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Our Ref

Your Ref

Date: 30 April 2021

Dear Councillor,

**Planning Committee**

A Meeting of the **Planning Committee** will be held at **Grove Hall (Special)**, Greenbank Leisure Centre, Civic Way, Swadlincote, DE11 0AD on **Tuesday, 11 May 2021 at 18:00**. You are requested to attend.

Yours faithfully,

Chief Executive

To:- **Labour Group**

Councillor Tilley (Chairman), Councillor Shepherd (Vice-Chairman) and Councillors Gee, Pearson and Southerd.

**Conservative Group**

Councillor Bridgen, Brown, Muller and Watson.

**Independent Group**

Councillors Angliss and Dawson.

**Non-Grouped**

Councillor Wheelton.

## **AGENDA**

### **Open to Public and Press**

- 1** Apologies and to note any Substitutes appointed for the Meeting.
- 2** To note any declarations of interest arising from any items on the Agenda
- 3** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 4** REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY) **3 - 65**

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

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

# **Report of the Strategic Director (Service Delivery)**

## **Section 1: Planning Applications**

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

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## 1. Planning Applications

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

Reference	Item	Place	Ward	Page
<a href="#">DMPA/2020/1460</a>	<a href="#">1.1</a>	Drakelow	Linton	6
<a href="#">DMPA/2020/1004</a>	<a href="#">1.2</a>	Woodville	Woodville / Midway	41

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

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

## Glossary of terms

The following reports will often abbreviate commonly used terms. For ease of reference, the most common are listed below:

LP1	Local Plan Part 1
LP2	Local Plan Part 2
NP	Neighbourhood Plan
SPD	Supplementary Planning Document
SPG	Supplementary Planning Guidance
PPG	Planning Practice Guidance
NPPF	National Planning Policy Framework
NDG	National Design Guide
SHMA	Strategic Housing Market Assessment
SHELAA	Strategic Housing and Employment Land Availability Assessment
s106	Section 106 (Agreement)
CIL	Community Infrastructure Levy
EIA	Environmental Impact Assessment
AA	Appropriate Assessment (under the Habitat Regulations)
CPO	Compulsory Purchase Order
CACS	Conservation Area Character Statement
HER	Historic Environment Record
LCA	Landscape Character Area
LCT	Landscape Character Type
LNR	Local Nature Reserve
LWS	Local Wildlife Site (pLWS = Potential LWS)
SAC	Special Area of Conservation
SSSI	Site of Special Scientific Interest
TPO	Tree Preservation Order
PRoW	Public Right of Way
POS	Public Open Space
LAP	Local Area for Play
LEAP	Local Equipped Area for Play
NEAP	Neighbourhood Equipped Area for Play
SuDS	Sustainable Drainage System
LRN	Local Road Network (County Council controlled roads)
SRN	Strategic Road Network (Trunk roads and motorways)
DAS	Design and Access Statement
ES	Environmental Statement (under the EIA Regulations)
FRA	Flood Risk Assessment
GCN	Great Crested Newt(s)
LVIA	Landscape and Visual Impact Assessment
TA	Transport Assessment
CCG	(NHS) Clinical Commissioning Group
CHA	County Highway Authority
DCC	Derbyshire County Council
DWT	Derbyshire Wildlife Trust
EA	Environment Agency
EHO	Environmental Health Officer
LEP	(D2N2) Local Enterprise Partnership
LLFA	Lead Local Flood Authority
NFC	National Forest Company
STW	Severn Trent Water Ltd

**Item No.** 1.1

**Ref. No.** [DMPA/2020/1460](#)

**Valid date:** 08/01/2021

**Applicant:** Countryside Properties

**Agent:** John Pearce

**Proposal:** The removal of conditions no. 1 and 2 and the variation of conditions no. 4, 6, 7, 14, 19 and 34 of permission ref. 9/2015/1030 for the variation of condition 47 of planning permission ref. 9/2009/0341 (relating to a hybrid planning application with all matters reserved for up to 2,239 dwellings including a retirement village, an employment park, two local centres comprising retail services, leisure employment and community uses, public open spaces, a new primary school, associated landscape and infrastructure, including car parking, road and drainage measures, and the refurbishment of the listed stables and cottages (with full details- comprising change of use and repair of the building)) on Land at SK2420 2230, Drakelow Park, Walton Road, Drakelow, Swadlincote

**Ward:** Linton Ward

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

The item is presented to Committee as it is a major application subject to more than four objections; and at the discretion of the Head of Planning and Strategic Housing, given the Committee's determination of the original applications and the associated variation to the Section 106 Agreement.

#### **Site Description**

The site measures over 100 hectares in size, comprising a mix of uses including brownfield land formerly occupied by the Drakelow Power Station and more recently by Roger Bullivant Limited and is currently being used for a variety of industrial and storage activities. The site is located immediately south west of Burton upon Trent and is bounded by the River Trent to the north, beyond which lies Branston Golf and Country Club. To the south the site is bounded by the southern edge of Walton Road and open countryside. The National Forest railway line adjoins to the east and to the west is a National Grid substation. There are two existing vehicular access points into the site from Walton Road with two additional pedestrian connection points linking the site to Stapenhill, across the National Forest Line – an underpass next to the River Trent and a footbridge joining with Cumberland Road.

For the avoidance of doubt, the area subject to this application is identical to that of the previous submission in 2009 and subsequently varied in 2016. Part of the site has been and is continuing to be developed pursuant to those permissions and the 2014 and 2017 reserved matters approvals.

