritage and summarises the Bretby Conservation Area and goes on to assess the impact of the proposal on the conservation area concluding that the whilst the proposal would have a minimal impact on the conservation area and as such, this should be balanced against the benefits that the proposal would bring in terms of assisting the viability of this existing rural enterprise leading to a compelling case for the proposed development.

Planning History

9/2014/0798 The erection of an extension and alterations at The Hawthorns, Shades Farm – Approved 05-11-14

Responses to Consultations

The County Highway Authority has no objections to the proposal provided the proposed building is ancillary to the existing use on the site.

The Environmental Health Officer has no objection in principle to the proposal but notes the close proximity of residential dwellings and recommends conditions relating to a scheme of noise mitigation measures and external lighting for approval prior to occupation.

Contaminated Land Officer – No objections to this proposal.

Responses to Publicity

20 objections have been received, raising the following concerns/points:

- a) The proposed development lies within 60m of residential dwellings and as such will create considerable nuisance in terms of noise and smell.
- b) The site is remote from the existing farm building complex and would constitute new development in open countryside.
- c) The site is in close proximity of the Bretby Fortified Manor Scheduled Ancient Monument. The height and scale of this building would have a detrimental impact on this important monument.
- d) The proposal is contrary to the Saved Policies of the 1998 Local Plan and Local Plan Part 1 2016 and Emerging Policies set out in Part 2 in that it has a detrimental effect on neighbouring properties and is located away from

existing farm buildings. All of these policies state that consent should not give rise to undue impacts on neighbouring land.

- e) The scale of the proposed building is totally disproportionate to the size of the farm.
- f) The applicant has not demonstrated any right to access the proposed building and the application fails to identify the route to the public highway.
- g) The application does not explain how effluent sewerage and rainfall will be dealt with.
- h) The site is adjacent to the Bretby Conservation Area and will have an adverse impact on the area.
- i) The applicant owns land to the north of Shades Farm away from the Conservation area boundary and adjoining residential dwellings and this land would be more suited to this proposal.
- j) The lane leading to the access to Shades Farm is not suitable for any increase in heavy goods vehicles.
- k) Skip lorries already pass through the village. It is hoped that there is no hidden agenda to this proposal.
- l) The site area of 365 sq m stated on the application form cannot be correct if the floorspace of the building is 1027 sq m.
- m) The applicant has stated at Section 15 that there are no trees on site or will be affected by the development. This is untrue.
- n) A natural pond lies in the field to the south west and could be contaminated from animal slurry or stored chemicals were they to escape.
- o) The proposal will have a negative effect on several properties on the north and northwest edges of The Green which are within the Bretby Conservation Area.
- p) Additional heavy goods vehicles will cause additional noise and pollution and damage to the lane.
- q) The proposal could have adverse implications for the local wildlife.
- r) The building should be sited adjacent to the existing agricultural buildings.
- s) Does the amended smaller scheme mean that the existing buildings close to residential dwellings would now be brought into use for intensive cattle rearing.
- t) Roller shutter doors are not compatible with a livestock building.
- u) Existing buildings at Shades Farm sufficient storage for a 'small' farm.
- v) The reduction in size must significantly impact the viability of the project.
- w) Proposal does not preserve or enhance the character of the conservation area.
- x) Shades Farm is a small sustainable farming unit and should not suitable as an agricultural industrial unit providing intensive rearing of livestock.
- y) The building would clearly be visible from the Village Green and adjacent to the church.
- z) The landscaping is deciduous and therefore would not act as screening all year.
- aa) Yorkshire boarding illustrated but is the blockwork in keeping with the remainder of the farm buildings.
- bb) Photo illustrations do not illustrate the conservation area or impact the building will have on it.
- cc) Only limited information on the existing operations of the farm. No need demonstrated.

- dd) Reduced size of the building following amendments will still cause significant damage to the conservation area.
- ee) Photos in Heritage Statement misleading.
- ff) Site immediately adjacent existing farm complex is misleading.
- gg) No reference to dwellings on 'the square' backing on to the building.
- hh) Heritage Assessment has not assessed the impact on all dwellings affected around the proposal.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), SD5 (Minerals Safeguarding), BNE1 (Design Excellence), BNE2, (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport),
- 1998 Local Plan (saved policies): EV1 (Development in the Countryside), EV5, (Agricultural Development), EV9 (Protection of Trees and Woodland)

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: BNE5 (Development in the Countryside), BNE6, (Agricultural Development), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage).

National Guidance

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

Local Guidance

- Bretby Conservation Area Character Statement 2011

Planning Considerations

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

- Principle of development
- Layout, design and impact on heritage assets
- Highway capacity and safety
- Other issues

Planning Assessment

Principle of Development

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

The proposed building is outside any settlement boundary and therefore subject to saved policy EV1 of the 1998 Plan. However, the proposal is for a building associated with the existing agricultural use on an existing farm and the applicant's intention is to grow and modernise the business that has existed on site for many years. The proposal therefore complies with saved policy EV1A (i) and (ii). Whilst the application is made by Wilshees Skip Hire, Shades Farm is the family home of the Wilshees and it is the applicant's intention to make the farm a productive asset. As such, expanding the capacity of the existing beef farm is seen as vital for the farm to earn its keep. Policy E7 of the LP Part 1 2016 supports development which diversifies and expands the range of sustainable employment activities outside of settlement boundaries provided they support the social and economic needs of the rural communities of the District and provided that the development does not give rise to any undue impacts set out at (ii) to (v). No specific business case is set out other than that this is an extension of an existing agricultural business. The proposal is well designed and of a scale commensurate with the proposed use. It is considered that the proposal meets the above criteria. In addition to the local policy context, the proposal accords with the paragraph 28 of the NPPF. How the proposal meets these criteria is set out below.

Layout, design and impact on heritage assets

Policy BNE2 of the Part 1 Plan seeks to ensure that development will be expected to protect, conserve and enhance heritage assets and their settings. The site abuts the Bretby Conservation Area on the south and west boundaries and the Council has a duty to protect, conserve and enhance this asset and its setting, carefully considering any new development that could affect its setting. In addition, within the Conservation Area but more distant from the site is the former site of Bretby Castle, a Scheduled Ancient Monument. This site is not directly affected by the proposal. The Agents Statement states that the proposed site is the only location considered appropriate for the proposed building as the site is already relatively well screened and well located to the existing farm complex. Much of the rest of the farm is to the north of the site which rises up the valley and over the ridge and would have a greater impact on the setting of the conservation area or be too far away from the established farmstead. Land adjacent to the existing agricultural buildings would be closer to existing residential dwellings and potentially lead to greater noise and disturbance than the proposed location.

The original proposal of 1027 sq m has been reduced by nearly half to 541 sq m and has also been reduced in height by approximately 1.8m to six metres. The reduction in size also means that the building is further away to the closest residential properties of Rose Haven and Glen Haven. The proposed materials of natural grey

fibre cement roof, brown Yorkshire boarding, green painted steel frame, concrete panels and black rainwater goods are considered broadly appropriate for the sensitive location. A materials condition has been included to ensure the building is constructed from the materials proposed. Similar materials have been used on other agricultural buildings in the area and are therefore in accordance with BNE1 of LP Part 1 2016.

It should be noted that, given the site is outside the conservation area, the applicant could apply under prior notification for an agricultural building up to 465 sq m and up to 12m in height which would be allowed as permitted development. The fact that the site is adjacent to the conservation area would not prevent the erection of a building in this location. Whilst this would only be for the storage of equipment and not for the keeping of animals, the principle of a building up to 465 sq m in this location is acceptable in planning terms regardless of the conservation area.

Whilst the building would be predominantly screened and be constructed of suitable materials, the proposal is considered to lead to less than substantial harm. As such this should be weighed against the benefits of the proposal as set out in paragraph 134 of the NPPF. In this case the expansion of an existing agricultural business through the modernisation of the business and the supporting the rural economy should be balanced against this harm and as such accords with BNE2 of LP Part 1 2016 and emerging policy BNE10 of emerging LP Part 2.

Highway capacity and safety

No objections have been received from the County Highway Authority. The proposal is considered to be ancillary to the existing use. It is acknowledged that the access road to Shades Farm is narrow but the proposal is part of an existing use and as such an objection cannot be sustained.

Other issues

The application form states that there are no trees on the site and that there are no trees in the vicinity that would be impacted by the development. There are, however, trees and shrubs on the southern boundary of the site which are on the boundary of the conservation area and as such are afforded protection. These trees are not under threat and are proposed to be enhanced as part of a landscaping scheme to screen the proposal. The Council's Conservation specialist has suggested that the screening proposed as part of the amendments should also include screening adjacent to the western elevation of the building to maximise the effect of the screening although to date a satisfactory scheme has not been received. The materials, the location of the building and the proposed screening of the building comply with EV1A (iii).

No details of drainage have been included in the proposal but a condition can have been included for details of any drainage of rain water and waste to be provided prior to construction.

Whilst there are some residential properties in relatively close proximity to the proposed building (approximately 65m), these are not so close for Environmental

Health to raise objection. In their response Environmental Health requested conditions relating to measures to control noise emanating from the building as well as details of external lighting. Details of lighting have subsequently been submitted by the applicant and consist of a slim line floodlight on the eastern elevation, above the central door. This light is considered appropriate and a condition to restrict lighting installed to the additional details specified and no further lighting is considered acceptable and Environmental Health are content with that element of the proposal. A condition to secure noise mitigation measures has also been included.

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 NO P02 Rev A, received on 14 June 2017; drawing NO P03 Rev A, received on 14 June 2017; and drawing NO 04 Rev A, received on 14 June 2017; 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 details contained within the materials schedule submitted by the applicant, and received by the Local Planning Authority, on 27th July 2017.

Reason: To safeguard the setting of conservation area and the locality generally.

4. Prior to the construction of any external wall of the building hereby approved a scheme of noise mitigation measures to control noise emanating from within the building shall be submitted to, and approved by, the Local Planning Authority. The scheme shall address the impact that noise will have on the occupiers of nearby buildings and residential properties. The development shall be implemented incorporating all aspects of the approved noise mitigation measures and once provided all noise mitigation measures shall be maintained as approved throughout the lifetime of the development.

Reason: In the interests of neighbour amenity.

5. External lighting shall be provided in accordance with lighting specified within the materials schedule submitted by the applicant, and received by the Local Planning Authority, on 27th July 2017. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order) no further external lighting shall be provided within the application site unless planning permission has been granted by the Local Planning Authority.

Reason: In the interests of neighbour amenity and to protect the character of the area.

6. Notwithstanding the submitted details prior to the commencement of the development a scheme of landscaping, which shall include indications of all existing trees and hedgerows on or adjacent to the site (including those which would have their root or canopy structure affected), details of any to be retained together with measures and a programme for the for their protection during construction; and a programme for the landscaping implementation; shall be submitted to and approved in writing by the Local Planning Authority. The landscaping and protection measures shall be carried out as approved. Any trees or plants which, within ten years of the planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area, recognising that initial clearance and groundworks could compromise the long term health of the trees/hedgerows affected.

Informatives:

1. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through suggesting amendments to improve the quality of the proposal and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
2. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com.

Item **1.3**

Ref. No. **9/2017/0527/NO**

Applicant:
Mr R Pope
Chilled Pubs (Repton) Ltd
The Bulls Head
85 High Street
Repton
Derby
DE65 6GF

Agent:
Mr Luke Gittens
Bi Design Architecture Ltd
79 High Street
Repton
Derby
DE65 6GF

Proposal: **THE ERECTION OF A PERMANENT MARQUEE OVER EXISTING
BEER GARDEN TERRACE AT THE BULLS HEAD 85 HIGH STREET
REPTON DERBY**

Ward: **Repton**

Valid Date **25/05/2017**

Reason for committee determination

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

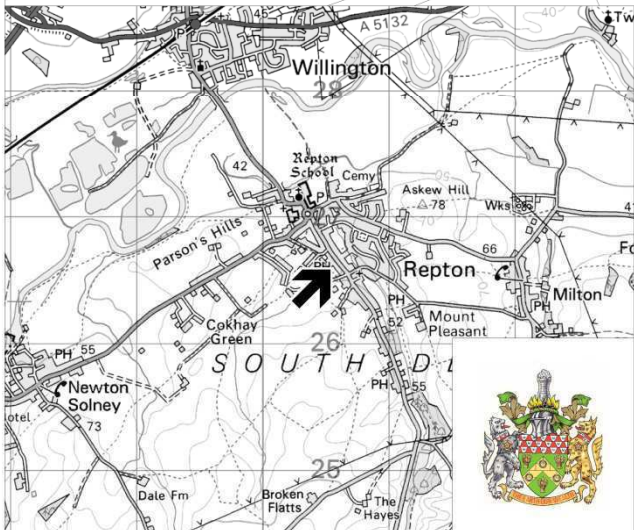
Site Description

The Bulls Head Public House is situated on the western side of Main Street, Repton, within the Repton Conservation Area. The pub is served by a large car park to the immediate south of the building, together with garden and patio areas to the rear. Part of the garden area is occupied by a marquee measuring approximately 18m x 11.4m x 4.9m to the ridge that was approved in 2012. There are residential properties located either side of the pub, with a mix of residential and commercial properties on the opposite side of High Street.

Proposal

This proposal seeks permission for the marquee to be permanent as the original permission in February 2012 gave a temporary permission for 5 years, expiring on 28 February 2017. The reason a temporary consent was given was to enable an assessment of any deterioration of the fabric to the detriment of the visual amenity of the conservation area. Permanent permission is proposed with the applicant's putting forward agreement of a fixed maintenance programme, with the external sheeting completely replaced as part of the proposal and professionally cleaned every 5 years and replaced every 10 years.

9/2017/0527 The Bulls Head, High Street, Repton DE65 6GF



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.
South Derbyshire District Council. LA 100019461. 2014

Applicant's supporting information

The Design and Access Statement describes the site and gives details of the last two relevant planning permissions. It states that prior to the previous application (9/2011/1001) for the 'all year round' marquee, the owners had to seek approval for the marquee to be erected at different times of the year and then taken down. Permission for the marquee as a permanent structure would allow the Public House to continue to use the terrace for dining outside the summer months. They would continue to submit 'temporary event notices' for events but they only do three a year and don't do functions or discos.

The applicant's Supporting Statement states that Condition 1 of the original permission does make express provision for the applicant to have the ability to apply for "*an extended period.*" The reason given for condition 1 was to "*ensure that the fabric has not deteriorated to the detriment of the visual amenity of the conservation area*". The applicant's consider that this condition was imposed not to limit the period of the planning permission per se, but to ensure that the condition of the fabric of the building be reviewed after 5 years to ensure that it was either cleaned and/or renewed and had not visually deteriorated in that time. If the application is granted, they are intending to invest approximately £65,000 renewing the whole fabric of the marquee inside and out, in exactly the same external fabric and colour as the original, to satisfy this condition.