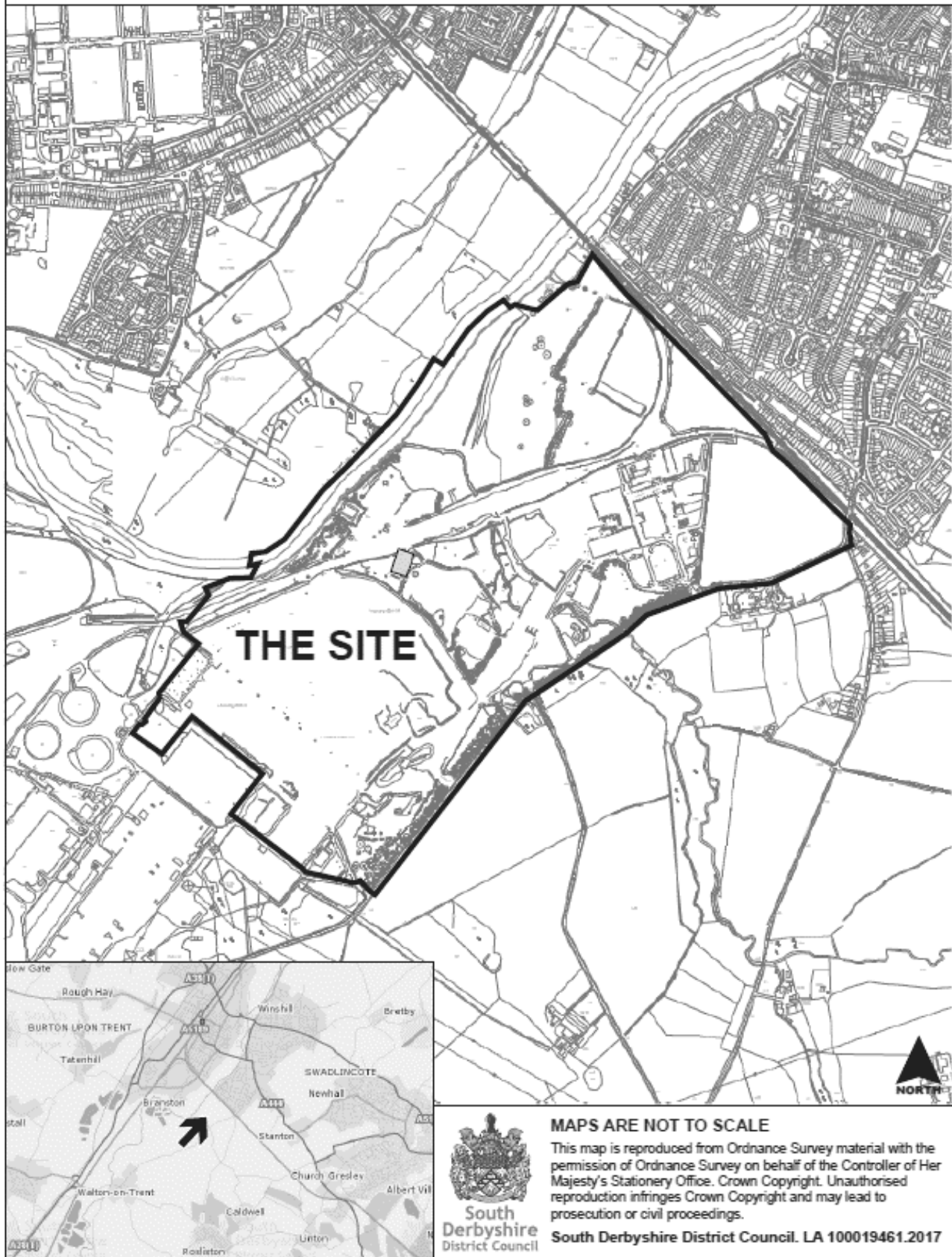
#### **The proposal**

This application seeks the removal of conditions 1 and 2 and the variation of conditions 4, 6, 7, 14, 19 and 34 imposed on the 2016 permission for the site, which itself approved a variation to the conditions imposed on the 2012 permission as described above.

The proposals are as a result of a developer having been secured for the majority of the site – Countryside Properties (the developer), and primarily relate to variations in the previously approved masterplans and phasing plans for the site. These variations are based on now having a known and committed developer for the site and the need to ensure that developing the remainder of the site is viable taking into account the significant infrastructure costs associated with the widening of Walton Road and the construction of the Walton Bypass (including the bridge over the river Trent). It is noteworthy that this application does not propose to alter the timing for the delivery of these projects which will remain a requirement prior to the occupation of 400 dwellings on the site (including those already occupied).



**DMPA/2020/1460 - Land at SK2420 2230, Drakelow Park, Walton on Trent, Swadlincote (DE15 9QE)**



The removal of conditions 1 and 2 which relate to the time period for implementation of the permission and the submission of reserved matters applications. Noting that the development has already commenced it is proposed that these conditions are replaced by a single condition requiring the submission of reserved matters applications by the 29 February 2032 (the dates for submission remaining consistent with the previous 2015 application).

Condition 4 relates to the approved masterplan and development phasing arrangements. This is proposed to be updated to reflect the revised masterplan and phasing arrangements

Condition 6 relates to the approved Design & Access Statement, which has been updated noting that the approved statement was submitted in support of the 2012 permission.

Condition 7 requires the submission of an Open Space Strategy for the site, which refers to previous drawings submitted in support of the previous applications for the site.

Condition 14 relates to tree protection and is proposed to be amended solely to reflect the current version of the British Standard in relation to Trees and Construction (BS5837:2012)

Condition 19 requires the submission of statements assessing the development against the Code for Sustainable Homes, which was withdrawn in 2015. This condition is proposed to be varied to require the submission of a sustainability statement with each subsequent reserved matters application.

Condition 34 relates to crime prevention and is proposed to be varied to include reference to Secured by Design.

In addition to the above the proposals include re-visiting the Section 106 Agreement previously agreed for the site. The request for the variation is based on the viability of the development and proposes to remove the requirement for the development to deliver any affordable dwellings. All other requirements remaining in-tact or updated to reflect current practices, guidance and those payments received since the original permissions.

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

The Supporting Planning Statement sets out the reasoning and justification behind the application. The changes proposed are described with the justification for the changes being the ability to deliver a viable development. The infrastructure costs (related to the Walton Bypass and improvements to Walton Road) are key pieces of infrastructure necessary to deliver the site. The masterplans have been developed in light of the undertaken viability assessment – which demonstrates that the site is unviable with the combined infrastructure and Section 106 requirements.

The application proposes to amend the site masterplan and update those conditions which need to be varied to reflect the revised masterplan and also that need updating due to the passage of time and change in circumstances since the first permission was granted in 2012, including the advent of the NPPF and the adoption of the Local Plans Part 1 and 2. The variations do not seek to vary the description or quantum of development approved. The site will see the delivery a significant portion of the Councils housing requirement in the remaining part of this plan period and in to the next. Approval of this application will allow for an early commencement of the construction of the Bypass.

The scope of the proposed variations is then set out including justification for the same. With the masterplan reflecting the developers own business model of how it intends to bring the development forward. The key change to the masterplan is the quantity of open space proposed across the site, which has been reduced in order to retain the number of dwellings approved – whilst there has been a reduction the masterplan still provides for significant areas of useable open space and managed woodland. The open space linkages plan details a linked series of open spaces and shows how the woodland, open spaces and drainage features will interlink and includes areas of formal play. The application initially proposed two local centres which would have split the site which has been rectified in this application by providing a central core where a local centre will be provided alongside the



primary school and retirement living which combined with the open space creates a more important hub. A central spine road links the whole development providing access points to Walton Road.

The statement concludes with the following: *'The revised masterplan has been prepared in order to set the context for the future delivery of the site and to bring forward much needed housing for the District over the remainder of the Plan Period and into the next. The masterplan is market facing and with the corresponding changes to be agreed to the Section 106 Agreement will result in a viable and deliverable development. Furthermore, the grant of the Section 73 permission will also enable the commencement of construction of the Walton Bypass. As such, the support of the Council is sought through the grant of planning permission.'*

The Design and Access Statement sets out with a vision statement for the development:

*'To create a high-quality scheme which provides a healthy, safe and attractive place for people to live and work.'*

*A scheme which provides high quality new homes, attractive and flexible business space and appropriate local amenity for residents, which exists in harmony with the natural and historical assets and is respectful of local distinctiveness and character.'*

A description of the site and surroundings is undertaken along with a detailed contextual analysis of the site and its surroundings including local East Staffordshire and South Derbyshire villages in close proximity to the site along with the more urban areas of Stapenhill. An assessment of the sites constraints and opportunities has been used to develop the site masterplan, which includes considering views in to and out of the site and the sites listed assets. The scheme is then developed based on the site analysis with key infrastructure requirements outlined, including landscape mitigation and enhancement through:

- Sympathetic integration of formal and informal recreational areas, the existing riverside meadowland and important wildlife habitats;
- Retention of woodland, better quality trees, TPO trees and hedgerows and the assimilation of these existing vegetation patterns into open space;
- New woodland and structure planting that increase diversity of age and species, enhances wildlife and amenity value and strengthens the existing framework;
- A programme of advance planting;
- Surface water attenuation areas designed as part of the open space framework;
- Segregation of more sensitive wildlife habitats from new development areas by appropriate landscape buffers;
- Linkages to retained hedgerows and green corridors to retain connectivity of habitats and facilitate movement of wildlife;
- Adoption of a long-term management regime to enhance the landscape character and wildlife habitat areas.

The Noise Statement and Technical Note considers the specific impacts associated the operational electric assets and committed Vital Energi Energy from Waste (EfW) facility upon the variations made within the S73 planning application and the siting of residential dwellings closer to these installations. This includes an assessment of the noise related policy and guidance and the issue of comparable noise assessments undertaken at Rugeley substations, and the Noise Impact Assessment undertaken in support of the EfW installation. It is noted that these considerations have resulted in the submission of a revised masterplan to provide a residential set-back between the site boundary and the proposed residential units. The set-back is based on the noise contours provided within the EfW supporting assessment. The two noise contours are the 41 and 42 dBA lines. The 41 dBA line represents the point beyond which adverse noise impacts in terms of BS 4142 are unlikely so the noise level will be below the LOAEL, (Lowest Observed Adverse Effect Level). The 42 dBA contour line represents a low adverse impact from noise from the Energy from Waste facility where the noise level will be only 1dB above the LOAEL. The sustainable design measures that can be considered include adjusting the site layout and locating the sensitive receptors further away from the most significant noise sources, but

other measure include landscaping, (including bunds), design measures including general layout, orientation of the proposed units, the locations of specific amenity areas and the internal orientation of the units' specific habitable areas. Through careful consideration of the sustainable measures the requirement for specific acoustic mitigation measures can be minimised. Acoustic mitigation measures that can also be considered include boundary treatments such as noise barriers or bunds and building façade treatments including the addition of enhanced glazing specification and or ventilation to specific units. The Technical Note concludes that it is likely that with suitable assessment of the committed noise sources at the EfW facility and with careful consideration of the sustainable design and additional mitigation measures, the site will be suitable from a noise perspective. As part of the Reserved Matters assessment the specific layout will be considered, and mitigation measures will be considered to ensure that adverse impacts are avoided. These measures will consist of the more sustainable design measures as far as practicable and before specific acoustic mitigation measures such as barriers, acoustic glazing and alternative ventilation are considered.

A Viability Appraisal has been submitted in support of the application, the details of which are considered below in this report taking in to account the District Valuer's (DV) assessment of the submission.

A Heritage Technical Note confirms the current proposals will seek to retain all of the designated heritage assets within the development. In order to address the issue of long-term conservation of the heritage assets, a two-stage approach is proposed focussing on appropriate structural consolidation and repair of the assets and a second phase of works, once potential end-users and use have been identified. The initial proposed works would be to seek to arrest and reverse the dilapidation of the structures, based on an updated Condition Survey, highlighting where urgent repairs are required. Interventions to the historic fabric would be minimal, enough to ensure the safety of the general public and not to preclude their future appropriate and viable reuse. It is noted that these works would be the subject of separate listed building consent applications. The second stage would be undertaken following the repairs having been undertaken, and would identify future uses through a viability Assessment which would seek to identify appropriate uses as well as potential occupants/users whose end uses would be compatible with sustaining the assets long term future.

The integration of the designated heritage assets within the wider landscape proposals will ensure their future use. The pivotal placemaking role within the landscape framework as a reference point for the surrounding natural as well as the built environment would place a firm focus on their conservation, repair, and upkeep. Where modification to heritage assets to deliver enhanced usability is required which may result in harm, any harm would be assessed against the policy tests within the NPPF (para 194-196) and would be weighed the public benefits of the proposal.' (NPPF 196). The public benefits associated with the development proposals are considerable and are outlined within the note. The emerging Masterplan presented seeks to position the heritage assets at the heart of the proposals, using their character and links to the previous use of the area to create a new development which positively references its heritage and secures their long term conservation.

### **Relevant planning history**

DMPN/2020/1362: Certificate of Lawfulness for the construction of new road with bridge over the River Trent. Approved March 2021.

9/2017/1074: Approval of reserved matters of planning permission ref. 9/2015/1030 to include access, appearance, landscaping, layout and scale for the erection of 94 dwellings. Approved January 2018.

9/2015/1030: The variation of condition 47 of planning permission ref: 9/2009/0341 (relating to a hybrid planning application with all matters reserved for up to 2,239 dwellings including a retirement village; an employment park; two local centres comprising retail, services, leisure, employment and community uses; public open spaces; a new primary school; associated landscape and infrastructure, including car parking, road and drainage measures; and the refurbishment of the listed stables and cottages (with full details- comprising change of use and repair of the building) – Approved June 2016 (The 2016 permission).

9/2014/1105: Variation of condition 10 of planning permission 9/2014/0363 (phase 1) to allow a safe access and egress from site while the access road is constructed – Approved January 2015.

9/2014/0363: Approval of reserved matters for phase 1 (99 dwellings) of previously approved outline permission 9/2009/0341 – Approved June 2014.

9/2009/0350: The construction of a pedestrian and cycle bridge across the River Trent – Withdrawn August 2009.

9/2009/0342: Repair and refurbishment of the Grade II listed stable block – Approved July 2009.

9/2009/0341: Hybrid scheme with all matters reserved for up to 2,239 dwellings including a retirement village; an employment park; two local centres comprising retail, services, leisure, employment and community uses; public open spaces; a new primary school; associated landscape and infrastructure including car parking, roads and drainage measures; and the refurbishment of the Listed stables and cottages – Approved February 2012 (The 2012 permission).

9/2003/1525: The formation of the Walton Bypass including a bridge over the River Trent – Approved May 2005 and subsequently varied in May 2007 (9/2006/0973) to allow for the works to commence prior to the stopping up of the access to Barr Hall.

## **Responses to consultations and publicity**

The Environmental Health Manager (EHM) has considered the proposal in relation to the potential air quality, noise, odour, land contamination, environmental lighting and waste water disposal impact. The assessment has been based on the available information submitted with the application, evidence provided by Eon and Vital Energi, and noise related information submitted in support of the relevant applications submitted to Derbyshire County Council to support the applications for the EfW facility currently under construction and to be operated by Vital Energi.

The current version of the masterplan (version E) proposes the development of residential dwellings within an area of the development site which is predicted to be exposed to average noise levels of  $\leq 42\text{dBA LAeqT}$  from the approved Vital Energi EfW plant. The response considers two key questions:

- Firstly, does the proposed development of residential properties in an area where predicted noise exposure from the approved EfW plant is above 40dBA cause unreasonable restrictions on the operation of the EfW which could be contrary to para 182 of the NPPF?
- Secondly, if the answer to the first question is 'no', then is the proposed development of residential properties in a location where noise from the EfW plant is  $\leq 42\text{dBA}$  acceptable in more general planning policy terms?

Agent of change: In relation to the first question, it is appropriate to consider whether, if approval for the revised masterplan application is granted, it would lead to the approved EfW breaching the existing planning consent issued by Derbyshire County Council. The consequence of this would be that either the EfW plant would be required to invest in additional noise mitigation control over and above that which had already been approved or the EfW plant would need to apply to Derbyshire County Council and the Environment Agency for variations of their respective planning and environmental permit consents. Both of these scenarios could reasonably be considered to be "unreasonable restrictions" and paragraph 182 of the NPPF (Agent of Change) could reasonably be considered to apply.

The planning approval for the EfW ref CW9/0420/7 states at condition 15 that "The development shall be carried out in accordance with the Noise Management Plan produced by TNEI and approved by the Waste Planning Authority 1 November 2018. The Noise Management Plan approved by this condition is titled Noise Management Plan, Drakelow Renewable Energy Centre, Future Earth Energy dated 10th July 2018."

The Noise Management Plan (NMP) for the site summarises the operational noise level limits, which apply externally at the nearest Noise Sensitive Receptors existing, or as consented, at the time of the production of the NMP. Note that all noise level limits are external, free field levels i.e. free from the influence of facades or any other reflecting surfaces.

The EHM's interpretation of this section of the NMP is that noise from exposure from the EfW at new residential, which was not existing or consented at the time of the production of the NMP, would not breach the content of the Plan and so wouldn't breach the planning permission. In this respect it is not considered that that granting permission for the revised masterplan would inherently be contrary to para 182 of NPPF.

Noise exposure at new residential locations in the masterplan: There appears to be a consensus that Version E of the Masterplan will result in a maximum noise exposure of 42dBA at the proposed new residential receptor locations.

Planning policy does not state explicit noise exposure levels which are acceptable in planning policy terms. Instead, the Planning Policy Guidance provides a noise hierarchy to help recognise when noise is likely to be a concern in the planning process. It is for the LPA to determine the most appropriate way to determine what quantitative metric of noise exposure meets the respective descriptions in the hierarchy – namely the 'Lowest Observed Adverse Effect Level' (LOAEL) and the 'Significant Observed Adverse Effect Level (SOAEL).

The noise assessment undertaken in support of the EfW does not explicitly set out what noise exposure levels associated with the EfW are considered to represent LOAEL and SOAEL at nearest residential receptors. However, the Report does set out Operational Noise Limits and Noise Level Limits. The highest predicted noise exposure level from the EfW plant at the residential development footprint of the masterplan version E is 42dBA (based on the noise contours).