The applicants have applied for a permanent permission with the additional condition that the marquee be professionally cleaned after 5 years and replaced every 10 years as a minimum. They have invested £320,000 setting up the marquee of which in excess of £100,000 was spent in 2012 on the construction of a link bridge (Permission no: 9/2012/0773/NO) between the main kitchen and the marquee to improve the health and safety of the team carrying food and dirty crockery to and from the marquee. The Bulls Head currently provides employment for 86 people, ranging in age from 16 to mid 50s, of which the vast majority are local people. A total of 45% of the pub sales are attributable to the marquee. In terms of labour, an average of 4,860 working hours a week are attributable just to the marquee. In response to objections raised, the marquee is exactly the same size as it was when the original planning permission was granted. These very same parking issues were raised by residents and were fully discussed and addressed at the last Planning Committee. Repton has had historical parking issues with insufficient parking for local residents, many of whom have no off road parking and own two cars. Parking was a problem in Repton before they took over the pub in 2007.

All other businesses in Repton have little to no parking whatsoever (Jaipur, Mulberry, Bi-Design, Samaras, Goodbuy Mr Chips, The Boot Inn) so the Bulls Head is not the only business contributing to the parking issues in Repton. Customers from these businesses and indeed local residents use The Bulls Head car park on a regular basis. The applicants' encourage their team to car share and instruct them to park further up the village e.g. on The Pastures and walk to the pub, to ensure that their car park is only used by guests. Staff are instructed never to park on the High Street. In relation to noise, Condition 4 of the original permission has provisions for containing the noise within the marquee. All of these conditions have been complied with, and have been approved by the Authority. They do not take any function

bookings nor weddings in the marquee despite numerous requests on a daily basis, out of respect to their neighbours, nor do they have regular live music, nor discos. They simply play low background music while diners are eating. The only live music they have is their annual free community event – their Family Christmas Fun day with a live band which is an afternoon event at Christmas time. They also have an annual disco on New Year's Eve where they apply for a TENS licence. In relation to anti-social behaviour, the applicant's value and respect their neighbours and do everything they can to control the noise and behaviour of their guests leaving the pub. There is signage requesting their guests respect the neighbours, when leaving the building.

Planning History

- 9/2012/1048 The removal of condition 3 of planning permission 9/2012/0528 – Approved 27/03/13
- 9/2012/0773 The erection of a first floor link building and repositioning of section of marquee eaves – Approved 27/03/13
- 9/2012/0528 Substitution application of previously approved (9/2011/1001) for the erection of an all year round marquee – Approved 14/08/12
- 9/2011/1001 Erection of an all year round marquee over existing beer garden terrace – Approved 9/02/12
- 9/2011/0167 The erection of 5 roofed pergolas in beer garden and a permanent roof over covered walk way – Approved 04/05/11
- 9/2009/0223 The part change of use to hot food takeaway A5 class and the installation of an external flue and internal alterations, Approved 21/05/09
- 9/2007/1413 Proposed levelling of garden and erection of umbrellas – Approved 28/01/08

Responses to Consultations

The Environmental Health Officer has no objection on the basis that the marquee has operated, under temporary planning permission, without causing complaint. The Highways Authority has no objections and refers to their previous comments on the 9/2011/1001 application which are included below. At the time of the 2011 application they advised that whilst the marquee could be deemed to be an extension to the existing pub and as such create an additional demand for car parking, the beer garden terrace was already being used for eating and drinking and therefore, additional seating/floor was not being created. Whilst concerns about parking are acknowledged it is not considered that a highway objection on highway safety grounds could be sustained.

Repton Parish Council objects on the ground of the marquee would constitute over-development of the site and the business has over-expanded beyond the capacity of

the street. There are significant comments/ complaints regarding noise levels when customers leave the premises and increased traffic in the area. They would request that the temporary permission be extended for a further two years to monitor the situation.

Responses to Publicity

Nine objections have been received raising the following concerns/points:

- a) The proposal would bring trade beyond the summer months which would exacerbate the car parking issues.
- b) The car park is often full with cars parking on both sides of High Street making access difficult.
- c) The car parking is inadequate for the number of cars at peak times.
- d) The public house has expanded beyond its car parking capabilities already.
- e) The marquee is not in keeping with the village and is an eyesore.
- f) Residents struggle to park near their homes in the evenings and weekend lunchtimes.
- g) The Pastures, Well Lane, Pinfold Lane and Main Street are being used as an overflow car park for staff and customers.
- h) On street parking is a highway safety issue for pedestrians.
- i) There is anti-social behaviour with people talking, shouting when returning to their cars causing disturbance to residents.
- j) Residents have had customers urinate in their garden, found vomit on the pavement and glasses / pizza boxes in their flower beds.
- k) The marquee does not contain noise.
- l) If temporary permission was not given then the maintenance would not be considered on a regular basis and could deteriorate.
- m) If temporary permission is granted it may make it easier in the future for it to be replaced with a solid structure.
- n) The marquee is the cause of the increase capacity and resulting parking issues.
- o) There are concerns that if the marquee was permanent and they was any change in ownership the maintenance would not be undertaken and it would remain.
- p) A further temporary 5 year permission should be considered as it would mean it could more easily be removed in the future if there are problems.
- q) Does permanent mean it could be turned into a permanent structure and how long is permanent?

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1, S2, SD1, BNE1, BNE2, INF2, INF6
- 1998 Local Plan (saved policies): EV12

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: SDT1, BNE10, RTL1

National Guidance

- National Planning Policy Framework (NPPF) 7, 14, 17, 28, 32, 134
- Planning Practice Guidance (PPG)

Local Guidance

- Repton Character Statement

Planning Considerations

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

- Principle of development
- Impact on the Conservation Area
- Noise
- Highway Issues

Planning Assessment

Principle of development

Emerging Policy RTL1 in the Part 2 Local Plan seeks to permit retail development in Local Service Villages such as Repton, provided they are appropriate to the scale and function of the centre, would not lead to unsustainable trip generation or undermine the viability and vitality of a neighbouring centre and not impact adversely on neighbouring properties. NPPF paragraph 28 of the NPPF supports the growth and expansion of all types of business and enterprise in rural areas and the retention and development of local services, including public houses. Paragraph 70 seeks to ensure that planning allows for the development and modernisation of established shops, facilities and services in a sustainable way, retaining them for the benefit of the community. The marquee is required in conjunction with an existing thriving pub business within the village and as such complies with this guidance and policy subject to that set out below.

Principle of development was established in the granting of permission for a 5 year period in 2012. A subsequent application also in 2012 was granted for a slightly larger marquee and in 2013 a condition which restricted the hours of use of the marquee was removed to allow it to be open until midnight on Friday and Saturdays as opposed to 11pm, in line with the hours of opening of the public house building. The reason for the temporary permission in 2012 was “to ensure that the fabric has not deteriorated to the detriment of the visual amenity and character of the Conservation Area”.

Therefore, with the principle of development established, it is the matter of whether the maintenance regime proposed by the applicant overcomes the reason for the grant of temporary consent.

Impact on the Conservation Area

Part 1 Local Plan (LLP1) Policy BNE2 states that developments that affect heritage assets will be expected to protect, conserve and enhance the assets and their settings. Submitted Local Plan Part 2 (LLP2) Policy BNE10 requires development proposals affecting heritage assets to contribute positively to the character of the built, historic and natural environment.

The marquee is located to the rear of the public house on a raised area 1.9m higher than the floor level of the main building. The views of the marquee are partially obscured by the existing outbuilding adjacent to the car park from the south east and the main public house building to the north east. It is therefore considered that the marquee is not visually prominent in the streetscene, however, previous approvals raised the concern with regard the maintenance of the sheeting and for this reason in order to retain control of the appearance a temporary consent was granted.

The applicant's as part of this proposal have confirmed that marquee fabric would be replaced as part of a full refurbishment of the premises currently being undertaken and have put forward a maintenance regime of professional cleaning every 5 years and replacement of the fabric every ten years. On the basis that, the maintenance regime can be conditioned, it negates the need to grant a further temporary consent. The proposal, subject to the condition, is not considered to protect and conserve the Conservation Area in accordance with LPP1 Policy BNE2.

Paragraph 134 of the NPPF states that "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal". The proposal is considered to have a low level of harm to the Conservation Area and when this is weighed against the substantial public benefits of the continued viability of a public house within a rural village, it outweighs the limited harm identified.

Noise

LPP1 Policy SD1 supports development that does not lead to adverse impacts on the environment or amenity of existing occupiers within and around proposed developments. NPPF paragraph 123 states that planning decisions should aim to avoid noise from giving rise to significant adverse impacts as a result of new development and mitigate and reduce to a minimum other adverse impacts arising from noise from new development, similar to a requirement of Policy RTL1.

The impacts of noise resulting from the marquee have been assessed in detail in applications in 2012 and 2013. In granting permission in 2012, a condition restricting the hours of use of the Marquee to 11pm for a 12 month period was considered appropriate to monitor any disturbance to neighbouring properties. No complaints were received within this period and in 2013 the condition was amended to 12pm in line with the hours of use of the main public house building. The Environmental Health Officer has confirmed no complaints have been received and therefore there is no objection to the application subject to the conditions relating to hours of use and the scheme of noise control which were attached to previous permissions.

The details of noise control are detailed as follows:-

- *On the inside of three marquee walls the elevations are fitted with UPVC walling panels, which are approximately 3 inches thick with an air break in the centre. The panels give strength to the marquee in addition to providing heat insulation and noise reduction properties.*
- *On the inside of the two gable end panels there is wall papered plasterboard, which gives the effect of old brick walls. The plasterboard also provides heat insulation and noise reduction.*
- *The long elevation facing the upper terrace has double-glazed window and door units.*
- *The entire roof is lined with insulation pads (resembling mattress toppers), approximately 2.5 inches thick and specifically designed for marquee heat and noise insulation.*
- *The entrance and exits are fitted with automatic electronic doors – minimising heat and sound loss.*
- *The sound system consists of 15 x chuck speakers, an amplifier and sound limiter.*
- *The sound system does not have a bass speaker and has been designed to allow an even distribution of low background music suitable for dining.*
- *The sound system cannot and will not be used for any 'foreground' music events. If any 'one off' events which require foreground music (e.g. Christmas and New Year family fun days) a Temporary Event Notice will be applied for in the usual manner. Any additional music systems used for any 'one off' events are to be installed and removed in accordance with each Temporary Event Notice.*
- *After the sound system was installed a sound engineer and The Noise Pollution Control Officer from SDDC set the maximum sound output on the system.*
- *Given the fact that the marquee is only used for dining, the sound system is never operated to the maximum level set by SDDC.*

Whilst objections have been received in relation to this application, the Council has not received any complaints from neighbouring residents. It would be difficult, therefore, to substantiate a refusal on the basis of noise and disturbance, particularly as the Environmental Health Manager has not raised any objections to the application and considers that noise can be sufficiently mitigated through the noise control measures outlined above. Should a formal complaint be made to the Council at any time in the future, an investigation would be made under Environmental Health legislation. Therefore, proposal is not considered to create adverse noise impacts for residential properties in the vicinity and as such accords with LPP1 Policy SD1 and NPPF paragraph 123.

Highway Issues

LLP1 Policy INF2 requires that travel generated by development should have no undue impact upon local amenity, the environment and highway safety and appropriate provision is made for safe and convenient access to and within the

development. NPPF paragraph 32 requires safe and suitable access to the site can be achieved for all people.

Concerns have been raised at that time of previous applications and as part of this application with regard to insufficient parking within the existing car park and these are acknowledged, however, it is not considered that the marquee would intensify the use of the premises to such a degree that would sustain an objection on highway safety grounds. This is based on the fact that the beer garden terrace was already being used for eating and drinking and therefore, additional seating/floor was not being created and this stance is consistent with previous decisions for the Marquee. The parking of patrons' vehicles on the highway is not within this Council's control and the County Highways Authority has not seen fit to impose a Traffic Regulation Order on High Street or any of the streets/lanes leading off it in the vicinity of the public house.

The issue of anti-social behaviour is a matter for the police, however, the applicant has been informed of the concerns raised in this regard. Any future proposal to replace the marquee with a permanent structure would require planning permission and the scheme would be assessed on its merits at that time.

The marquee assists in the sustainability of this existing business within the Repton Conservation Area, accounting for 45% of the overall sales and 4,860 working hours a week. The concern with regard the maintenance of the marquee has been overcome by the maintenance regime proposed which can be controlled by condition. The impact on the appearance of the Conservation Area is considered to be limited and any harm outweighed by the public benefits of the continued viability of this rural business. Noise impacts are sufficiently mitigated through the noise control measures and hours of use restrictions and due to the marquee not creating additional seating a highways objection cannot be sustained. The proposal is therefore considered to accord with the development plan policies outlined above.

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

Recommendation

GRANT permission subject to the following conditions:

1. Notwithstanding the submitted details the marquee shall not be open to customers outside the following times: 11am to 11pm Monday to Thursday; 11am to midnight Friday and Saturday; and 11am to 10pm Sunday, unless otherwise authorised under a Temporary Event Notice signed by the Licensing Authority and issued under the Licensing Act 2003.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

2. Notwithstanding the submitted details, the use of the marquee shall be carried out in accordance with the scheme for the control of noise approved under planning permission 9/2011/1001.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring residents of their properties.

3. The replacement external fabric of the marquee hereby approved shall be an 'off-white' or 'ivory' colour.

Reason: In the interests of the character and appearance of the Repton Conservation Area.

4. The maintenance regime for the external fabric shall be to be professionally cleaned as a minimum every 5 years and replaced as a minimum every 10 years.

Reason: In the interests of the character and appearance of the Repton Conservation Area.

Informatives:

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

Item **1.4**

Ref. No. **9/2017/0639/FM**

Applicant:
Mr & Mrs Tony & Linsey Allen
Bog Lane
Melbourne
Derby

Agent:
Mr Patrick Jervis
Justin Smith Architects
5 Queen Street
Derby
DE1 3DL

Proposal: **CONVERSION AND EXTENSION OF A FORMER PUMP HALL AND WATER PRESSURE BALANCING TANK TO FORM A TWO-STOREY CONTEMPORARY RESIDENTIAL DWELLING ALONG WITH THE ERECTION OF A DETACHED OPEN AIR CAR PORT AT THE FORMER WATER WORKS BOG LANE MELBOURNE DERBY**

Ward: **Melbourne**

Valid Date **15/06/2017**

Reason for committee determination

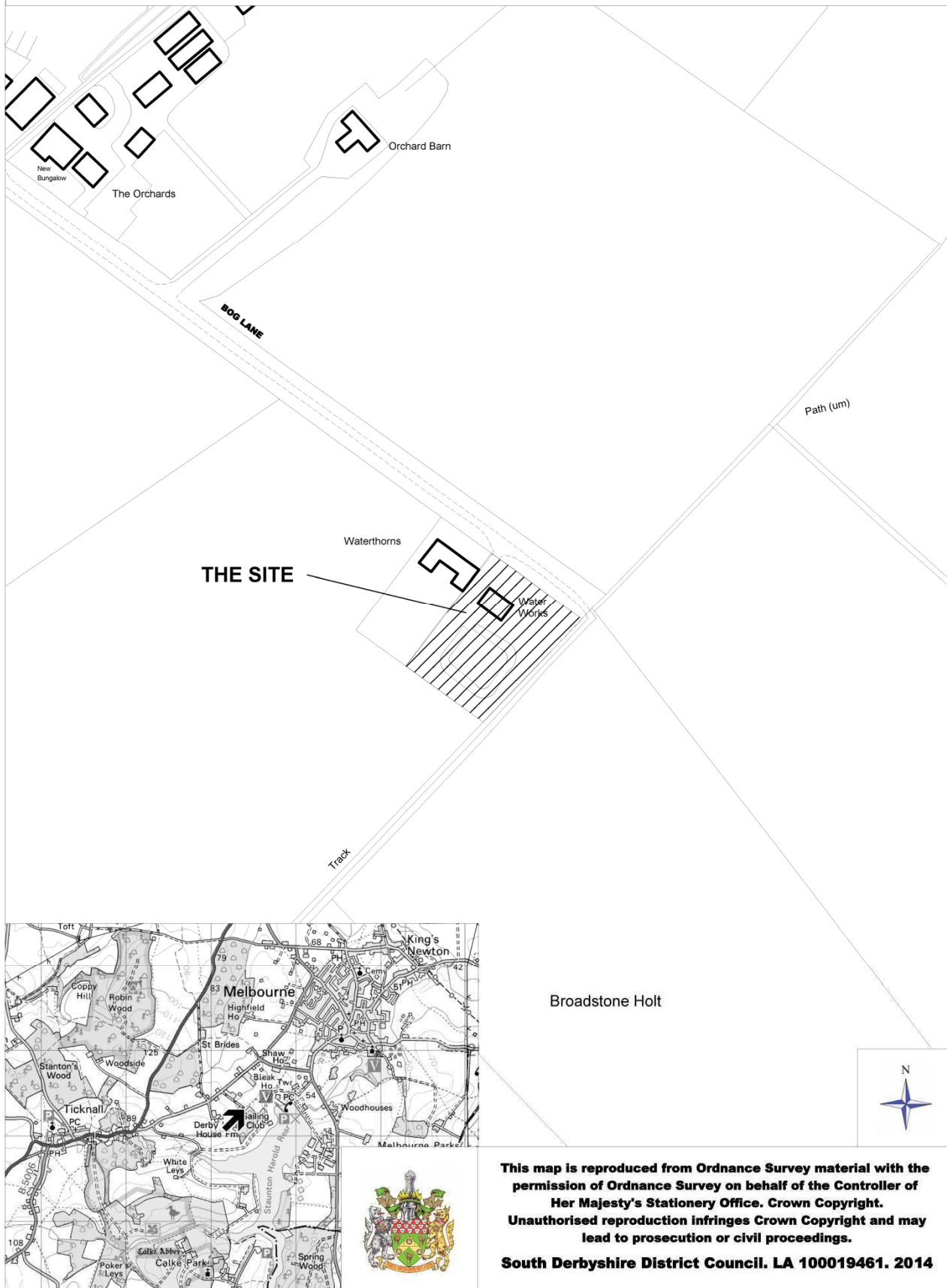
The item is presented to Committee as the proposal is contrary to the Development Plan.

Site Description

The site is located to the bottom end of Bog Lane, off The Common between Melbourne and Ticknall, and overlooking the Staunton Harold Reservoir and Broadstone Holt woodland. The site comprises a former water pump station hall and pressure balancing tank, once owned and operated by Severn Trent Water Ltd. The pump station comprises of a single storey vaulted ceiling brick hall, and the balancing tank a brick/reinforced concrete tank covered in earth and appears as a grassed mound. The pump hall and water pressure tank dates back from the early twentieth century, and over a number of years the building tank and site have been left vacant.

Vehicular and pedestrian access is from Bog Lane, with a public footpath adjacent the southern boundary. Isolated dwellings and commercial and agricultural buildings punctuate the upper end of Bog Lane towards The Common, with a single dwelling immediately adjacent to northern edge of the site (the Waterthorns). A further isolated dwelling exists to the south, within Broadstone Holt – recently granted permission as an exceptional design.

9/2017/0639 - Waterworks, Bog Lane, Melbourne DE73 8HU



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. South Derbyshire District Council. LA 100019461. 2014

Proposal

It is proposed to convert both the pump station hall and pressure balancing tank to provide a single dwelling. The pump station hall would be largely retained as it exists, with the roof lifted and set atop of a glazed insert under the eaves. The pressure balancing tank would be converted largely as it exists, but with the earth mound cut back to reveal the internal tank walls around the rear and partly along one side, as well as two cut backs for openings to the south. A two storey extension to the pump station hall would connect the two elements of the proposal, with a small terrace leading out onto part of the former mound. A mixture of materials are proposed, with the existing brick work of the pump station hall retained and carried through into the new elevations around the pressure balancing tank, whilst timber cladding and corten steel cladding – along with expanses of glazing – would add to the palette.

The majority of the top of the mound would be retained as it exists, put to grass whilst patio areas would wrap around parts of its base. A free standing car port and store would be erected towards the south-east corner of the site, whilst a horizontal hit and miss screen would separate the garden and driveway spaces.

Applicant's supporting information

A Design and Access Statement assesses the site's context, including physical, social and economic characteristics. It is considered that the proposal would contribute positively to the economic, social, and physical context of the site and create a sustainable individual and harmonious residential dwelling of high quality contemporary architecture and design. It is advanced that this would not cause any adverse impact on residential amenities through overlooking or overshadowing and would meet highways requirements. The resulting scheme represents and provides a high quality living environment both visually and environmentally, and the distinctive dwelling would positively enhance the site and surrounding context providing a desirable and safe family living environment.

The Habitat Survey concludes that the structure of the existing building is such that no access points to the roof or the internal space are available, and the underground reservoir is inaccessible. Bats may use boundary hedgerows and the crown of the mature ash tree to forage, and as external lighting could disrupt this behaviour, this should be designed to avoid unnecessary illumination. The pump station building is similarly inaccessible by birds although one old nest, possibly of a wren, was observed in a hole in the wall. A pre-commencement survey would be necessary to confirm the absence of breeding birds. Boundary hedgerows would be retained so no impact on breeding birds is predicted. There would be no impact on any other protected species, whilst measures are recommended to create biodiversity enhancements: hedgerow planting and the erection of bat and bird boxes.

Planning History

None relevant.

Responses to Consultations

The Environmental Health Officer notes there is a potential risk that any historical ground contamination associated with the former site use may be liberated during the site construction work. A precautionary condition is therefore recommended.

The County Highway Authority notes the site is accessed from Bog Lane, which, whilst forming part of the public highway, is generally un-metalled and single width for the majority of its length. However, in the vicinity of the classified road, Bog Lane is of sufficient width to accommodate two-way vehicle traffic, whilst visibility onto The Common is satisfactory. It is noted that the visibility available to a driver emerging from the site access onto Bog Lane is restricted, however, due to the extremely limited traffic likely in the vicinity and slow speeds at which any vehicle would travel, it is considered an objection on highway safety grounds could not be sustained. A condition is required to ensure adequate parking and turning space within the site.

At the time of writing, the Wildlife Trust has not responded to consultation. Any response will be reported verbally at the meeting.

Responses to Publicity

Melbourne Civic Society supports the application, commenting it is an interesting, if high maintenance, scheme. They have no objection to modern schemes particularly where they are limited to replacement of existing mediocrity. They note that the site is on the edge of a series of small enclosures on Bog Lane laid out and allotted to the lesser landowners when Melbourne Common was enclosed, and it is still visually distinct from the larger fields adjacent, which were part of the share of Melbourne Common allotted to Lord Melbourne. It is considered to be a good example of how historic actions from centuries ago still affect the landscape of the present day. It is noted that it is not much higher than the existing building and care seems to have been taken to merge it into the soft landscaping around, so they don't see it as offensive or as an intrusion into open countryside. The site should look better on completion than it does in its present abandoned state.

5 objections/comment have been received, raising the following concerns/points:

- a) support for the conversion in principle, with it using a derelict building;
 - b) planning policy allows only modest alterations and extensions;
 - c) seems a much bigger house than the existing footprint;
 - d) the Waterthorns (adjacent) has a Juliette balcony overlooking the plot and windows and terrace garden would look into their property;
 - e) the design is not in keeping with the area;
 - f) concerns as to means of possible drainage, and in turn risk of surface water flooding off-site;
 - g) traffic increase would be dangerous for families living on Bog Lane and frequent walkers alike;
 - h) use of Bog Lane by construction traffic and damage to the existing loose surface;
 - i) loading/unloading during construction work obstructing access for others;
- and

- j) number/adequacy of proposed parking provision.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport) and INF8 (The National Forest)
- 1998 Local Plan (saved policies): H7 (Residential Conversion), EV1 (Development in the Countryside), EV9 (Protection of Trees and Woodland), EV11 (Sites and Features of Natural History Interest) and EV13 (Listed or Other Buildings of Architectural or Historic Importance)

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: SDT1 (Settlement Boundaries and Development), H28 (Residential Conversions), BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage).

National Guidance

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

Local Guidance

- Housing Design and Layout SPG

Planning Considerations

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

- Principle of development
- Design and layout
- Ecology, highway and other matters

Planning Assessment

Principle of development

As the site is located outside a village confine but relates primarily to the conversion of existing buildings, the application needs to be primarily considered under saved policy H7. This policy sets three tests which all need to be fulfilled for the conversion of buildings within the countryside to be deemed compliant with the Development Plan:

- (i) *The building is of a form and bulk and general design in keeping with its surroundings; and*
- (ii) *The building is suitable for conversion without extensive alteration, rebuilding and/or extension; and*
- (iii) *The conversion is in keeping with the character of its surroundings.*

Emerging policy H28 (as modified) carries forward the above criteria, but also makes further allowance to reflect paragraph 55 of the NPPF:

Outside settlement boundaries the conversion of a building to provide residential accommodation will be permitted provided the building:

- (i) *is of a permanent and substantial construction and*
- (ii) *is suitable for conversion without extensive alteration, rebuilding and/or extension; or*
- (iii) *constitutes the re-use of a suitable redundant or disused building or would secure the future use of a heritage asset.*

All conversions should result in the enhancement of the building's immediate setting.

Notwithstanding this policy position, if material considerations indicate otherwise it can be appropriate to allow proposals which do not accord with the Plan.

The existing buildings are varied in type and design. The traditional pump station hall is of some interest to the industrial heritage of the District, being one of a number of surviving structures of this type. Save for the current blocking up of openings, the long term retention of this building is a matter which weighs in importantly in the planning balance. The balancing tank is generally invisible to the eye, it presently covered by an earth mound as is common for underground reservoirs across the country. The visibility of the site as a whole is limited to just three short distance views, given the way in which the wider landscape sits – from the access at Bog Lane, looking over a low point in the boundary hedgerow from the footpath just beyond the south-eastern corner of the site, and from a point on the same footpath west of the site (albeit limited to winter when the hedgerow has been flailed).

The proposal primarily seeks to re-use the buildings, largely as they exist. The works to those elements alone are not considered to offend the policies as set out above. The two storey connecting element however is considered to be an extensive extension and alteration. It is for this reason the proposal is considered to conflict

with the Development Plan. However, that is not to say it is unacceptable. The design has evolved to draw in the wider landscape setting, being in the National Forest, ensure that it respects and does not dominate over the original components which provide the scope for conversion, and utilise a materials palette which, over time, would weather and soften to sit unobtrusively within the landscape whilst still reflecting the former industrial heritage of the site. As noted above, the long term guardianship of the pump station hall through its re-use assists in securing the future use of this undesignated heritage asset, also supported by policies BNE2, BNE10 and EV13. The building's immediate setting would also be enhanced through the careful implementation of a landscaping scheme to allow the development to harmonise with its surroundings, and address what is presently a derelict site detracting from the immediate setting. Conditions can appropriately control the risk of domestication.

For the above reasons, it is considered that the proposal should be supported as an exception to the normal policy approach. Indeed, it has to be recognised that emerging policy H28 'sets aside' the criterion on extensive alteration or extension where the building for conversion is of heritage value, as is considered the case here – at least in so far as the pump station hall.

Design and layout

The design takes a contemporary approach, with use of horizontal emphasis to connect the two elements of the scheme. In terms of the wider environs, this may not be considered to follow the traditional vernacular in terms of style, but innovative design should not be discouraged where it is appropriate for its setting. This is one such location where the proposed design is felt to be suitable, and it reflects the design approach applied at Broadstone Holt recently. The industrial heritage of the site is both retained in the form of the pump station house and then enhanced by use of glazing and steel finishes, as well as selective use of brickwork to match the traditional building on the site. The National Forest character is also drawn into the proposal by the cladding and landscaping approach – the latter of which can be developed further through condition. With the design having developed through pre-application discussion, and with a minor change during the course of the application, it is considered conditions are now appropriate in securing the finer details.

The focus is of the impact on the occupiers of the Waterthorns. The first floor side Juliette balcony is not protected by the SPG, and in any case the impact is limited to the intervisibility between that opening and a secondary (side) window to a proposed study in the original building – utilising an existing blocked up opening (doorway). This arrangement is not considered to unduly impact on the privacy of either occupier, particularly when it is felt appropriate to secure a darkened and/or obscure glazing to those doors so to emulate a traditional, functional doorway on the pump house building. A condition can secure this detail. The remaining focus is on the intervisibility between the proposed terrace, which would in effect be at first floor level given it would be atop of the balancing tank; and the rear facing habitable windows at the Waterthorns which just fall within the 45 degree sector of view. The SPG does not specify separation standards for such circumstances, given the proposed terrace is not a habitable window; but the existing windows affected would usually demand between 15 to 21m separation, depending on the room they serve

and whether they are primary/sole windows to those spaces. In this case, there is some 19m as a minimum and views would have to be made 'backwards' towards the Waterthorns. It is not considered the effect on neighbouring amenity is unacceptable.

With the main part of the terrace also set some 9 to 10m away from the boundary to the adjoining dwelling, and a small element at 5-6m distant; there is no demonstrable impact in respect of overlooking of primary amenity areas – it conforming to or exceeding the distance required under the SPG if it were a key habitable window in this position.

The layout of the site provides for adequate parking and turning space, with the car port capable of housing up to 4 domestic vehicles – more than adequate for a 4 bedroomed dwelling, as proposed. The curtilage of the site allows for further vehicles in any case, and most construction vehicles are equally able to access the site as required during the construction phase. The Highway Authority raises no objection, subject to condition to control the parking provision going forward, such that there is no concern overall.

Ecology and other matters

The ecological survey work demonstrates there is unlikely to be harm to protected or notable species, with conditions capable of safeguarding such interest and providing enhancements. The car port would be supported by spot foundations, and suitable engineering techniques exist for hard surfaces, such that the impact on the existing ash tree can be minimised through conditions. Drainage matters would be largely catered for by Building Regulations, but the strategy is largely unknown at this stage. A sewer connection may or may not be feasible, but if not then the resulting scheme would need control under a planning condition.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the project visuals ref. A17-005, document 013 revision C; unless as otherwise required by condition attached to this permission.

Reason: For the avoidance of doubt and to ensure the proposal acts to enhance the standard of architecture more generally.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; the dwelling hereby permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwelling and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the site without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the specific design quality of the proposal and effect upon neighbouring properties and/or the street scene.

4. The car port shall not be enclosed and remain unobstructed for the parking of vehicles.

Reason: To ensure that the long term health of the adjacent tree is not compromised by future ground works and that parking of vehicles is encouraged away from the principle elevation of the dwellinghouse in order to ensure the design quality of the dwelling is not harmed when viewed from public aspects.