The current predicted background level in the development location is 36 dBA. The report identifies that the noise produced by the EfW has no specific characteristic in terms of tonality, intermittency, impulsivity or other which would warrant applying a noise rating under the BS4142 assessment methodology. Therefore, the Rating Level of noise from the plant is equal to the Specific Sound Level. It can therefore be concluded that the predicted impact of the EfW on the most significantly affected parts of the residential footprint of the masterplan version E is 6dBA above background, which is 1dBA above the SOAEL.

Where predicted noise exposure exceeds a SOAEL, Planning Policy Guidance recommends that: ...the planning process should be used to avoid this effect occurring, for example through the choice of sites at the plan-making stage, or by use of appropriate mitigation such as by altering the design and layout. While such decisions must be made taking account of the economic and social benefit of the activity causing or affected by the noise, it is undesirable for such exposure to be caused.

It is undesirable that the predicted noise exposure is marginally above the SOAEL. However, it is appreciated that restricting development of large areas of the Drakelow Park site will inhibit the viability of the development and consequently could cause significant economic and social harm. It is therefore considered appropriate to approve the revised masterplan (Revision E) with the acknowledgment that this will permit residential development in an area of the site which could be exposed to noise above the SOAEL once the EfW is developed out. Whilst this may be challenging in some areas with careful consideration of sustainable design and additional mitigation measures, development of this area of the site will be viable. To ensure that appropriate measures are secured through the planning process a detailed condition is requested, a revised version of the previously imposed condition 26.

In terms of air quality, the dispersion model assessment for the site indicates that exposure to emissions within the new residential footprint of the revised masterplan will be marginally above that of the original development receptors considered. However, this increase does not appear to be significant in air quality terms.

The National Forest Company (NFC) consider that it is regrettable that the viability constraints of the site necessitate a reduction in the provision of public open space (POS). The significance of this reduction is evident through a comparison of the proposed plans with those of the original masterplan. The reduction in POS now means the scheme provides less than 30% National Forest woodland and landscaping and therefore it no longer complies with policy INF8. The NFC support the requirement to set out the proposals for the location, provision, programme of phasing, timing of submission of specifications, arrangements to secure public access and arrangements for short and long term management and maintenance (including funding arrangements) of all areas of open space.

They note that the site benefits from substantial mature woodlands and the submission is accompanied by a plans which indicate the retention of the Category A and B woodland and veteran trees which formed an important part of the landscape setting of Drakelow Hall. Overall, the NFC is supportive of the retention of the quality existing woodlands and specimen trees on the site. The provision of woodland walks through the retained woodland is noted and welcome but the network could integrate more fully with the public footpath running southwards from the site, partially through existing woodland. However, concern is expressed in relation to the potential impact on the existing woodland (particularly the northernmost and central portions of woodland arising from the incorporation of drainage infrastructure).

Derbyshire County Council note that the applicant is keen to deliver the primary school and this reflects previous discussions with the applicant. In line with the Developer Contributions Protocol, 2000 dwellings would require the delivery of a two-form entry (2FE) primary school and as such this remains a requirement. The current Section 106 requires 2 ha of land and construction of 1 FE primary school (capacity 210) but designed at 2FE with the delivery of a phased expansion when required.

Greenways: The existing planning permission includes the provision of the multi-user greenway between the railway underpass from Stapenhill in the north east, to a designated access connection with the remaining EON site to the south east to allow for a convenient connection of the onward Greenway at time of future development of the EON site which would realise connectivity to the Derbyshire Wildlife Site known as Drakelow Nature Reserve. The essence of providing a section of a longer route ambition (part of the wider Derbyshire Key Cycle Network) will safeguard the possibility of promoting better public health through physical activity and improving the visitor offer and realising economic benefits to the region and is essential. The route should be designed to connect all parts of the community but also allow for onward off-site development without compromising the longer distance Key Cycle Network need.

Monitoring fee: The County Council will seek a monitoring fee towards the monitoring and reporting of S106 contributions.

The Lead Local Flood Authority have reviewed the proposed changes to the plans and are comfortable that the changes will not significantly affect the overall drainage strategy for the site and as such have no comments to make.

Sport England note that they were not consulted on the previous applications for the site and as such do not wish to comment in detail on the proposals. However, they note that the requirements for sports provision is to be carried forward and they encourage consideration of community access to the school facility.

Derbyshire Wildlife Trust advise that there are unlikely to be any significant ecological issues associated with the proposed revised masterplans and phasing plans.

The Derby and Derbyshire Clinical Commissioning Group (CCG) notes the impact on GP practices, with an increased patient population of approximately 5,598 (based on 2,239 dwellings in total) persons. The CCG's initial response commented that it is unlikely that a new single handed GP development would be supported as the solution to sustainably meeting the needs of the housing development and that investing in enhancing capacity/infrastructure within existing local practices is



recommended. A financial contribution of £1,074,816 is requested. Following this initial response the CCG further commented that a new standalone facility would need to be a minimum of 412 sq.m (based on the most recent small practice building constructed in the CCG's area).

The CCG are currently finalising the appointment of the contractor to undertake a feasibility study in order to determine options for increasing clinical capacity in Swadlincote and the surrounding area. Work is expected to commence on the study in very early May. In the client brief they have been asked to consider the Drakelow development very carefully, including liaising with East Staffordshire CCG and the East Staffordshire practices closest to the site. The brief for the study includes a request for early indication of interest from local practices in the potential for taking on a branch site at Drakelow, whether that's in a standalone building or accommodation within another community facility. The CCG state that national policy direction of travel for primary care is towards practices working together, at scale to deliver services, and that there is a shortage of clinical staff and practices, nationally, not just in Derbyshire. They are finding it increasingly difficult to operate services across multiple sites, and the trend has been for the opening hours of branch surgeries to reduce and for some branch sites to close. As such they are concerned about their ability to find a contractor who will want to deliver services from an additional site. Until the CCG have completed the feasibility study they are unable to confirm whether a facility at Drakelow would meet their strategic needs.

The County Highway Authority has no objection.

Highways England offer no objection.

The Development Control Archaeologist consider that there are no specific archaeological implications to the proposed variations. The archaeological condition 33 should be reproduced on any new consent.

Derbyshire Police are content that the suggested varied condition (No 34) is an improvement on the existing, and consequently support this section of the application.

Natural England has no comment.

East Staffordshire Borough Council has no objections.

The Environment Agency has no objections.

The Canal and Rivers Trust have no comments.

Historic England do not wish to offer any comments.

Peak and Northern Footpaths Society has no comment.

Network Rail has no objections to the proposed amendments outlined by the application, subject to the conditions to protect railway assets such as condition 17 (fencing) and 28 (drainage) from the 2015 consent remaining applicable. It is imperative that this scheme does not impact on operational railway safety and we would appreciate confirmation on this point.

EON (Cushman and Wakefield) consider that the impact of proposed amendments to the masterplan on the existing Drakelow Power Station site have not been appropriately or accurately tested. The former Power Station site is an important asset and provides energy uses for local businesses and residents. Whilst E.ON UK plc support the redevelopment of Drakelow Park for a mixed use development, without appropriate management, the noise associated with the permitted energy generation uses will have a significant adverse impact on new residential neighbours, proposed in much closer proximity to the permitted scheme. The Noise Assessment must be updated to refer to the permitted energy generation uses at the former Drakelow Power Station, and appropriate mitigation. In accordance with the NPPF, existing businesses should not be unduly affected by new development and should not be placed at risk of unreasonable restriction due to local land changes.



Vital Energi (Who have consent for an Energy from Waste facility on the wider former power station site) note that the amendments to the masterplan with the positioning of residential development much closer to the Drakelow Power Station site and in particular their facility which is a cause for significant concern. Vital Energi note that the facility will be a 24/7 operation and their main concern is one of noise and this impacting any residential development. They assert that the impact of the approved development has not been appropriately considered, including the impact of the proposed flue stack and as such Vital Energi object to the proposals. Officers note that the site masterplan has been further revised following these comments.