5. No development or other operations on the site (including demolition, ground works and vegetation clearance) shall commence until a scheme which provides for the protection of all hedgerows and trees identified for retention growing on or adjacent to the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall also include details and a method statement for the creation of foundations, service runs and hard surfaces within the root protection area (RPA) and canopy of the tree on the eastern boundary. The approved protection measures shall then be implemented prior to any development or operations commencing and thereafter retained until a time where vehicles or mechanical equipment cannot interfere with such hedgerow or trees, or completion of the development, whichever occurs first; and the development shall be constructed in accordance with the approved measures for works within the RPA and canopy of the tree.

Reason: In the interests of maintaining existing habitat provision to the benefit of wildlife and visual amenity, recognising the potential for permanent and long term damage to such features could occur at the outset of any works on site.

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

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

7. No development shall commence until details precise details, specifications and, where necessary, samples of the facing materials to be used in the construction (and cladding) of the walls, windows and doors (including glazing type and colour) of the buildings, roofs of the buildings, and of the external face of retaining walls, etc. have been submitted to and approved in writing by the Local Planning Authority. The existing roof tiles to the pump station hall shall be reclaimed in the works to alter the roof and thereafter reincorporated into those roof slopes which remain. Where brick, stone or block is to be used externally, a sample panel of pointed brickwork/stonework/blockwork no less than 1 metre square shall be prepared for inspection and approval in writing by the Local Planning Authority prior to incorporation of such materials into the dwelling. Thereafter the development shall be constructed in accordance with the approved details.

Reason: To safeguard the appearance of the existing building and the locality generally, and to ensure the design quality of the dwelling is properly executed and realised.

8. Notwithstanding any details submitted or 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; no boundary treatments shall be erected until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatments shall be completed in accordance with the approved details before the dwelling is first occupied 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 appearance of the area and setting of the development hereby approved.

9. Prior to the creation of driveways, patios and other external hard surfaces, details of hard and soft landscaping, including cross sections and drawings of raised planters, planted terraces and the green roof; surfacing materials and patterns; as well as details of the species, type, density and timetable for planting; shall be submitted to and approved by the Local Planning Authority. The details shall also include provision for new and supplementary native hedgerow planting to the southern boundary (south-eastern end) and western boundary of the site. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with the approved scheme and timetable; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species; whilst the planters sited on the roof terrace shall be permanently retained in situ and any future replacement planting beyond 5 years shall be of similar species and type to that originally approved.

Reason: In the interests of the appearance of the area and setting of the development, and to reduce visibility of the roof terrace from adjoining property and viewpoints.

10. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the dwelling unless prior to their incorporation in the building details of the type, number, position and finish of such features have been submitted to and approved in writing by the Local Planning Authority. Any such features shall be incorporated in accordance with the approved details and thereafter maintained as such.

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

11. No external lighting shall be erected or installed unless prior to its erection/installation precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them.

Reason: To preserve the amenities of the area, safeguard protected species which may be using the site and prevent dark sky glow.

12. The dwelling, subject of the application, shall not be occupied until space has been provided within the application site in accordance with the approved plans/drawings for the parking and manoeuvring of residents' and visitors' vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

13. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit to the Local Planning Authority, for approval in writing, a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the Local Planning Authority without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

Informatives:

1. Public Footpath 27 must remain open, unobstructed and on its legal alignment at all times. Consideration should be given to members of the public using the route at all times. Further information may be obtained by contacting the Rights of Way Section.
2. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, suggesting amendments to improve the quality of the proposal, and promptly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

08/08/2017

Item **1.5**

Ref. No. **9/2017/0741/TC**

Applicant:
Mrs Hilary Coyle
Shardlow House
94 London Road
Shardlow
Derby
DE72 2GP

Agent:
Mrs Hilary Coyle
Shardlow House
94 London Road
Shardlow
Derby
DE72 2GP

Proposal: **THE FELLING OF 1 NO. MAPLE TREE AND 1 NO. LIME TREE AT SHARDLOW HOUSE 94 LONDON ROAD SHARDLOW DERBY**

Ward: **Aston**

Valid Date **11/07/2017**

Reason for committee determination

The item is presented to Committee as the applicant is Councillor Hilary Coyle.

Site Description

The trees the subject of this notification relate to a Lime tree located on the north-west boundary at the end of a row of Lime trees and a Maple tree located on the western boundary. The trees are located within the garden of Shardlow House, a 3-storey detached house which is Grade II listed and within Shardlow Conservation Area.

Proposal

This notification is to fell the Lime tree and Maple Tree which are not protected by a Tree preservation Order but are situated within the conservation area. Other works are specified within the notification, namely trimming a Cypress hedge and crown cleaning and removal of deadwood of a Yew tree, but these are exempt works and do not require prior approval.

Applicant's supporting information

None provided.

9/2017/0741 Shardlow House, 94 London Road, Shardlow DE72 2GP



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.
South Derbyshire District Council. LA 100019461. 2014

Planning History

- 9/1995/0043 Rebuilding of the boundary wall on the frontage – Approved June 1995 (along with accompanying listed building consent under 9/1995/0044).
- 9/2000/1023 Erection of a conservatory – Approved December 2000 (along with accompanying listed building consent under 9/2000/1024).
- 9/2001/0982 Installation of timber access gates and a pair of automated driveway gates and side panel – Approved December 2001 (along with accompanying listed building consent under 9/2001/0983).
- 9/2012/0862 Notification for tree works – No objection November 2012.
- 9/2016/1296 The partial demolition, rebuilding and renovation of an outbuilding to create a detached annexe along with the replacement of an existing timber kitchen window and conservatory door to main house with aluminium bi-fold doors and fixed window – Approved March 2017 (along with accompanying listed building consent under 9/2016/1297)

Responses to Publicity

The consultation period expires on 7th August 2017 and no comments have been received to date. Any comments received will be reported at the meeting.

Development Plan Policies

The relevant policies are:

- 1998 Local Plan (saved policies): EV9 (Protection of Trees and Woodland)

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: BNE7 (Trees, Woodland and Hedgerows)

National Guidance

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

Planning Considerations

The notification procedure is a mechanism which allows the Local Planning Authority a period of time to assess the impact that would result from tree works and the main consideration should be the amenity value of the tree. In addition, there is a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Even if the tree's amenity value may merit an

Order, the consideration must be given as to whether it would be expedient to make one and consider other factors such as, amongst other things, the health and lifespan of a tree, proximity to buildings or structures, proximity to living spaces, suitability for location, etc.

Planning Assessment

The Maple tree makes only a limited contribution to the visual amenity of the area being located to the rear of the site. However, it is in close proximity to neighbouring properties and is considered to be too large for this location, being only half the optimum size for this species of tree. With a dark crown the tree is oppressive, particularly for the neighbour, and the tree is likely to cause damage to the fence in the future. Looking at all the issues it is considered that the felling of the Maple tree is reasonable and protecting the tree would be inappropriate.

In terms of the Lime tree this is situated at the back of a row of Lime trees which run in a line from London Road westwards to a point close to the rear wall of the property known as The Barn. It is the end Lime tree which overhangs that property and is touching the roof and guttering. The whole row of Lime trees have been pollarded in the past and this would resolve the issue in the short term, but that is a management technique that would need to be undertaken regularly in order to maintain clearance of that property. The Council's Tree Officer advises that pollarding would address the matters identified and that all of the Limes are worthy of a Tree Preservation Order. However, the issues have to be looked at as a whole, taking into account that the notification relates to the felling of one of the Lime trees at the back of the row and that there is significant tree cover in the area. It is considered that the resulting impact on the visual amenity of the area resulting from the felling, taking into account the desirability of preserving or enhancing the character or appearance of the conservation area, would not be significant. Looking at the proposals in the round it is considered that the Lime tree should be allowed to be felled and that the imposition of a Tree Preservation Order would be inappropriate.

Recommendation

NO OBJECTION be raised to the proposed works subject to the following informatives:

Informatives:

1. If this work is not carried out within two years of giving notice, a further notice is required.
2. You are advised that all work should be carried out in accordance with the British Standards Institute's recommendations for tree work.

Item **2.1**

Ref. No. **9/2017/0384/FX**

Applicant:
Mr Mark Jones
Sunrise Homes (Derbyshire) Ltd
3 Trent Lane
Weston On Trent
DE72 2BT

Agent:
Mr Andrew Shannon
Montague Architects Ltd
9 Vernon Street
Derby
DE1 1FR

Proposal: **THE ERECTION OF 9 DWELLINGS WITH ASSOCIATED EXTERNAL WORKS ON LAND TO THE REAR OF 82-98 WESTON ROAD ASTON ON TRENT DERBY**

Ward: **Aston**

Valid Date **08/06/2017**

Reason for committee determination

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

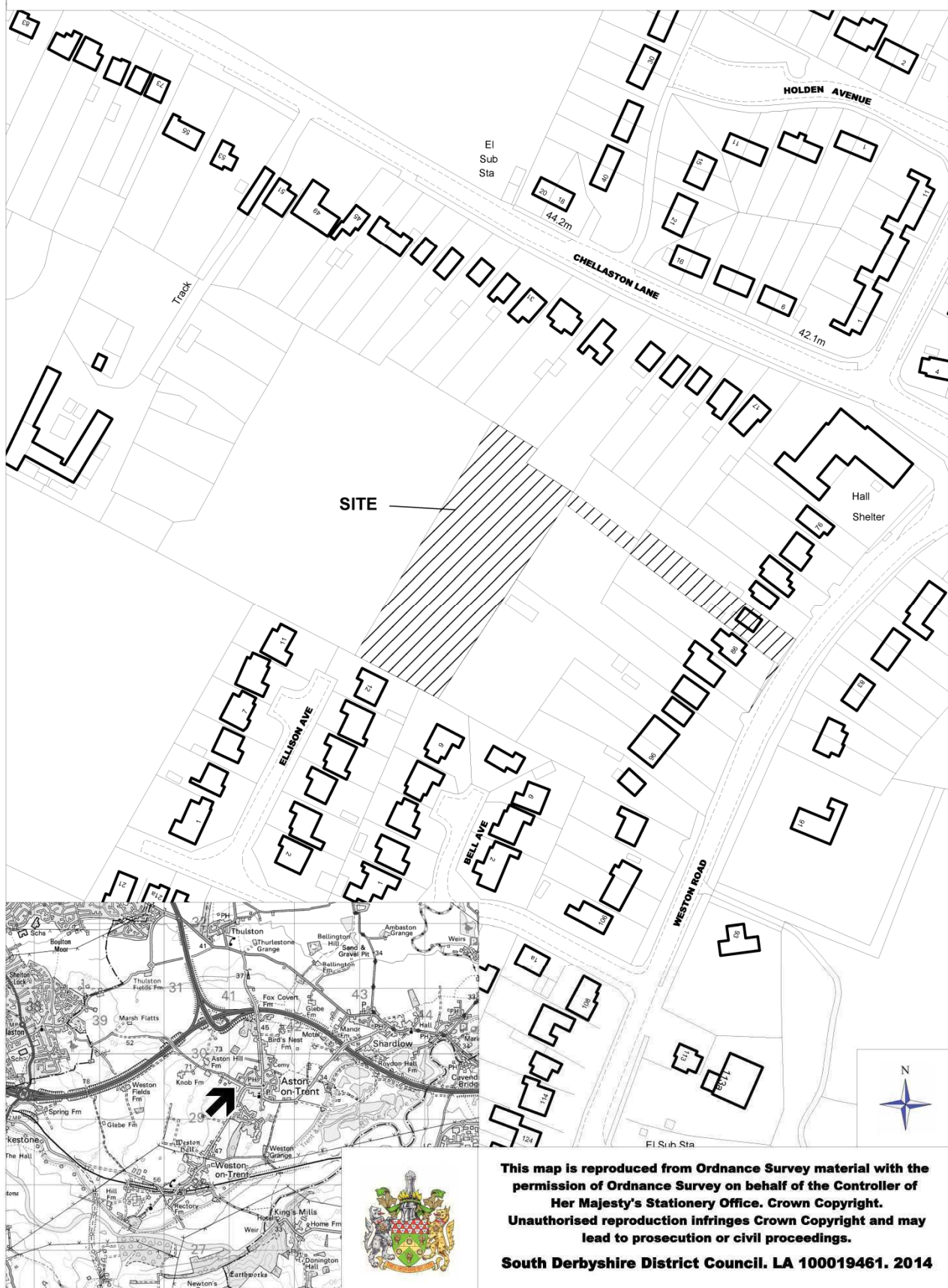
Site Description

The application site comprises an open paddock of grassland, which extends beyond the site confines north-westwards. The site is predominantly level at this point, sloping very gently down from northwest to southeast. The northwest boundary of the site is currently unmarked, whilst residential properties lie adjacent to the northeast, southeast and southwest boundaries with a mixture of fencing and hedging. The access passes through the existing construction site to the south-east to connect with Weston Road. The surrounding built form is characterised by a mixture of residential dwellings, mostly two-storey in nature but with some bungalows characterising Ellison Avenue to the south-west. Houses are located to the north, south and east of the site.

Proposal

Permission is sought for the erection of 9 dwellings. The site access is identical to that already approved under application ref: 9/2015/0264 for 4 dwellings, with it proposed to erect 9 additional dwellings on land to the northwest of that site. 1 of the 4 previously approved dwellings would be sacrificed to allow access, meaning the overall number of dwellings would be 12, not 13.

9/2017/0384 - Land to the rear of 82-98 Weston Road, Aston on Trent DE72 2BA



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. South Derbyshire District Council. LA 100019461. 2014

The site layout shows a mix of house types including 3, 4 and 5-bed semi-detached and detached dwellings. It is proposed to sell 4 plots at a discounted price. Each dwelling would have 2 parking spaces. A turning head of sufficient size to accommodate refuse and emergency vehicles would also be provided. A new post and rail fence together with a native hedgerow would be added along the northwest site boundary.

Applicant's supporting information

A Planning Statement acknowledges conflict with saved policies H5, H8 and EV1 but argues the Council does not have a five year housing land supply. In these circumstances, it is considered paragraph 49 of the NPPF is engaged and the policies can only be afforded limited weight and the presumption in favour of sustainable development is invoked. The decision therefore rests on the application of the balance between the environmental, social and economic impacts of the development. The potential harm and benefits of the proposal are summarised as limited harm to the intrinsic character and beauty of the countryside, with the site surrounded by development on three sides and the site not of high value in landscape or visual terms. No significant trees or natural vegetation would be lost as a result of the proposal. The main benefits of the scheme are summarised as a deliverable housing site which would make a meaningful contribution to the village's housing offer in the short term, and of this, four houses at a discounted price meaning that they would be relatively affordable in the context of prevailing house prices. Developer contributions of around £80,000 would mitigate the impact of development on local services and infrastructure, whilst new housing would sustain services, amenities and employment opportunities to meet the everyday needs of residents. No acknowledged ecological interests would be harmed, and the new hedgerow and trees would deliver modest enhancements. The employment generated during construction and by the addition to the local economy through the spending power of future residents, and the New Homes Bonus are material considerations. Overall, it is considered that the benefits of the proposal outweigh the very limited harm that would result from the loss of open countryside, and the proposal should be regarded as sustainable development to which the presumption in favour applies.

The Design and Access Statement is considered to demonstrate how the proposal has been formulated and how it responds to local context and evolution of the settlement. In developing the design various considerations have been taken into account with the aim of achieving a scheme appropriate to its setting. These considerations have included scale, density, massing, height and character of the proposed development; access, layout, orientation and outlook of the proposed dwellings; outdoor amenity within the site; and privacy and amenity of neighbouring dwellings. With respect to outdoor amenity, soft landscaping to areas beyond the plot boundaries was considered desirable to enhance both the shared street scene and front outlook from the dwellings. The proposed dwellings have been orientated to logically address the shared driveways and garden spaces and achieve pleasant outlooks towards these spaces. External materials proposed for the dwellings with red/brown facing brickwork and clay plain tile roofs have also been selected to be in keeping with existing dwellings within the village. The proposed use of render to the

external walls of some of the proposed dwellings has also been chosen to be similarly in keeping.

A Soil and Agricultural Use and Quality Report identifies that the site is 100% grade 3a agricultural land. The land is considered not likely to be used as best and most versatile agricultural land under any future scenario due to geographic constraints, such as size and access. The topsoil is considered to be a high quality resource for re-use in gardening and landscaping.

The Heritage Assessment identifies one archaeological asset, being ridge and furrow, within the site and extending to the west beyond. Within the wider 1km study area, 13 designated assets exist along with a scheduled ancient monument (the cursus to the east of Aston). 23 non-designated archaeological assets are also noted on the Historic Environment Record (HER), which include pre-historic settlement remains, medieval ridge and furrow, post-medieval gypsum mining and quarrying remains. The ridge and furrow on the site is no longer visible, with it considered they are of low significance. However it is recognised that there is a possibility that this ridge and furrow masks prehistoric and/or ceremonial remains, which may possess significance. It is noted that an archaeological evaluation study, secured by condition, might be appropriate.

An Ecological Appraisal found no statutorily designated sites within the search area, and no notable habitats on site; but suitable habitat for nesting birds and commuting badgers was recorded on and immediately adjacent to site. On this basis it is recommended that vegetation clearance should avoid the nesting bird season whilst general good working practices with regards to badgers should be deployed during construction. In addition to any specific mitigation, consideration should be given to the use of native species or those with recognised benefit to wildlife in areas of soft landscaping to enhance the value of the site for wildlife.

The Drainage Strategy identifies that the site lies in an area of Zone 1 Flood Risk, and the site is not affected by surface water flooding. Ground conditions and space considerations indicate that roof water can be drained to soakaways with the relatively high water table not sufficiently high as to preclude their use, so long as a minimum of 1m is maintained between the bottom of the system and the water table. The available space on site would allow for adequate volumes to be accommodated within the site boundary. Should soakaway systems not be possible, then, as the flow rate from roof drainage should be low then this would be discharged into the closest available and acceptable drain/sewer, as the least preferred method. Trench systems would also be implemented, with additional drainage areas available to accommodate any further increase in capacity which may be encountered. Hardstanding areas would be laid in permeable materials with a permeable sub base, to minimize run off and provide an adequate level of infiltration drainage to the ground. Foul Water would be disposed of via a new intercept manhole and drain connecting to the existing Severn Trent Sewer.

Draft Heads of Terms for a Section 106 agreement are provided, setting out that the developer, based on a scheme of 11 net additional dwellings (those proposed and those approved under reference 9/2015/0264, minus the loss of 1 approved plot and 84 Weston Road), shall pay the appropriate contributions towards primary school,

secondary school and post-16 education places, as well as health (CCG) and open space. The developer agrees to sell four plots at a discounted price – two at approximately a 20% discount over market value, and two at approximately a 17.5% discount over the market value.

An informal pre-application consultation letter was sent to residents, as well as a further letter responding to comments made. Copies of these letters have been supplied.

Planning History

The main part of the site has no relevant history, but the route of the access is also the access as approved under permission ref: 9/2015/0264 for the demolition of 84 Aston Road and the erection of four dwellings. That development is well advanced with 3 of the 4 dwellings more or less complete. The remaining dwelling has not been constructed at this time as it lies across the access to the development now proposed.

Responses to Consultations

The County Planning Policy Officer advises that the development would generate the need to provide for an additional 2 primary pupils. Aston on Trent Primary School has a net capacity of 189 pupils and currently has 199 pupils on roll. Whilst the latest projections show this number to fall to 192 during the next 5 years, there are already 42 dwellings approved within the catchment creating a demand for an additional 8 primary pupils. As a result, the primary school would not have sufficient capacity to accommodate the 2 pupils generated. A contribution of £22,798.02 towards the provision of a classroom extension is requested.

The Open Space & Facilities Development Manager outlines the need to contribute towards outdoor sports and built facilities in the vicinity of the site, these being primarily facility developments at Aston Recreation Ground and improvements to the Community Sports Pavilion on Aston Recreation Ground. The sums would be determined on the basis of the normal amounts per bedroom (£373, £220 and £122.80 respectively) with a single request to date for those projects listed arising from the Moor Lane development.

The County Highway Authority notes they previously commented on application ref: 9/2015/0264 which was to construct 4 dwellings on part of this site. They did not raise objections to this. It is further noted that 3 of the 4 dwellings have been constructed and this current proposal is to construct an additional 9 dwellings making a total of 12 dwellings served from a private drive. This is considered acceptable to the Highway Authority subject to conditions being included on any consent granted.

The County Minerals Planning Officer advises that although there may be some sand and gravel resource at this site, its relatively small size and, in particular, its location surrounded by residential properties is likely to make it impracticable and unviable to extract the resource as part of the development. As a result, they raise no issues in respect of minerals safeguarding.

The Development Control Archaeologist advises the site corresponds to record for medieval ridge and furrow, although this is no longer extant in earthwork form because of arable ploughing of the site. More relevant is the general high potential for prehistoric archaeology in the area around Aston. The scheduled Neolithic cursus site is about 850m south-west and the prehistoric remains (Late Bronze and Iron Age open settlement) associated with the Aston Hall Hospital site are about 600m away. The heritage assessment notes that ridge and furrow earthworks may be masking further prehistoric remains and that there are examples of sites in the locale at which remains have only come to light through field evaluation, comprising geophysics and trial trenching. The site therefore has some potential for prehistoric archaeological remains, based on the concentration of remains in the vicinity, and on the recent work at Aston Hall Hospital and Derby Road. Archaeological field evaluation is necessary to establish the presence/absence and significance of remains within the proposal site. However, as this is a small site, further archaeological work could be deferred to a conditioned scheme to comprise a geophysical survey and evaluation trenching followed by further mitigation as appropriate in the event of significant findings.

Natural England has no comments to make.

The Lead Local Flood Authority (LLFA) considers it not unreasonable to assess this as a major application given the circumstances. They provide informal comments on the drainage strategy. Strategy 1 utilises soakaways and permeable paving and could be considered as a sustainable drainage strategy if an appropriate number of treatment stages were to be utilised. If the surrounding area were to be further utilised for housing, the appropriate volume of attenuation should be considered to ensure a greenfield rate of surface water disposal is attained. Strategy 2 - include attenuated storage either above or below ground, but the applicant should be aware that underground storage is not classed as sustainable drainage by the LLFA. Discharge should be restricted to greenfield rate and discharged using the surface water hierarchy.

The Environmental Health Officer has no objections in principle, subject to conditions to control the use of generators during construction, the hours of construction work and to require a scheme for dust mitigation.

At the time of writing responses have not been received from Derbyshire Wildlife Trust or the Southern Derbyshire CCG. If comments are received before the meeting, they will be reported verbally to Members.

Responses to Publicity

Aston on Trent Parish Council objects on the following grounds:

- i) the application falls outside of the Local Plan;
- ii) there is no provision for social housing;
- iii) the plans show a distinct lack of parking and no garages for residents;
- iv) there are too few visitor parking spaces; and
- v) the District Council has already stated within a previous refusal that Weston Road is not suitable for further development due to road access issues.

43 objections have been received, and a neutral representation, raising the following concerns/points:

Principle of development

- a) whilst acceptable, concerns that this could lead to further applications for the whole of the field – contrary to the Local Plan, such that restrictions on future applications should be considered;
- b) the proposal is contrary to the Local Plan, adopted and emerging;
- c) the proposal is on farmland outside of the settlement boundary;
- d) loss of greenfield instead of use of brownfield/infill;
- e) the discounted houses offered are not affordable housing in perpetuity;
- f) no affordable housing for rental purposes;
- g) the Gladman development has been turned down on similar matters;
- h) permissions exist elsewhere in the village so no need for this;
- i) against government guidelines relating to housing (garden) infill;
- j) a 5 year housing supply exists and the applicant's argument is out of date;

Landscape, character, design and heritage

- k) the land is suitable for agricultural use/high grade;
- l) loss of historic artefacts, considering the age of the settlement
- m) erosion of the gap between the two villages;
- n) unsuitable size of proposed gardens, not in keeping;
- o) scale of dwellings is unsuitable, some towering over adjacent bungalows;
- p) overlooking of existing properties;
- q) loss of view from existing houses;

Highway safety and capacity

- r) the access road is only 5m wide, inadequate for the number of vehicles which would need to use it;
- s) the site could be more safely accessed from Chellaston Lane;
- t) Weston Road is unsafe/unsuitable and busy in peak hours;
- u) refuse wagons and emergency vehicles would not be able to access;
- v) bin collections would need to be made at the Weston Road access, meaning up to 24 bins stored on collection day;
- w) problems with construction traffic at present;
- x) access opposite a bus stop and on a bend in the road;
- y) congestion at the access due to width and numbers of vehicles using it;
- z) pedestrian safety at the access;
- aa) inadequate parking provision and no garages/garden storage;
- bb) comprises parking provision for the original dwellings;
- cc) need for a turning head in the interim if this development goes ahead;
- dd) lack of frequent bus services;
- ee) the junction of Swarkstone Road and Cuttle Bridge is already difficult;

Infrastructure impacts

- ff) surgeries are already overstretched and it is already difficult to obtain an appointment at the medical centre;
- gg) the schools are at capacity, with little to no funding for increasing capacity at primary or secondary levels;
- hh) the amenities and infrastructure of the village cannot cope, and impacts of consent development still yet to be felt;

Drainage/flooding

- ii) use of soakaways not suitable;
- jj) the ground does not drain properly;

Protected species/biodiversity

- kk) loss of trees;
- ll) loss of wildlife and their habitat;

Pollution and ground conditions

- mm) increases in CO₂ from increased traffic;
- nn) increase in noise pollution;
- oo) existing driveway only has to be tarmacked for the first few metres before it can be gravel;
- pp) continued disruption whilst a further 9 plots are constructed;

Other matters

- qq) two points of further access to land beyond the site are shown;
- rr) services put in for the 4 dwellings are already capable of serving more;
- ss) existing works resulting in damage/removal of boundary treatments; and
- tt) a material change to the existing permission, in terms of number of houses and parking spaces, has not been sought.

Heather Wheeler MP has objected as the development is outside the settlement and provides valuable open space; it is development by stealth as the developer has indicated a desire to extend in the future and included access for this; the parking facilities are inadequate; the access to Weston Road is poorly designed; a part made road is not acceptable; and the promise of a price reduction is an uneasy thought, even if for local people and hopes this is not intended to sway opinion.

Two letters of support state:

- a) this a brilliant application for the local community with very little impact on day to day running in the village;
- b) it uses up unused fields away from main roads;
- c) there has been high interest from within the village and they see no reason why this application should not be approved considering the current lack of housing in South Derbyshire

- d) the affordable prices are a particular plus point in these current times;
- e) the smaller houses are a brilliant start for young people who want to live in the village but cannot afford the current costs of housing in Aston.
- f) considering the low number proposed, there is not a problem;
- g) the houses would allow more people to use the post office and village shops; and
- h) there won't be cars parked on the road as the development is set further back.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), H1 (Settlement Hierarchy), H20 (Housing Balance), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), SD5 (Minerals Safeguarding), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF6 (Community Facilities), INF7 (Green Infrastructure) and INF9 (Open Space, Sport and Recreation).
- 1998 Local Plan (saved policies): H5 (Village Development), H8 (Housing Development in the Countryside), EV1 (Development in the Countryside), EV9 (Protection of Trees and Woodland), EV11 (Sites and Features of Natural History Interest) and EV14 (Archaeological and Heritage Features).

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: SDT1 (Settlement Boundaries and Development), H23 (Non-Strategic Housing Allocations), BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage).

National Guidance

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

Local Guidance

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

Planning Considerations

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

- Principle of development;
- Housing mix and tenure;
- Agricultural land quality;
- Landscape and visual impacts;
- Impact on heritage assets;
- Biodiversity/ecology;
- Highways;
- Drainage;
- Layout, design and residential amenity; and
- Infrastructure capacity and mitigation

Planning Assessment

Principle of development

The application must be determined in accordance with the Development Plan unless there are material considerations that indicate otherwise.

Policy H1 sets out the settlement hierarchy for the District with Aston-on-Trent defined as a Key Service Village (KSV) where the scale of development should respect the capacity of services and facilities to support the development in principle. It is on this basis that strategic allocations were made down to KSV level in the Local Plan Part 1 (LP1) with non-strategic allocations to be considered under the Part 2 (LP2) process. This site does not benefit from an adopted or emerging allocation in either part of the Plan, and with it sat outside of the settlement confines (both adopted and emerging), it conflicts with the Development Plan. Regard is had to policy H1 where exceptions are allowed for affordable housing delivery, and regard is had to the proposal to provide for 4 discounted dwellings and the criteria for exception sites under the 'Housing mix and tenure' section below. Saved policies H5 and EV1, along with emerging policies SDT1 and BNE5, work alongside policy H1 and the allocations made in the LP1 and LP2 to steer new housing development to the most sustainable locations whilst providing the balance of protecting the intrinsic qualities of the South Derbyshire countryside. This successfully executes the strategic aims of policy S1 and provides a plan-led system for the District – reflecting the first bullet of paragraph 17 of the NPPF and the definition of sustainable development.

It is recognised that the applicant considers the Council cannot demonstrate a deliverable 5 year supply of housing, and in turn the relevant policies for the supply of housing should not be considered up-to-date. In light of the recent Supreme Court ruling, this would extend to policy H1 and saved policy H5 only. Notwithstanding this position, appeal decisions in recent years have recognised that a shortfall in housing supply might constitute an 'unavoidable need' under saved policy EV1 (or even emerging policy BNE5 which will replace that policy).

Adoption of the LP1 in summer 2016 meant that the Council could demonstrate a 5 year housing supply. This supply is made up of over 13,600 dwellings across the Plan period, against an actual assessed need of 12,618. The method of calculating supply brings forward the recent shortfall and applies the 20% buffer advocated by the NPPF, and still bakes in an 'oversupply' across the Plan period – address the shortfall and delivering projected needs in the most sustainable fashion. Some 700 further dwellings are to be allocated under the LP2, highlighting the pragmatic approach to maintaining supply and achieving overall delivery, and this part of the Plan has recently completed examination without supply issues raised by the Inspector. Indeed the main modifications presently being consulted upon do not introduce, increase or decrease the scale, or remove any of the emerging allocations and numbers therein. The Council is thus looking to provide well above the minimum housing requirements for the Plan period, meeting the intentions of the NPPF to 'significantly boost the supply of housing'.