The Drakelow Parish Meeting welcome the promise made by the new developers to fully complete the Walton Bypass and bridge, a major concern of the residents of Drakelow relates to the new facilities to be provided within this growing community including the need to make it a pleasing place in which to live and bring up children. Note is made of the contribution of existing residents to the infrastructure though the purchase of their properties. The following specific points are raised:

- **Health Care Facilities:** There is an urgent need in this corner of South Derbyshire and a facility should be provided on Drakelow Park rather than elsewhere. A new health facility at Drakelow will additionally serve the health care needs of the surrounding villages all of whom currently rely on the overstretched facilities in Staffordshire. It would be unacceptable for the residents of Drakelow Park to be asked to pay for the provision of new healthcare facilities but not then see them being provided within the community.
- **Primary School and Sports Field:** We are pleased to see that the proposed masterplan includes a new Primary School but we note that the previously approved Sports Field seems to have been omitted. It is our opinion that this should be reinstated.
- **The Local Centre:** There is a clear need for many facilities to be provided within this large new community, but the proposed masterplan does not show any detail of how these would be provided. The new community will need a supermarket, chemist, local shops, cafes, restaurants, take-aways and other business premises. There is also a need for a multi-use community hall/church, creche, recreation areas all with attendant parking facilities. Please ensure that the provision of land space shown on the masterplan for these facilities is sufficient for the needs of a community of the size and nature to be created. May we also suggest that before any new masterplan is adopted, detailed plans of the facilities to be provided are drawn up and approved or become the subject of a suitable planning condition.
- **The Heart:** On the previously approved masterplan, (M1065-003 app. Ref. 9/2017/1074), an area of the development, alongside the River Trent, was designated as "The Heart." This area has not been included on the proposed new masterplan. We believe that the area was to have comprised a riverside development of retail and hospitality units having a character much like one currently finds at Barton Marina. Given the close proximity of Drakelow to the National Forest the inclusion of an area like this would be of considerable benefit to the local community and we would therefore ask the planning authority to have it reinstated.
- **Open Space and Woodland:** It seems to be the case that the provision of play areas, open space and woodland on the proposed masterplan is less than that shown on the approved masterplan. This is no doubt due to there being more homes and, possibly, larger homes being a feature of the new masterplan. Whilst we have no objection to the number of dwellings proposed we would like to see the previously approved areas of open space and woodland retained because the reduction in those spaces will adversely affect the character of this new township. We also note that the area set aside as employment land has reduced from 13ha to 2.5ha and we would have thought that an intelligent use of this released land for dwellings would enable the areas previously designated as open spaces to be retained.
- **Listed Buildings:** The Section 106 agreement requires that various Listed Building Works are carried out in accordance with the Listed Building Consent. To what use are these buildings to be put following their restoration? We would contend that since the cost of the Listed Building works is included in the Section 106 agreement which, as we mentioned earlier, is ultimately funded by the residents of Drakelow Park those buildings should be retained by the community for the use of the community.

In response to the revised masterplan noting that their previous comments still apply Drakelow Parish Meeting responded raising the following matters;

- Countryside Properties on 21.04.2021 we were advised that, “the Derbyshire CCG have now confirmed that they will support a GP surgery in Drakelow.” This, of course, is extremely good news for the residents of Drakelow as well as the surrounding areas and we would simply ask that both SDDC and the developers do their utmost to ensure that this much needed facility does become a reality.
- Regarding the provision of a Community Hall. We understand that Countryside Properties are willing to work with the community in order to develop a scheme which will provide this facility and we look forward to having those discussions. We were also led to understand, by Countryside, that, although there is an option for this facility to be provided as a part of the Primary School, they would be prepared to provide an independent facility. On balance, at this time and for many compelling reasons, we favour a facility which is totally independent of a school campus and would need to be convinced otherwise. It should also be borne in mind that Drakelow will become the largest centre of population in South Derbyshire, outside of Swadlincote itself, and its Parish Meeting has, at its recent APM, voted to take all necessary steps to become a Parish Council. You will perhaps agree that a Parish Council serving Drakelow needs to have a level of control over a Community Centre in its area.
- In our previous letter we mentioned the approved masterplan (M1065-003) but we have since been told that there is, in fact, no approved masterplan other than the original masterplan included within the Section 106 agreement. The masterplan we have referred to is, however, the latest masterplan to form part of an approved planning application and therefore shows the purchasers of properties on Drakelow Park how the development was planned to proceed. They therefore purchased their properties on the basis of what is shown on that masterplan and are entitled to compare that with what is now being offered. That is what we have attempted to do. We trust that you will take our comments in that light.
- Finally, we would like to reiterate that in principle we fully support the project and hope that the ultimate development will embody many of the comments we have made.

20 letters of comment, objection and support (for various elements of the scheme) have been received raising the matters:

- Drakelow will become a town of 5,300 (based on UK population averages) presently with no facilities whatsoever in the Parish. Members should give their attention to the facilities needed within Drakelow;
- Insufficient green space proposed;
- The appearance and size of the development would spoil the local landscape;
- Impact of the development on wildlife;
- The highway infrastructure would not support a development of this size;
- Officers should not allow a reduction in affordable dwellings from 30% to 0%;
- Object to the removal of the proposed sports field and established hedgerows;
- Traffic safety at Fallow Drive – which was originally proposed to be closed off.
- The general density and layout plan appears acceptable subject to a number of comments; strong binding agreement to completion of the Walton Bridge Bypass project before any residential construction beyond the current permission extant for 400 units on the Drakelow Park site (i.e. inclusive of the 198 on the “DWH” site); the acreage set out in the vision plan for the “Local Centre” is considered adequate for shops, a Health centre, Community Centre and its attendant parking facilities given that the area is likely to serve a range of surrounding villages;
- Provision of Health Care is an urgent need in this corner of South Derbyshire. A Health facility will serve villages such as Walton, Rosliston, Coton, Lullington all of whom rely heavily upon currently overstretched facilities in Staffordshire. I ask the planners to make the most strenuous efforts to ensure the early provision of this and to make it conditional that delivery should not be delayed until after Phase 2 is completed;
- Provision of a Community Meeting Hall must be made a condition of agreement under the 106. There is no building in the Parish capable of providing such facility;

- There is no direct access to the “Local Centre” from the Phase 1 (DWH) Section. I ask the planners to insist that the applicants use best endeavours to discuss with interested land-owners, linkage across the border formed by the western boundary and in doing so restore the vision of a “spine” serving all phases.
- Improve the access/egress “splay” at Fallow Drive.
- Where Caldwell Rd crosses Rosliston Rd South at a very dangerous “offset” junction. Work is needed;
- Reconsideration of the speed Limit on Walton Rd between the “Walton End” of Walton Rd and the rail bridge at Stapenhill.
- Consider/reconsider weight limits on routes through the various surrounding villages which might become short cuts for HGV.s using the new bridge.
- Ensure the existing Walton Road to be widened with footpaths to ensure it is safer for existing and new local residents. The developer should be locked into this;
- What measures, i.e. roundabouts or road junctions, are being proposed in the surrounding areas?
- When will work commence on the new bridge to the A38 and is the developer locked into ensuring they have to build this after 200 more houses are built.
- Lack of a traffic management plan – and concern about the impact on the traffic blackspot at Drakelow / Caludwell / Rosliston and Burton Roads.
- Why is the new development starting at the back i.e. Phase 2 and working towards the existing development. This will not ensure natural flow of the development and alienate the existing phase one from the proposed development.
- The extension of the Drakelow Park development will result in an estate that runs from Fallow Drive, just past the Rosliston Road/Walton Road intersection, beyond the intersection with Caldwell Road where there is already a public right of way. No footpath or cycle way is currently available along this section of road on either side and such a provision should be considered for safety reasons to support such a large extension to the development.
- Where the local centre and new community facilities are planned then sustainability should be considered in the planning regulations which should include but not be limited to solar and wind powered, heat pumps and other environmentally friendly heating, lighting and construction methodologies given many of these will be used nearly all day.
- I urge resistance to any reduction of open spaces, sport/recreation areas, shops etc.
- The road layout has been changed. This will have a detrimental impact on those already resident in the existing DWH development.
- I think the original Masterplan was well thought out to provide a good balance of residential, commercial and recreational facilities to the community. I have not seen any good reasons put forward by the new plan why this should change. I therefore urge you to reject these requests to relax the original provisions and to stay with the Masterplan already agreed.
- If the developer cannot make a profit building this number of houses with the correct amenities and infrastructure (roads, bridges, school, healthcare, shops, business, leisure and community facilities) for a new village of this size, then the development should not go ahead at all!
- It would appear that a lot of the green space has been removed to make way for more residential development. For example, the sports pitch area with surrounding green space and Parkland at the north eastern end, and the area marked ‘The Park’ just off the Primary Street are missing and replaced with more houses. (Please see plan ref. M1065-003 app. Ref. 9/2017/1074) This is a very attractive feature of the Drakelow Park development, connected with each other, including pedestrian and cycle links.
- There are no L.E.A.P. or N.E.A.P. areas shown on their new plan, any reduction of green open spaces on the development is universally unwelcome;
- The plan suggests that the green space and SUDS area next to Walton road on Phase one of DWH is being shrunk, and yet more houses are being built on it! This area, in line with the approved master plan, is planned to be enlarged and squared off alongside the new Primary Street, and opened up to create a larger green area, furthermore, the area in which they suggest will be built on, is privately owned land, owned and maintained by Greenbelt Ltd.