The Council's published position is that a supply of 5.75 years exists. Whilst the Jawbone Lane appeal decision is noted, where the Inspector considered the supply fell just short of 5 years; that appeal decision was predicated on his acceptance of an alternative 'start date' for calculating the rolling supply and on now superseded supply data. Nonetheless, in the same decision the Inspector confirmed that the Council would be able to demonstrate a 5.27 year supply under the alternative methodology from 2017. That date has come and, by reference to the latest supply paper, a greater supply actually exists. This supply will be further boosted by the adoption of the LP2 in the autumn.

Further regard is had to the status of the settlement confines in the interim period between the adoption of the LP1 and LP2, where the 1998 confines still persist. The Inspector in the Mandarin appeal took the view that the age of the boundary in Hilton made saved policy H5 out of date. However, he did not say the same about policies S4 & H1 which direct housing to within settlements, unless otherwise allocated or an exception site. He also, oddly, did not find a deficiency in the housing supply to reach the conclusion that the confines were not delivering the District's housing needs. Recent case law has confirmed that the age of a settlement boundary is not the determining factor – it is whether it is preventing the significant boost of housing the NPPF seeks to secure. Given the above discussion regarding housing supply and the advanced stage of the LP2 (which does not propose to extend the confines around Aston further than for the Richmond and Moor Lane sites), the settlement confines can be relied upon.

Housing mix and tenure

The applicant proposes to offer 4 plots at a discounted price:

- Plots 8 and 9 at £165,000 each, representing approximately a 20% discount over the market value of £205,000; and
- Plots 4 and 5 at £235,000 each, representing approximately a 17.5% discount over the market value of £285,000.

Notwithstanding the foregoing discussion as to locational strategy for the delivery of housing, policy H1 of the LP1 allows for development of all sizes within the

settlement boundary “and sites adjacent to settlement boundaries as an exceptions or cross subsidy site as long as not greater than 25 dwellings”. The glossary to the LP1 defines a rural exception site as “a site which would not normally secure planning permission for housing due to being adjacent to a settlement boundary but is allowed for development solely for affordable housing” whilst a cross subsidy site is a site “that would not normally secure planning permission, however development of the site is granted for both affordable and some private housing to allow the site to be viable” [emphasis added].

The LP1 definition of affordable housing includes Intermediate Housing where it is necessary to look at the definition in the NPPF:

“Intermediate housing... can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing. Homes that do not meet the above definition of affordable housing, such as “low cost market” housing, may not be considered as affordable housing for planning purposes” [emphasis added].

Policy H21 further expands on the exceptions allowance under H1:

Rural exception sites that are kept in perpetuity (subject to the affordable product being considered) as affordable housing for local people, will be permitted adjoining existing Key Service Villages, Local Service Villages and Rural Villages, the number of dwellings to be in accordance with Policy H1 as an exceptional circumstance to normal policy where:

- i) The homes meet a clearly identified local need;*
- ii) the development provides a majority of affordable homes;*
- iii) the need cannot reasonably be met within the development limits of the village concerned or the submarket area the site falls within as detailed in the SHMA; and*
- iv) the development is in a scale relative to the settlement size and facilities available particularly public transport and does not have any unacceptable adverse impacts on the natural and built environment.*

The supporting text to the policy states “the houses provided on a ‘rural exception site’ will be for identified locally specific needs through evidence collected by the Strategic Housing team. It is also possible that an identified need cannot be dealt with without some subsidy. This could be achieved through a ‘cross-subsidy’ site where a small proportion of the site is allowed for market housing which helps to deliver the required affordable housing in the area” [emphasis added].

In assessing the principle, regard is had to the emphasised elements of the policies, supporting text and glossaries. It is clear that the applicant’s offer is not for a ‘true’ exception site (i.e. 100% affordable). Attention is given to whether the proposal would qualify as a cross-subsidy site.

The starting point is whether the proposed ‘product’ is affordable in terms of the NPPF. Affordable rent cannot exceed 80% of market value which immediately raises question over the legitimacy of the 17.5% purchase discount offered on plots 4 and

5. Similarly so the 20% discount on plots 8 and 9. Moreover, the NPPF explicitly rules out low cost market housing as being an affordable product. The applicant's offer appears to be just that – market housing, but simply reduced in price by a nominal amount. Affordable and cross-subsidy sites should also be kept in perpetuity for such purposes. The applicant's approach is to simply offer a discount to the first occupiers, whereupon they become market units for any subsequent sale, taking on a value driven by the local market. Notwithstanding these points, the market values quoted above are not informed by viability or land registry evidence, such that the affordable values cannot be properly verified.

Even if the above fundamental issue were addressed, the 4 plots would represent 44% of that currently proposed under this application, and 33% of the overall number resulting from the wider development of 12. In neither circumstance does this represent a majority. The market housing element is not a 'small proportion', nor is it shown how some market housing would help to deliver the required affordable housing (i.e. at what point does an otherwise unviable affordable led scheme become viable, working backwards from 100% affordable).

Furthermore, attention is given to whether the proposed offer meets an identified local need. The SHMA identifies a wide need for affordable housing, but there is a lack of local level data, usually gathered at Parish level. The housing proposed is all 3 bed units – there is some concern this may not truly fulfil local requirements. No evidence has been presented which demonstrates the affordable needs cannot be met elsewhere within the settlement or within such locations within the housing sub-market area.

The applicant's offer to sell 4 plots at between 17.5% and 20% less than market value cannot be taken to be an affordable housing offer in planning terms, and hence no weight is afforded to it. All 9 dwellings proposed must be treated as market housing for the purposes of this application.

As a consequence of the overall position in respect of the Development Plan, paragraph 49 of the NPPF is not engaged and in turn the 'tilted balance' under paragraph 14 cannot be applied. The development of 9 dwellings outside the settlement boundary of Aston is contrary to a raft of policies designed to guide and deliver housing in the District in a sustainable manner, and the development of this site is not unavoidable. Accordingly the principle of development on this site is not appropriate.

Agricultural land quality

The site has been the subject of a Soils & Agricultural Quality Report, which identifies that the site as 'Best and Most Versatile' (BMV) (100% of the site is Grade 3a). The land is presently part of a wider field which is sufficiently large enough to accommodate modern agricultural machinery. The applicant argues that access is limited, but vehicular access is presently possible and the constraint extends to a blockwork garage at the access off Chellaston Lane which could be easily removed so to facilitate the easier passage of machinery. The nature of the site is suitable for arable and horticultural uses, the latter which require higher grade land; and this is still a potential option going forward.

Policy BNE4 of the LP1 and paragraph 112 of the NPPF seek to protect BMV agricultural land, and wherever possible direct development to areas of lower/poorer quality land. The applicant provides little justification for this loss – simply that the housing is required to meet needs. The PPG states *"where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality"*. Whilst no prescriptive methodology is set out, the general 'flavour' of appeal decisions dealing with this form of conflict has been to seek a sequential analysis of alternative sites to ascertain whether the proposed site needs to be released. In this case no such analysis has been undertaken and it is unlikely to provide support to the proposals given a 5 year supply exists, the site does not feature in the emerging LP2 and there are many sites of poorer quality land in the SHLAA which could fare better than this.

Hence, there is conflict with policy BNE4 which does not qualify that loss of BMV land has to be significant. Given the relatively low availability of BMV land across the District; it is perhaps not surprising that this policy was not modified to include such qualification before its adoption. It is therefore arguably that the loss is significant in terms of the NPPF, the LP1 process having identified the need to retain as much BMV land in the District as possible. The negative economic and environmental effects from the loss of BMV land weigh against the sustainability of the proposal.

Landscape and visual impacts

The site is located within the national 'Trent Valley Washlands' character area, and the local 'Lowland Village Farmlands' character area. These character areas are described as gently rolling, almost flat, lowland with river terraces, containing mixed farming with arable cropping and improved pasture, medium to large regular fields with thorn hedgerows, and discrete red brick villages with farms and cottages. It is considered that these character areas are reasonably accurate in describing the landscape character of the application site. It is acknowledged that the site does not exhibit the qualities that would deem it to be a 'valued' landscape for the purposes of the NPPF. However, this does not mean that the site is not valued locally and an assessment needs to be undertaken as to the impact of the proposed development on the character and appearance of the area.

There are a number of policies which are relevant to this assessment. Indeed the objectives of the LP1 and the LP98 are clear that new developments need to protect and enhance the open countryside and the quality of the landscape, and preserve the identity, character and environmental quality of South Derbyshire's villages and rural settlements. Policy S1 of the LP1 highlights that *"it is essential that the District's heritage assets, landscape and rural character are protected, conserved and enhanced"*. Policy BNE1 seeks, amongst other objectives, to ensure that new developments create places with locally inspired character that responds to their context and have regard to valued landscapes, townscape, and heritage characteristics. With new developments expected to be visually attractive, appropriate, which respect important landscape, townscape and historic views and vistas. Landscape character and local distinctiveness considerations are further set out in policy BNE4. This policy seeks to protect the character, local distinctiveness

and quality of the District's landscape through careful design and the sensitive implementation of new development. In particular part B of the policy sets out that *"...development that will have an unacceptable impact on landscape character (including historic character), visual amenity and sensitivity and cannot be satisfactorily mitigated will not be permitted"*.

The site comprises part of an undeveloped agricultural field, enclosed by residential development to 3 sides. This situation, along with no public aspects other than from the turning head on Ellison Avenue, limits any open character of the site. It's enclosure by residential development to the northern extent proposed is not considered to affect the landscape character. With the proposed dwellings of similar scale to those adjoining the site, albeit in the majority set back beyond long gardens, the development would be seen against the existing backdrop of built form. With the proposed hedgerow along the northern edge, punctuated by trees, the visual impact of the development is limited. Accordingly, whilst having an effect on the landscape, the proposal would not have an undue impact on landscape character, nor represent an obvious visual intrusion into the countryside.

Impact on heritage assets

As noted above, the site lies within an area of high archaeological potential and further work secured by condition can reveal any interest. With the site not influencing the setting of listed buildings or the character of a conservation area, the level of harm arising from the development of the site is considered to be outweighed by the public benefits of market housing arising in heritage respects only.

Biodiversity/ecology

At the time of writing, the Wildlife Trust has not responded to consultation. However, the Ecological Appraisal points to just potential impacts from the construction phase to nesting birds and badgers which may use the site for foraging. No potential bat roosting habitat was identified on site due to the lack of trees and buildings on it. Nesting birds can be mitigated for by way of timing the removal of vegetation, whilst badgers can be safeguarded by way of working practices, such as closure of open pipes overnight and escape routes from open trenches. Notwithstanding any matters subsequently identified by the Trust, conditions can address these residual concerns. Conditions can also seek to secure biodiversity enhancement by way of the hedgerow creation, tree planting and other wildlife enhancements. The proposal is therefore compliant with policy BNE3 and paragraph 118 of the NPPF.

Highways

The concerns as to capacity of the local road network and the safety of particular junctions are noted. Notwithstanding the response of the Parish Council, the suitability of Weston Road has not been used as a reason to previously resist development. The County Highway Authority notes that the access is secured under the extant permission for the 4 dwellings, and that it is suitably designed to accommodate further vehicle flows without harm to highway safety. The number of movements associated with an additional 8 dwellings over that previously accepted is not considered to materially affect vehicle flows through the village and at key

junctions in the locality. With the above points in mind the highway impacts are considered to satisfy policy INF2 of the LP1.

Drainage

The wider development would reach a scale of 'major' development. It is normal to expect that sustainable drainage techniques are deployed on such developments to ensure that surface water is drained for the site at greenfield rates. The response of the LLFA makes it clear that underground attenuation chambers would not qualify as sustainable drainage. However, there appears to be a suitable solution possible which can be secured by way of condition.

Layout, design and residential amenity

Policy BNE1 outlines specific criteria that should be adhered to when designing new developments. The NPPF supports this policy, as well as more specific guidance in the PPG. All these documents advocate developments with locally inspired character which respond to their context, function well and add to the overall quality of the area over the lifetime of the development. Policy SD1 supports development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers, and again paragraph 17 of the NPPF supports this principle.

The layout is detailed and shows suitable separation between dwellings in the main. The only conflict arises in respect of plot 3 (as approved) and plot 4 (as now proposed) with the latter interfering with the 45 degree line drawn from forward facing windows, causing shading impacts. However, plot 4 of the approved scheme is sited some 12-13m directly opposite. Either way, the occupants of plot 3 will experience some shading to these forward facing windows. It is also understood that the plot is not yet occupied. The rest of the layout is suitable, with decent sized gardens and space for informal amenity and tree planting. The extent of highway/driveway and circulation space is of some concern, where the turning head could be solely at the northern end of the site with a private driveway leading down to plot 12, and detached parking spaces for some of the dwellings moved 'on plot' – minimising the urbanising appearance a little, but conditions can mitigate a little by securing suitable materials. In any case, given the recommendation below, amendments could address this concern going forward.

The scale of dwellings is appropriate, with ridge heights typical of two-storey dwellings in the area. The single 2.5 storey dwelling is possibly a little out of sync with the surrounding plots, but given the lack of dormers and use of rooflights instead it is not considered an objection could be sustained. Boundary treatments, surfacing and facing materials and detailing can be handled by way of condition.

Infrastructure capacity and mitigation

The capacity of the local highway network is discussed above. The quality of the bus service is an existing shortcoming and would not be worsened by this proposal, nor does it make the proposal unsustainable outright. It must be recognised that increases in population can assist in sustaining some services, whilst exceeding the

capacity of others. The shops, for instance, might benefit economically but the environmental effects of increased traffic and pollution may temper such benefits.

The evidence for financial contributions towards education is set out in the consultation responses above. This sum is considered to be CIL compliant and could be secured under a section 106 agreement. Any response received in respect of healthcare will need to be reviewed on the same terms. The scale of the development as a whole now warrants contributions towards open space, outdoor sports and built facilities, although as it is not appropriate to charge for the 1 plot and number 84 Weston Road 'surrendered' for access, calculations should be based on 11 dwellings only. These would be put towards projects pursuant to the draft Open Space, Sport and Community Facilities Strategy.

In summary, the proposal would secure the following contributions:

- £22,798.02 towards a classroom extension at Aston on Trent Primary;
- £14,547.00 towards open space improvements in the locality (project to be confirmed);
- £8,580.00 towards outdoor sports facility developments at Aston Recreation Ground; and
- £4,789.20 towards built facilities improvements at the community sports pavilion on Aston Recreation Ground.

Summary

The Development Plan is the starting point for decision making and a proposed development that conflicts with it should be refused unless other material considerations indicate otherwise. The position is that in excess of a 5 year housing supply can be demonstrated and policies relevant for the supply of housing can be relied upon – even where they relate to settlement boundaries which were set some time ago. This approach accords with recent judgements. With the LP2 close to adoption, the supply will increase further in the next few months and there are no indications that the shortfall to date cannot be catered for in the manner envisaged when the LPP1 was found sound and subsequently adopted.

In considering whether the proposal actually constitutes sustainable development as set out by the three dimensions in the NPPF, the provision of 9 dwellings compliments the economic and social roles through facilitating the availability of housing as well as the construction and subsequent input to the local economy. However, the loss of BMV agricultural land is considered to carry considerable weight against the proposal. Moreover, this proposal is an unplanned approach to the strategic and sustainable delivery of housing across the District advocated by the plan led system – in particular policies S1 and S4. With the site not featuring in the emerging LP2, having been discounted by the Council in its preparation of this, there is further indication that the development is not sustainable in principle – it failing to achieve the mutually balanced approach under paragraph 7 of the NPPF, and the specific environmental harm which arises from the development confirms this. Consequently, it is not considered there are other material considerations which outweigh the primacy of the Development Plan.

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

Recommendation

REFUSE permission for the following reasons:

1. The site is located outside the settlement confines for Aston on Trent and does not benefit from an allocation in the Local Plan Part 1 or emerging Local Plan Part 2. The proposed development also fails to qualify as a cross-subsidy or affordable led scheme. With the proposal not benefitting from any other policy presumption in favour, and the Council being able to demonstrate in excess of a 5 year deliverable supply of housing land, no justification exists in order to justify a departure from the plan-led approach to sustainable delivery of objectively assessed housing needs within the District. The proposed development would therefore represent an unwarranted incursion in to the countryside, leading to the unjustified loss of greenfield land and not representing sustainable development in principle, contrary to policies S1, S4 and H1 of the Local Plan Part 1, saved policies H5 and EV1 of the Local Plan 1998, emerging policies SDT1 and BNE5 of the Local Plan Part 2, and the provisions of the NPPF.
2. The site is identified as wholly grade 3a agricultural land, considered to be 'Best and Most Versatile' (BMV). The economic and other benefits of BMV agricultural land should be recognised through the planning system, with such land safeguarded as far as is practicable by steering new development towards areas of poorer quality land. The applicant has failed to demonstrate that the development of this site is necessary and could not be accommodated elsewhere on a lower quality of land, especially when a 5 year housing land supply exists and the site is not an emerging allocation in the Local Plan Part 2. Given the limited availability of BMV agricultural land in the District, the loss is considered to be significant and contrary to policy BNE4 of the Local Plan Part 1, saved policy EV1 of the Local Plan 1998, emerging policy BNE5 of the Local Plan Part 2, and paragraphs 17 and 112 of the NPPF (along with accompanying practice guidance).

Informatives:

1. Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions and liaising throughout the course of the application. However despite such efforts, there remains fundamental planning objections and issues cannot be overcome, either in principle or at this time. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result	Cttee/Delegated	Page
9/2016/1034	Woodville Road, Overseal	Seales	Allowed	Committee	69
9/2016/1048	Staker Lane, Mickleover	Etwall	Split	Delegated	76
9/2017/0152	Stenson Road, Derby	Stenson	Dismissed	Delegated	83

Appeal Decisions

Site visit made on 13 June 2017

by Paul Dignan MSc PhD

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

Decision date: 19 July 2017

Appeals A and B: APP/F1040/C/16/3161258 & 3161259

Land on the north west side of 149 Woodville Road, Overseal, Swadlincote, Derbyshire, DE12 6LX.

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr John Doherty and Mrs Theresa Doherty against an enforcement notice issued by South Derbyshire District Council.
 - The enforcement notice, numbered E/2016/00016, was issued on 23 September 2016.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of the Land from vacant garden land to use as a residential caravan site, including the siting and occupation of a residential caravan, the importation of hardcore onto the Land, raising of ground levels and construction of a concrete pad, the siting of 2 wooden sheds, 2 portable toilets, parking of commercial and private vehicles, plant and equipment, and the erection of pole mounted floodlights.
 - The requirements of the notice are : 1) Cease the residential use of any part of the Land; 2) Cease any operations to raise the ground levels of any part of the Land; 3) Remove from the Land the static caravan, 2 wooden sheds, 2 portable toilets, all motor vehicles, all plant and equipment, all pole mounted floodlights, and any and all other commercial and residential chattels; 4) Remove from the Land all hardcore, stone, concrete and all other unauthorised material deposited thereon to an authorised place of disposal.
 - The period for compliance with the requirements is 90 days.
 - The appeals are proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended.
-

Appeal C: APP/F1040/W/16/3164720

Rear of 137-149 Woodville Road, Overseal, Derbyshire, DE12 6LX.

- 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 John Doherty against the decision of South Derbyshire District Council.
 - The application Ref. 9/2016/1034, dated 30 September 2016, was refused by notice dated 30 November 2016.
 - The development proposed is Change of use of land to Gypsy caravan site comprising of 5 pitches, including an amenity building, installation of pumping station, construction of access and landscaping including walling.
-

Decisions

Appeals A and B

1. The appeals are dismissed and the enforcement notice is upheld.

Appeal C

2. The appeal is allowed and planning permission is granted for *Change of use of land to Gypsy caravan site comprising of 5 pitches, including an amenity building, installation of pumping station, construction of access and landscaping including walling* at land at the rear of 137-149 Woodville Road, Overseal, Derbyshire, DE12 6LX in accordance with the terms of the application, Ref. 9/2016/1034, dated 30 September 2016, and the plans and supporting documents submitted with it, subject to the conditions set out in the Schedule to this decision.

Background

3. The appeal site in all of these appeals is a block of land at the rear of 137 to 149 Woodville Road, with access onto Woodville Road running between Nos 147 and 149. Much of the land appears to have been former orchard land, the remainder having been parts of the rear gardens of Nos 147 and 149. Planning permission was granted in December 2014¹ for the erection of 4 detached houses on the site. Prior to that permissions had been granted for a detached bungalow at the rear of No 149 and for 4 houses at the rear of Nos 137-147. The highway access for the 2014 4-house scheme also runs between Nos 147 and 149.

Appeals A and B – Enforcement Notice appeals

Ground (f)

4. The site is currently being used for the stationing of a mobile home for residential purposes. Along with this there has evidently been substantial land-raising and re-profiling using imported materials, and the construction of a large concrete hardstanding and the other items of operational development set out in the notice. The mobile home and the sheds are sited on the concrete hardstanding.
5. This ground is that the steps required exceed what is necessary to remedy the breach, or any harm to amenity, as the case may be. In this case the requirements of the notice are clearly aimed at remedying the breach by the restoration of the land to its former condition. What is sought under this ground is a variation of the requirements to enable the appellant to continue to live on the site while he implements any permission granted on Appeal C. However, Appeal C is for a different development. In the absence of an appeal on ground (a), which would have allowed planning merits to be considered, an appeal on ground (f) in a case such as this is limited to an argument that the steps specified in the Enforcement Notice exceed, as a matter of fact, what is necessary to restore the land to its condition before the breach took place. In short, variation of the requirements to achieve what is sought by the appellant is not within my power under section 176(1)(b) of the 1990 Act. The appeal on this ground cannot succeed.

Ground (g)

6. The time for compliance is 90 days. Under this ground the appellant seeks to extend the period to 9-12 months, but the reason given, again contingent on the success of Appeal C, is in order to enable the appellant to continue to live

¹ Ref. 9/2014/1001

on the site until the Appeal C planning permission is fully implemented. However, the reasons for issuing the notice include harmful off-site environmental impacts arising from the current unauthorised and unregulated use, and it would not be reasonable in my view to allow that to continue while a separate permission for a different development was implemented. The appeal on this ground fails accordingly.

Appeal C – appeal against the refusal of planning permission

7. The Council found the proposed development of the site for 5 gypsy and traveller pitches to be acceptable in all respects, subject to appropriate conditions and a planning obligation, save for one matter. That is the potential harm to the living conditions of neighbours due to the movement of commercial vehicles into and out of the site, having regard to the close proximity of the site access to neighbouring properties.
8. The 4.25m wide access to the site passes directly alongside the side elevation of No 149 and continues between the rear gardens of Nos 147 and 149 to a turning circle just behind the 2 rear gardens, as with that for the approved 4-house scheme. Walls and piers forming part of the access shown on the application plans have already been built. Due to the proximity of the access to these properties and its unmade surface, and on the basis that the appellant would continue to operate his landscaping business from the site using 'larger commercial vehicles', the Council's Senior Environmental Health Officer advised that the development could cause disturbance to neighbours due to 'significant levels of noise'. However, he subsequently advised that a condition precluding commercial activity or outside storage related to any trade of business, and also precluding commercial vehicles or machinery being brought onto, parked or stored on the site would address his concerns regarding noise from vehicle movements. On this basis the Planning Officer's report to Committee recommended approval, subject to the completion of an undertaking under section 106 of the Act to secure mitigation of impacts on the River Mease Special Area of Conservation (SAC).
9. However, the Committee considered that the imposition of a condition restricting commercial activity and vehicles/machinery would not be reasonable having regard to the likelihood of employment of the occupants in the construction/groundworks sector. It noted that a complete ban on commercial vehicles might frustrate the use of the site for the intended occupants, and also that enforceability issues may arise where ostensibly commercial vehicles are used also for day-to-day residential purposes.
10. Having accepted the suitability of what to all intents and purposes is the same access to serve the approved 4-house scheme, I find it difficult to see how it can be argued that a 5-pitch traveller site with restrictions on commercial activity would generate materially more noise and disturbance in the vicinity of the neighbouring properties. The materials used for surfacing the access way can be secured by condition, and it is commonplace to both preclude commercial activities and restrict vehicles using traveller sites by maximum authorised mass, usually 3.5 tonnes. I can see no good reason why such conditions would not satisfactorily address the issue of noise and disturbance arising from the use of the access, nor do I consider the use of such conditions to be unreasonable or in any other way contrary to the governments advice on the use of conditions set out in the Planning Practice Guidance (PPG). A

number of traveller sites in the District are subject to conditions restricting commercial activities and the keeping on site of vehicles over 3.5 tonnes, and the Council has not expressed any concern about the imposition, efficacy or enforceability of those conditions, having regard to the PPG advice. The Council has pointed out that the other sites referred to do not have the same relationship with adjoining occupiers, but whilst I accept that this site may be more sensitive, there is not evidence that the proposed development would be likely to have a materially greater impact in terms of noise and disturbance than the approved housing scheme.

11. I note that the Council has expressed doubt that the 2014 permission could still be implemented, and hence that it remains as a valid fallback. However, it has clearly accepted the principle of such an access, and it has not satisfactorily explained why the use of the access to serve a traveller site would cause materially greater noise and disturbance, to the extent that it would cause unacceptable harm to the amenity of neighbours. I have also noted the Council's concern about highway visibility at the access, which included a sightline across the front corner of No 149, a property which was formerly within the appellant's control, but no longer is. However, there is no particular reason to expect that the visibility splay would not be retained as indicated. Further, the 2.4m x 43m splay shown on the 2014 plans, which is satisfactory, only just crosses the very front of No 149, where planning permission would be required to build the existing low boundary wall above 1m.
12. So far as it concerns the use of the access, I am satisfied that the living conditions of the occupiers of neighbouring properties can be protected by the imposition of conditions to control the use of the site and the surface materials. Policy H22 of the South Derbyshire Local Plan Part 1 2016 (LP1) sets out criteria for traveller sites, including a requirement that the movement of vehicles to and from the site will not cause undue disturbance or be inappropriate for the locality, while Policy SD1 provides that development should not lead to adverse impacts on the amenity of existing or future occupiers within or around proposed developments. On the basis of the evidence before me I am satisfied that the proposed development of the site would accord with these development plan policies, and with the development plan read as a whole. In coming to this view I have accorded weight to the section 106 undertaking provided which I consider is necessary to avoid harm to the River Mease SAC, in accordance with the adopted River Mease Special Area of Conservation Water Quality Management Plan Developer Contribution Scheme.
13. I have considered the conditions suggested by the Council. Since the development proposed is a gypsy and traveller site, and I have had regard to the relevant specific local policy in coming to my conclusions, an occupancy condition, whereby the pitches on the site could only be occupied by a gypsy and traveller meeting the planning definition, is necessary. In the interests of the character and appearance of the site and surrounding area, and to safeguard residential and visual amenity and the environment, I shall also impose conditions requiring the submission of details of landscaping, site levels, the means of foul and surface water drainage, details of materials to be used for hardstanding and for the external surfaces of the amenity building, and I shall remove permitted development rights relating to walls, fences and means of enclosure. For the same reasons I shall limit the number of caravans using the site, and preclude commercial activity. In view of the lack of

appropriate documentation for the considerable quantity of materials brought onto the site, and which must be removed as required by the enforcement notice, I shall require that contamination be investigated and controlled if present. Conditions requiring arrangements for traffic control when static caravans are brought onto the site and ensuring that parking and manoeuvring areas are kept available at all time are necessary in the interests of highway safety. I shall also specify that the development be carried out in accordance with the submitted plans, but since the development has already commenced the suggested commencement condition is not necessary. Where necessary I have reworded the suggested conditions.

Overall conclusion on Appeal C

14. For the reasons given above, and having considered all other matters raised, including the representations of nearby residents, I conclude that the proposed development is acceptable in planning terms and accords with the development plan read as a whole. It follows that the appeal should succeed.

Paul Dignan

INSPECTOR

SCHEDULE OF CONDITIONS: Appeal APP/F1040/W/16/3164720

- 1) 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).
- 2) The development hereby permitted shall be carried out in accordance with Drawing Nos. PD118/502 Rev A and PD118/503 Rev A, unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
- 3) There shall be no more than 5 pitches on the site and on each of the 5 pitches hereby approved no more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended, shall be stationed at any time, of which no more than 1 caravan shall be a static caravan.
- 4) No commercial activity or outside storage related to any trade or business shall take place on the site, and (other than for construction works in implementing this permission or the bringing of static caravans to or from site) no vehicle over 3.5 tonnes and no commercial machinery or equipment shall be brought to, parked, stationed or stored on the site.
- 5) 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; no gates, walls, fences or other means of enclosure shall be erected on the site (except as authorised by this permission or required by any condition

- attached thereto) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.
- 6) There shall be no further development until details of the finished ground levels for the pitches and areas of hardstanding and landscaping have been submitted to and approved in writing by the Local Planning Authority. These details shall be based on a topographical survey of the site carried out following the removal of existing material on the site. Thereafter the development shall be implemented in accordance with the agreed levels.
- 7) Notwithstanding the approved plans, no further development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. This scheme shall include evidence of infiltration testing and details that demonstrate that proposed surface and foul water drainage means are of suitable capacity to accommodate flows, as well as setting out measures to ensure the maintenance and continued efficient operation of the surface and foul water drainage facilities (including alarm systems and mitigation measures in the event of a failure of any pumping stations). The scheme shall be carried out in strict conformity with the approved details before the development is first occupied and the drainage facilities shall be managed in accordance with the approved maintenance plan thereafter.
- 8) a) No further development shall take place until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to and approved in writing by the Local Planning Authority, and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of Section 3.1 of the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the Local Planning Authority dispenses with any such requirement specifically and in writing.
- b) Prior to occupation of the development (or parts thereof) an independent verification report must be submitted, which meets the requirements given in Box 2 of Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- c) In the event that it is proposed to import soil onto site in connection with the development, this should be done to comply with the specifications given in Box 3 of Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- d) If required by the conceptual site model, no development shall take place until monitoring at the site for the presence of ground gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the Local Planning Authority, which meets the requirements given in Box 4, Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- 9) Prior to the construction of the amenity building, precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building shall be submitted to and approved in writing by the Local Planning

Authority. The work shall be carried out in accordance with the approved details.