- The existing approved master plan (M1065-003 app. Ref. 9/2017/1074) shows a detailed scheme of Primary, Secondary A, Secondary B, and Tertiary streets. These dictate the main routes of access through the development and are distinguished by the width of the road and pavements, road surface, grass verges, and types and size of trees planted; the DWH development has so far followed this plan successfully.
- The approved master plan has a Primary Street running through the development and forms a loop round the majority of the site. The proposed plan however seems to omit most of this, removing the southern primary road, and appears to have shown Fallow Drive as the main access for the current development, and the adjoining road that is being built at the northern end of the site is not on the plan at all.
- The proposed plan does not even show the end of Galloway Road, and does not accurately represent what is actually there.
- The proposed plan shows the end of the DWH Phase 2 development as completely cut off from the further development.
- The layout of the approved plan shows far better town planning, and genuinely provides opportunities for everyone to enjoy the site as whole, including all of the green open spaces.
- Although a local centre is welcome, the sunken gardens appear to have been forgotten and I fear that by replacing this area with yet more houses, means the gardens will not be respected or maintained. If they are planning to build more houses than already approved, then surely the need for more amenities in the area is essential?
- The new proposed plan also removes the retail unit next to Walton Road. This would be a vital addition to this development and the surrounding area as we are currently missing a local shop, and similarly to other developments in South Derbyshire, surely this is essential to serve the number of houses you are planning to build here. Church Gresley in Swadlincote underwent a similar growth in residential housing, and in the centre, a Doctors Surgery, (Gresleydale Healthcare Centre) including a pharmacy, new Sainsbury's Local, a Chip Shop, Indian Restaurant and Charity Shop.
- I am disheartened to also see the removal of 'The Square'; shown on the approved original plan as a walled garden, to be enjoyed by all local as a meeting place, a central hub for the community to use.
- The independent viability report is an inaccurate representation of the area. By choosing smaller developments in Burton and missing out similar developments such as 'The Paddocks' in Newton Solney. We are two sites, within 3 miles of each other, with exactly the same houses, very similar cost, both in South Derbyshire; however, this was not taken into account in their viability report. Also the average house size data is inaccurate.
- My neighbours and I are proud to call Drakelow our home. We all would love to see this beautiful riverside area developed, to watch Drakelow grow into a village, a sustainable and enjoyable community for years to come, but in line with the local plan for South Derbyshire this needs to be sustainable for many more years to come, we need local facilities, cycle routes, provisions for bus routes, safe and clear routes for school children to walk to the new school and for people to access all areas of the site without using the private car, all as already agreed in the Drakelow Park Master plan (M1065-003 app. Ref. 9/2017/1074). I object to any proposal to water down this brilliant and effective plan, to a warren of small, winding streets. We are creating a whole new village here, which must include the local facilities that we need as this population continues to grow.
- This will be great for the development;
- I have a small child so a school here would be perfect, as well as somewhere safe for the other children to play. Best of all would be a local shop that is within walking distance.

Officers note that a large number of the comments refer to an approved masterplan for the site associated with planning permission 9/2017/1074 drawing number M1065-003. Including reference to 'The Heart', 'The Park' and 'The Square' This application related to the reserved matters approval for the second phase of the DWH site alone i.e. the 94 dwellings approved and the referred to plan is not an approved plan but an indicative plan provided in support of that application and with no status.



Following re-consultation on the revised masterplans for the site the following additional comments have been received from 11 interested parties:

- The needs for surgery at Drakelow is urgent.
- Agree with building in Drakelow rather than elsewhere as it is a brownfield site that does need renovation.
- Still object to the revised proposals.
- Community facilities should be 'stand-alone' and not shared with the school.
- The provision of a community facility should be specifically included within the S106.
- Health and safety during construction should be employed.
- A redevelopment of this size should include a larger village centre which should include space for a pub/leisure facilities and a new healthcare centre.
- The proposed master plan does not effectively integrate the existing David Wilson development in to the overall scheme.
- In relation to the phasing, the way this is currently planned the existing residents of Drakelow will not benefit from new village centre for many years. Greater efforts should be made with the design and phasing to ensure the existing houses feel part of the overall scheme and benefit from the redevelopment sooner than currently planned. In relation to the proposed layout of the new roads on the I feel there should be direct link from the Countryside development main thoroughfare on the David Wilson Estate, currently there are two road links between the two but these are on to secondary roads within the development.
- Concerns raised if the existing conifer trees were removed that border the development and the industrial estate. We live close to this tree line and walk our dogs on the far end of this tree line- we see many nesting birds and late at night have seen an owl in them. I do feel if they were removed that many birds and possibly owls would lose habitat.
- I look forward to the proposed new developments, and hope it can all go through in a timely fashion providing certain issues are addressed.
- I would expect the Walton road problems will be dealt with. Namely the construction of a new bridge across the Trent at Walton and improvement/widening of the existing road. With such an increase in traffic the current road is certainly not fit for purpose.
- I would also expect a Medical centre to be built, the practice in Stapenhill is currently stretched to its limit. With such an increase in housing it would be near impossible to see a doctor.

### **Relevant policy, guidance and/or legislation**

The relevant policies are:

- Local South Derbyshire Local Plan Part 1 2016 (LP1 ):S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); S3 (Environmental Performance); S4 (Housing Strategy); S5 (Employment Land Need); S6 (Sustainable Access); H1 (Settlement Hierarchy); H6 (Drakelow Park, Drakelow); H20 (Housing Balance); H21 (Affordable Housing); E1 (Strategic Employment Land Allocation); SD1 (Amenity and Environmental Quality); SD2 (Flood Risk); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); SD4 (Contaminated Land and Mining Legacy Issues); SD6 (Sustainable Energy and Power Generation); BNE1 (Design Excellence); BNE2 (Heritage Assets); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness); INF1 (Infrastructure and Developer Contributions); INF2 (Sustainable Transport); INF6 (Community Facilities); INF7 (Green Infrastructure); INF8 (The National Forest); INF9 (Open Space, Sport and Recreation).
- South Derbyshire Local Plan Part 2 2017 (LP2): SDT1 Settlement Boundaries and Development; BNE7 (Trees, Woodland and Hedgerows); BNE10 (Heritage); BNE12 (Former Power Station Land); RTL1 (Retail Hierarchy).

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

### **Planning considerations**

This application seeks to vary or remove conditions attached to a previous approval, pursuant to section 73 of the Town and Country Planning Act 1990 (as amended), the proposals also include a request to re-visit the existing Section 106 Agreement (S106) based on the submitted viability report. The following assessment is therefore based on the matters which are relevant to the conditions requested to be removed/varied and the implications of the viability report on the requirements of the S106. Taking this into account along with the documents submitted (and supplemented and/or amended where relevant) and the site and its environs, the main issue central to the determination of this application are:

- The principle of development;
- Design, layout and development principles;
- Noise and air quality; and
- Viability and the Section 106 Agreement;

### **Planning assessment**

#### The principle of development

The site is allocated in Local Plan as the largest of the Districts strategic housing allocations under policy H6. This is a step change from the time of the previous approvals in 2012 and 2016 as the site was only a proposed allocation with the then emerging plan.