- 10) Prior to the creation of any hardstanding, details of the surfacing materials shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall thereafter be used. Where porous materials are used, subsequent repair and maintenance of those surfaces shall be undertaken with an equivalent material.
- 11) Prior to any caravans being brought onto the site, a scheme to provide a banksman or traffic control to control the traffic whenever the static caravans are moved shall be submitted to and approved in writing by the Local Planning Authority. Thereafter movement of caravans on or off the site shall be carried out in accordance with the approved scheme.
- 12) The parking and turning areas between the caravans shall be laid out on each pitch prior to the first occupation of any caravans on that pitch and shall be thereafter maintained throughout the life of the development free from any impediment to its designated use as such.
- 13) Notwithstanding any details shown on the submitted plans, no further development shall take place until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 14) All planting comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the site or the completion of the development, whichever is the sooner; and any trees which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.



Appeal Decision

Hearing held on 4 July 2017

Site visit made on 4 July 2017

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 28th July 2017

Appeal Ref: APP/F1040/W/17/3169303

Long Croft, Staker Lane, Mickleover, Derby DE3 0DJ

- 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 Mrs R Thomas against the decision of South Derbyshire District Council.
 - The application Ref 9/2016/1048, dated 6 October 2016, was refused by notice dated 19 December 2016.
 - The development proposed is erection of new staff accommodation, creation of new car park area and re-opening of existing gated access.
-

Decision

1. The appeal is dismissed insofar as it relates to new staff accommodation.
2. The appeal is allowed insofar as it relates to creation of new car park area and re-opening of existing gated access and planning permission is granted for creation of new car park area and re-opening of existing gated access at Longcroft, Staker Lane, Mickleover, Derby DE3 0DJ in accordance with the terms of the application, Ref 9/2016/1048, dated 6 October 2016, subject to the conditions set out in the Schedule to this Decision.

Application for Costs

3. An application for costs made by the appellant against the Council is the subject of a separate Decision.

Procedural Matters

4. The address of the appeal site given on the application form and set out in the banner heading above is 'Long Croft'. However, it was confirmed at the Hearing that the appeal site is in fact called 'Longcroft', and I have therefore used this address in the formal Decision.
5. Following the Council's determination of the application which is the subject of this appeal, the South Derbyshire Local Plan Part 2 (the LPP2) was submitted to the Secretary of State for examination in January 2017. The examination hearing sessions took place in April 2017, and consultation is now ongoing on the main modifications. Since the emerging plan is at an advanced stage of preparation, in accordance with paragraph 216 of the National Planning Policy Framework (the Framework) I have had regard to relevant LPP2 policies and afforded them significant weight in reaching my decision.

Background and Main Issue

6. Longcroft Kennels and Cattery contains a range of buildings which house up to 65 dogs and 30 cats. The site is located outside a defined settlement within the open countryside.
7. The main issue is whether the proposed staff accommodation would amount to a new dwelling and, if so, whether adequate justification exists for a new dwelling in the countryside, having regard to the essential needs of the enterprise.

Reasons

8. The proposed staff accommodation would be provided within a self-contained building which would comprise a bedroom, shower room and open plan kitchen, living and dining room. As such, the development would provide residential accommodation which would afford those who used it all the facilities required for day-to-day private domestic existence. It would thus have the distinctive characteristics of a dwelling house.
9. Whilst the internal floor area of the proposed staff accommodation would be below the minimum set out in the Government's Technical Housing Standards, the modest size of the building would not alter its character. Moreover, internal space standards can only be applied if there is a relevant development plan policy. At the Hearing it was confirmed that there is no such policy in the development plan. Accordingly, I give this matter very little weight.
10. It is the appellant's intention that the proposed staff accommodation would be used by staff members who would stay overnight on a rota basis. In addition, the building would be used as a supplementary mess facility and staff meeting room. However, neither the occupation of the residential accommodation by a series of different persons nor the proposed ancillary uses would change the building's characteristics as a dwelling house.
11. The appellant's kennels and cattery licence requires the enterprise to have staff cover on site 24 hours a day throughout the year. The appellant, who runs the business, lives in the adjacent bungalow. A number of full and part time members of staff, who live off-site, are also employed.
12. At the Hearing the appellant explained that staff members usually leave at 17:00 once the boarding dogs and cats have been closed up. Beyond these hours, occasionally medicine has to be administered or animals are taken ill and need extra care, and a working arrangement with the police and local hospitals can result in animals being brought in at short notice from time to time. However, the appellant stated that there were not many regular animal care demands during the night associated with the dogs and cats boarding.
13. In addition to the boarding kennels and cattery, the enterprise has recently started to offer 'doggy day care' between the hours of 07:00 and 18:15. This has resulted in a greater workload and increased the need for staff to work longer hours to care for the dogs and maintain the buildings and grounds.
14. In the interests of animal welfare, there is an essential need for a member of staff to live at or near the enterprise. That need is met by the appellant's occupation of the existing bungalow. Based on the evidence before me, due to the infrequent nature of out of hours animal care duties, I am not persuaded

that there is an essential need for another member of staff to reside on the site in an additional dwelling.

15. The presence of an extra member of staff on the site outside of existing staff hours would assist with any work required during anti-social hours, address health and safety concerns relating to occasional out of hours dog handling and emergency evacuation of the premises, and enable the appellant to take breaks from the enterprise. However, I have not been provided with any evidence to demonstrate that this could not be achieved through other means, such as changing working patterns or providing night-watchman accommodation in the existing range of buildings.
16. The appeal site benefits from CCTV, security lights and guard dogs, and the appellant confirmed at the Hearing that the enterprise has not experienced any security issues. Moreover, I have no substantive evidence that an additional dwelling would improve security. I therefore give this matter little weight.
17. The appellant makes reference to a planning permission for a 2 bed residential unit at Homefields Kennels and Cattery in Barrow upon Trent. I am not aware of the planning history of that site, the needs of the enterprise or the details of the proposed development. As such, it is not possible to make comparisons with the appeal proposal before me. In any event, I am required to reach conclusions based on the individual circumstances of this appeal and therefore afford little weight to this matter.
18. For the above reasons, I conclude that the proposed staff accommodation would amount to a new dwelling and that adequate justification does not exist for a new dwelling in the countryside, having regard to the essential needs of the enterprise. Although the proposal would be modest in scale and sited in a fairly unobtrusive location, as a result of additional buildings, movement and activity the cumulative impact of such development, if repeated across a number of sites, would harm the character and appearance of the open countryside and result in unsustainable patterns of isolated development. Accordingly, the proposed staff accommodation would be contrary to the countryside protection and sustainable development aims of Policies EV1 and H8 of the South Derbyshire Local Plan (the Local Plan), Policy H1 of the South Derbyshire Local Plan Part 1 (the LPP1), emerging Policies SDT1 and BNE5 of the LLP2 and paragraph 55 of the Framework, and consequently cannot benefit from the presumption in favour of sustainable development.

New car park area and re-opening of existing gated access

19. At the Hearing, the Council confirmed that it does not object to the proposed new car park area and re-opening of the existing gated access. Based upon the evidence before me and my observations on site, I see no reason to take a different view. This element of the proposal would address the appellant's concerns regarding privacy and achieve a degree of separation between the public areas of the enterprise and the bungalow. Subject to conditions relating to landscaping, car parking, visibility sightlines and gates I therefore conclude that the new car park and access would not have a harmful effect upon the character and appearance of the area or highway safety, and would accord with the countryside protection, design, landscape and highway safety aims of Local Plan Policy EV1, Policies SD1, BNE1 and INF2 of the LPP1 and emerging Policies SDT1 and BNE5 of the LLP2.

Conditions

20. I have considered the suggested conditions against the tests set out within paragraph 206 of the Framework and the advice provided by the Planning Practice Guidance, and I have amended them where necessary in order to meet these tests.
21. I have imposed a condition specifying the relevant drawings in the interests of certainty. In order to ensure the suitable appearance of the development, I have imposed a condition relating to landscaping; it is necessary for this matter to be dealt with as a pre-commencement condition in order to ensure the satisfactory protection of existing landscape features. Conditions relating to car parking, visibility sightlines and gates are necessary in the interests of highway safety.

Conclusion

22. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed insofar as it relates to new staff accommodation and allowed insofar as it relates to creation of new car park area and re-opening of existing gated access.

CL Humphrey

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Jim Malkin
Rosemary Thomas

JMI Planning
Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Sarah Arbon

Area Planning Officer,
South Derbyshire District Council

DOCUMENTS SUBMITTED AT THE HEARING

1. Supporting Statement, JMI Planning, December 2016

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 plan: Drawing No. 05.
- 3) Notwithstanding Condition 2, no development shall commence until details of a hard and soft landscaping scheme have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) indications of all existing trees and hedgerows on or adjacent to the site (including those which would have their root or canopy structure affected) and details of any to be retained, together with measures for their protection in the course of development;
 - ii) boundary treatments;
 - iii) hard surfacing materials;
 - iv) lighting;
 - v) an implementation programme; and
 - vi) a scheme of maintenance.

Before any part of the development hereby approved is brought into use the landscaping scheme shall be carried out in accordance with the approved details and implementation programme. Thereafter, the completed scheme shall be maintained in accordance with the approved scheme of maintenance.

- 4) Before any part of the development hereby approved is brought into use space shall be provided within the site curtilage in accordance with the approved plans for the parking and manoeuvring of staff, customer and visitor vehicles and shall thereafter be laid out, surfaced and maintained free of any impediment to its designated use.
- 5) Before any part of the development hereby approved is brought into use a new vehicle access on Staker Lane shall be laid out and constructed in accordance with the approved plan and provided with 2.4m x 155m visibility sightlines in both directions, the area forward of which shall be cleared and maintained throughout the life of the development clear of any obstruction exceeding 1m in height (600mm in the case of vegetation) relative to the nearside carriageway edge.
- 6) Any gates shall be set back at least 5m into the site from the highway boundary and open inwards only.

END OF SCHEDULE OF CONDITIONS

Costs Decision

Hearing Held on 4 July 2017

Site visit made on 4 July 2017

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 28th July 2017

Costs application in relation to Appeal Ref: APP/F1040/W/17/3169303 Long Croft, Staker Lane, Mickleover, Derby DE3 0DJ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mrs R Thomas for a full award of costs against South Derbyshire District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for erection of new staff accommodation, creation of new car park area and re-opening of existing gated access.
-

Decision

1. The application for an award of costs is refused.

The submissions

2. The appellant's case was made in writing, as was the Council's response. The appellant made no final comments at the Hearing.

Reasons

3. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and has thereby caused the party applying for costs to incur unnecessary expense in the appeal process. Paragraph 49 of the PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. An example of this, cited by the applicant, includes preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. Section 17 of the application form describes the development as a live-work unit, the planning statement submitted with the application states 'The dwelling will be located to the west of the current car park facing the existing property' and the supporting statement submitted prior to the determination of the application refers at paragraphs 3.15 and 3.17 to a 'workers dwelling'. Moreover, the plans show that the proposed staff accommodation would comprise a self-contained building with a bedroom, shower room and open plan kitchen, living and dining room, thereby affording occupiers all the facilities required for day-to-day private domestic existence. The Council's delegated report considers the size, siting and use of the proposed staff accommodation

and the facilities proposed within the building. On the basis of the evidence before me, the Council did not act unreasonably in coming to the view that the proposal would constitute a dwelling. As set out in my Decision, I have reached the same conclusion.

5. It is clear from the delegated report that in considering the application the Council took account of the case set out in the supporting statement regarding the need for the proposed staff accommodation, but found that the essential need for 24 hour cover on the site is fulfilled by the appellant's occupation of the existing bungalow. Based upon the submitted evidence, the Council did not act unreasonably in reaching this finding. In my Decision I have concluded that adequate justification does not exist for a new dwelling in the countryside having regard to the essential needs of the enterprise.
6. Taken together, the Council's delegated report and the reason for refusal set out in the decision notice clearly explain the Council's conclusion that the proposed staff accommodation would amount to an additional dwelling in the countryside in connection with an existing rural business that already has a dwelling associated with it, and that the proposed dwelling would not be essential to the operation of the business and would thus conflict with the development plan and National Planning Policy Framework (the Framework). The reason for refusal clearly identifies which development plan policies and paragraphs of the Framework the proposal would conflict with, and the policies identified are directly relevant to the consideration of the proposed development.

Conclusion

7. In conclusion, for the reasons set out above, I find that unreasonable behaviour resulting in unnecessary and wasted expense as described in the PPG has not been demonstrated.

CL Humphrey

INSPECTOR



Appeal Decision

Site visit made on 17 July 2017

by Jameson Bridgwater PGDipTP MRTPI

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

Decision date: 27th July 2017

Appeal Ref: APP/F1040/Z/17/3177211

TBT Tyres, Barn Cottage, Stenson Road, Derby, Derbyshire DE23 1LG

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr Joginder Singh Kainth against the decision of the South Derbyshire District Council.
 - The application Ref 9/2017/0152, dated 30 January 2017, was refused by notice dated 5 May 2017.
 - The advertisement proposed is described as 'Illuminated Advertising Board'.
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. The Council have drawn my attention to the policies they consider to be relevant to this appeal and I have taken them into account as a material consideration. However, powers under the Regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. In my determination of this appeal, the Council's policies have not therefore, by themselves, been decisive.
3. The application form describes the proposal as an 'Upright Board'. However, the Council's decision notice more accurately describes the proposed development as an 'Illuminated Advertising Board'. I have considered the appeal on this basis.

Main Issue

4. The main issue in the appeal is the effect of the proposed advertisement on the amenity of the area.

Reasons

Amenity

5. The appeal site is located within an established industrial/commercial area. The proposal is as described above and would be sited approximately 5.3m above ground level on a timber frame, positioned adjacent to the northern boundary of the site, set back approximately 85m from the main entrance to the site. As such, the proposed advert would not be visually prominent when viewed from Stenson Road. However, the proposal would be located in close proximity to the shared boundary with the adjoining residential properties in Earls Drive and therefore would be clearly visible by the occupiers of those
-

properties. Consequently, the advertising board would appear visually intrusive and unduly dominant due to its proposed height, size and illumination. Therefore, the proposal in this site specific location would result in material harm to the amenity of the area.

Other considerations

6. I have carefully considered the economic benefits to the appellant's business including the potential to increase trade. Furthermore, I have taken account of the National Planning Policy Framework and Planning Practice Guidance advice on advertisements and the factors embodied in these documents on matters such as economic and business encouragement and advertisements potentially being more favoured in commercial areas. However, the Framework explains that control in the interest of amenity is valid where there would be appreciable impacts such as I have described. Consequently, all the points raised by the appellant do not outweigh the concerns which I have in respect of amenity.
7. In relation to the appellant's request for advice and guidance in relation to alternative solutions, this is a matter that would need to be addressed directly with the Local Planning Authority.

Conclusion

8. For the above reasons and having regard to all other matters, I conclude that the appeal should be dismissed.

Jameson Bridgwater

INSPECTOR