As set out above whilst this application does not allow for the 're-consideration' of the overarching principle of development and the overall uses proposed as these remain as previously approved as will the main elements of the Section 106 Agreement (with the exception of affordable housing and other minor elements discussed below) the proposed amendments to the conditions and masterplan do result in the need to consider the principle of these changes. There are some areas of conflict with the policies which allocate the site for development when considered against the extant permissions.

Part of the proposed housing development is outwith the extent of the housing allocation under policy H6 and within the employment allocation under E1 (albeit within the bounds of the original permissions) and as such there is a conflict with the plan in so far as the revised proposal reduces the extent of the employment development and increases the area of residential development – a conflict between the proposed and approved/allocated land uses. It is evident from the previous and current submissions that the original approval and the quantum of development was ambitious and would have likely necessitated a very dense form of development in places such that whilst the overall quantum of development (number of dwellings) has not increased the site area proposed for residential development has, the employment area and the overall areas of open space have reduced.

The quantum of employment land has been reduced from its approved and allocated size of 12ha to 2.75ha, with the balance of the 12ha now proposed to be developed for residential development. Whilst there is a surplus of employment land currently available within South Derbyshire, sites are generally distributed more toward the north of the District, with fewer sites available in the south. However, it is likely that the wider re-development of the former power station site as identified in policy BNE12 to the south-west of the site for employment purposes may be assisted by the implementation of the Walton-on-Trent bypass, the delivery of which this application seeks to enable and could provide a significant opportunity for employment development. For these reasons this loss is not considered to weigh as significantly against the proposals as it may otherwise. In addition, the postscript to policy E1 highlights that the South Derbyshire Economic Development Strategy identifies a lack of start-up and grow-on business accommodation and that any applications for the renewal of planning consent at Drakelow will



include a requirement to deliver units to meet this need – a condition to secure such a provision is recommended as an additional requirement of this permission.

In terms of enlarging the extent of the housing development on the site, this again brings about some conflict with the plan (the extended area not being allocated for housing but employment) but it would enable the delivery of the quantum of residential development envisaged in the previous permission, on a brownfield site in a sustainable location adjacent to the urban area of Burton (joined by the existing allocation) and in the context of Drakelow overall is again not considered to alter the overall sustainability of the proposal.

Members should also be aware that development of the site in excess of the current restriction (the occupation of 400 dwellings) will result in the commencement and completion of the necessary and significant off-site highway works; the Walton on Trent Bypass and the widening of Walton Road. The economic benefits that would result from the implementation of these infrastructure projects are substantial and should not be underestimated. The building out of this site would help to advance and secure the off-site works in a timely fashion, assist in securing investment in other forms of development on the site, as well as sustain wider economic benefits associated with continued delivery of housing beyond the consented 193 (being developed by David Wilson Homes). It should also be highlighted that the Local Plan and District wide planned housing delivery (if the location of development is to remain within the Council's power) relies on the continued delivery from this site as part of it is necessary to maintain a 5 year housing supply.

The NPPF sets out a presumption in favour of sustainable development, in particular affording weight to significantly boosting housing delivery. The Local Plan relies on the housing provision arising from this site and has already been considered as sustainable in the round given the provision of facilities and services on site to support these provisions.

In light of this and the limited conflict with the plan in terms of the loss of employment land and extension of the housing allocation the proposal overall is considered to be acceptable in principle that will enable the delivery of multiple social, economic and environmental benefits.

#### Design, layout and development principles

Policy BNE1 expects all new development to be well designed, embrace the principles of sustainable development, encourage healthy lifestyles and enhance people's quality of life. New development should be designed to ensure that people feel comfortable and safe; streets should be designed to relate to their context, with a balance being struck between place-making needs and vehicle movement needs; easy to navigate; encourage social interaction; accessible to all user groups; create places with a locally inspired character that respond to their context and have regard to valued landscape, townscape and heritage characteristics; within the National Forest fully reflect the forest context; be visually attractive and respect important landscape, townscape and historic views and vistas; support healthy lifestyles, including through the promotion of active travel, the provision of public open space, sports and other leisure facilities; and facilitate the efficient use of resources. These objectives are supported by the detail of the Design Guide SPD and the NPG.

The application being for alterations to the outline permission with all matters reserved can be altered at the reserved matters stage and therefore the design and layout cannot be set in detail at this stage of the application process. However, the applicants have produced a masterplan and supporting design and access statement (DAS) which provides some broad principles for the development but the future detailed applications will be key to ensuring a successful and well-designed development.

The DAS identifies a number of opportunities that the site presents, which need to be developed and respected in drawing up the detailed applications. These include the strong woodland landscape framework of the site which is a great asset and should form the structuring device for new parcels of development, which should be connected by a network of pedestrian/cycle leisure routes that pass through and alongside a renovated and ecologically enhanced woodland. The woodland should also provide a recreational resource associated with the new public open space. The new footpath and

cycle routes would provide safe, direct and attractive links to Stapenhill. The provision of a specific 'Greenway' shared footpath/cycleway link through the site is a requirement of the original permission and would provide a link from the sites boundary with Staffordshire to the north, through the site to the south-western corner which would then over time and in accordance with the DCC footpath/cycle strategy further develop links to the Drakelow Nature reserve and Walton on Trent beyond. The whole development needs to adopt a positive approach to 'Active Design', which can build on the submitted POS and Links plan to ensure that the development is designed to encourage walking and cycling.

The original permission requires the submission of a detailed Open Space Strategy, which again will be key to the success of the development. The submitted masterplans give confidence that a suitable strategy is achievable even given the reduction in open space, which includes enhancement and management of the woodland areas and suitable provision for children's play.

In terms of the proposed local centre and employment areas, the Design Guide SPD carries forward many of the principles of BNE1 to this form of development. These areas will require particular focus on matters of landscaping, with high quality surfacing materials and relief through structural landscaping and specimen trees which would assist in breaking up the built form. Long term management of these areas will also be vital, and such matters can be required as part of reserved matters submissions. The listed buildings/structures within the heart of the site present significant opportunities for their reinterpretation as new recreational areas and given new functional uses, safeguarding these important heritage assets. Ideas for the former stables include the conversion for use as small commercial units, community space or even a return to residential use. The sunken gardens would be brought back in to use as public open space, which alongside the proposed area of open space in-between the gardens and listed stables would enable the creation of a central greenspace at the core of the site giving it a special sense of identity and local distinctiveness and revealing and allowing a better understanding of the sites past, enhancing these listed assets and their setting.

A central core area developed around these assets will also include the proposed primary school, local centre and extra care facility which will enable this area to develop as a valuable, and vital core to the development and also aid in integrating the surrounding woodland into the heart of the site – this includes ensuring the main 'loop' through the site is well landscaped and tree planted (avenue street trees) to provide a real link to the surroundings and also reflecting the sites location within the National Forest.

The primary school located in the core of the development needs to be clearly characterised and integrated, including suitable provision for linked trips to the local centre and open space areas helping to develop this area as an attractive green focal point to the development. In addition, the provision of shared spaces within the school especially securing the sports and changing facilities for community uses, with potential for a shared community space – this will be key to ensuring appropriate facilities are provided at the site and these requirements need to be built in to the revised Section 106 Agreement.

The detailed applications would need to consider legibility, character areas and focal points throughout the site in order to be successful and enable the scheme to knit together but also give different areas within the site their own identity, density and character. A series of connected streets with a clear hierarchy need to be clearly defined by a relatively continuous building lines and avenue street tree planting, which can aid in linking the woodland, public open spaces and play areas.

The dwellings and commercial buildings need to have identifiable building forms which would aid in creating a distinctive local character for the site, with landmark buildings at key junctions and gateways. The local area character analysis identifies a range of architectural details and materials which are common in the local towns and villages. With the following locally distinctive aspects being key elements; red brick in combination with some cement/lime render; pitched roofs of plain clay tiles or slate (or a suitable contemporary alternative); and windows that reflect the design of locally traditional timber framed sash and casement windows.

The reduced scale of the employment area results in houses being developed closer to the older electricity transformer site, and the consented Energy from Waste site (being developed by Vital Energi). The business uses previously approved in this location gave a reasonable stand-off and transition of land uses in this part of the site. The issue of appropriate noise levels in this part of the site has been the subject of detailed and careful scrutiny and has resulted in amendments to the extent of residential development within this area of the site as detailed in the latest masterplan, which subject to the conditions recommended by the Environmental Health Manager (EHM) is considered to result in a viable and suitable basis for the development to proceed overall and specifically in this part of the site.

Overall, the masterplan and DAS provides a suitable basis upon which to set the parameters for the reserved matters and conditions can be applied to ensure that the development is carried out in accordance with these documents.

### Noise and air quality

Policy SD1 supports development that does not lead to adverse impacts on the environment and amenity of existing and future occupiers within or around proposed developments. This is further reflected in the requirements of the NPPF, PPG and NPG that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established (in this case approved and under construction). As detailed above within the summary of the consultation response received from the EHM careful consideration has been given to the impact of the consented EfW facility currently under construction and due to be operated by Vital Energi. This has included the responses received as a result of consultation on this application but also the noise assessments submitted in support of their operation and their own applications. The conclusions are not repeated here but to summarise subject to appropriately worded conditions and careful consideration of the detailed reserved matters the proposed residential development of the site (most notably the extended area to the south-west) can occur without detriment to existing (and approved) business and facilities in the area.

### Viability and the Section 106 Agreement

The District Valuer (DV) has considered the viability appraisal (VA) submitted in support of the application and have undertaken their own appraisals to verify that advanced by the applicant. The appraisal analyses the land value, gross development value, build and abnormal development costs, section 106 (S106) costs, and associated finance and profit levels. The appraisal has been undertaken in accordance with the recommended practice set out in the NPPF; the PPG and the RICS guidance.

The residual appraisal formula for assessing development viability is when put simply: Gross Development Value (GDV) less Total Development Cost (TDC) (inclusive of S106 obligations, abnormal development costs and finance) less Profit, equals the Residual Land Value (RLV). The RLV is then compared to the Benchmark Land Value (BLV). Where the RLV produced from an appraisal of a policy compliant scheme is in excess of the BLV the scheme is financially viable, and vice versa:

In order to fully understand the viability of the scheme the appraisal undertaken by the DV has considered 3 separate scenarios:

- A full suite of S106 requirements with 30% affordable housing provision;
- A full suite of S106 requirements with 5% affordable housing; and
- A full suite of S106 requirements with no affordable housing.

Table 1: Headline Viability Figures

	<b>30% Affordable</b>	<b>5% Affordable</b>	<b>0% Affordable</b>
GDV	£392 m	£464.3m	£478.9m
TDC	£392.5m	£464.3m	£478.9m
RLV	-£0.5m	£24.7m	£29.8m
BLV	£29.6m	£29.6m	£29.6m
Surplus / Deficit	-£30m	-£4.9m	£0.2m

m = million. Rounded figures to 0.1 million £. DV Figures

Whilst this is only a snapshot of the assessment undertaken, the above clearly demonstrates that a scheme even with a significantly reduced affordable housing percentage (5%) combined with all of the necessary S106 requirements is unviable as the RLV is lower than the BLV. In comparison to the above the submitted VA concluded that even a scheme with 0% affordable housing was not viable when the S106 requirements were included. However, a reduction in profit levels from 19% to 17.5% on the open market dwellings and the inclusion of credit finance rate of 1% results in the above figures. The DV also undertook sensitivity analysis and testing which shows that in order for a policy compliant scheme with 30% affordable housing to be viable residential land values would need to increase by almost 15% - on the other hand if costs increased by 5% then residential land values would need to increase by almost 20% in order for the same scheme to be viable.

The costs associated with the development are significant, which is not unexpected given the historic use of the site and the substantial infrastructure costs, in addition to the associated unknown risks that could further increase these costs. Furthermore, the market housing values adopted for the purposes of assessment include sales at the David Wilson Homes (DWH) site between June 2019 and July 2020. Without being able to fully understand the effects of the COVID-19 outbreak on the property industry, the DV indicates a degree of caution around their assessment in this respect. It needs to be borne in mind that the above figures and calculations are based on the currently proposed level of public open space and woodland planting – which is a reduction on a policy compliant scheme, and the increased area for residential development which increases the value of the site. A fully policy compliant scheme would see the value of the site lower and become less viable.

For members information the existing S106 contributions required by the development (removing the provision of affordable housing from the pot) remain largely unchanged and comprise the following:

Table 2: Planning Obligations

<b>Planning Obligation</b>	<b>Amount</b>
Secondary Education	£3,435,488
Primary Education(including on-site school)	£7,000,000
Highways	£1,331,199
Walton Bypass	£17,000,000
Road S106 (widening of Walton Road)	£520,000
Travel Plan	£1,916,000

Healthcare	£1,000,000 (rounded figure) or a healthcare facility to provide a for a minimum of 5,000 patients.
Public Open Space (Built Facilities)	£875,000
Listed Buildings (retention and re-use)	£2,000,000
Indexation	£600,000
Total	£34,885,587 (£17,664 per unit)

The Infrastructure and abnormal costs (not including those infrastructure costs required by the S106) outlined in table 2 above equate to £35.5 million.

If it were the Committee's preference to seek affordable housing provision on site at the expense of section 106 contributions, then the following effects on the overall sustainability of the proposal would need to be considered:

- The total value of s106 contributions would not be of sufficient value to secure a policy compliant proportion of affordable housing on-site;
- No school or healthcare facility would be delivered on-site or contributions secured to mitigate these impacts;
- The Walton Bypass or improvements to Walton Road would not be delivered in addition to other highways mitigation required such as the Travel Plan (albeit the development could not exceed 400 occupations without this in any event);
- The listed buildings on-site would not be secured for future use and generations;
- Council projects for improvements to recreation and sporting provision would require greater support from other sources;
- It would be contrary to a Corporate aim to secure all necessary section 106 contributions to mitigate impacts of development; and
- It could compromise the level of, or ability, for Homes England award funding (see below).

The absence of affordable housing as a requirement of the development either by condition or through the Section 106 is unfortunate. However, in acknowledging the significant concerns this raises both the Council and developer have been actively engaging with Homes England in order to facilitate the delivery of affordable housing on the site – which would enable the development to fit in with the developers aspirations and business model of providing developments based on a 40/30/30 model split. This model equates to the provision of 40% market housing, 30% private rented and 30% affordable.

On-going discussions are/have taken place and it is clear this site qualifies for support given the significant infrastructure costs and the wider benefits that the necessary infrastructure will bring to the District and wider area. The applicant does need to secure a registered provider development partner to secure grant funding. In this instance the developer has secured Midland Heart as the registered provider for a minimum of the first 200 affordable housing units and has provided a completed agreement for the sale of land and construction of residential units on the site.

This is a certainly positive step towards the delivery of affordable housing on a potentially unviable site. However, it is clear there is a risk to the Council, given that any permission cannot be conditional on first securing funding as this would exclude the scheme from Homes England's eligibility criteria. This issue was discussed at the relatively recent Planning Committee meeting to discuss the development associated with the Woodville Regeneration Route. A considerable degree of faith is necessary in both the developer and Officers to work towards securing this goal and the right type and tenure of affordable housing to meet local needs; it must not be forgotten that the scheme is otherwise unviable with affordable housing included.



Whilst work towards securing a development partner and registered provider, and in turn Homes England funding, is unlikely to be sufficiently advanced before the section 106 agreement is prepared, the potential of this funding bringing the site back to a policy compliant level of affordable housing provision would remove one of the conflicts with the Development Plan. It is a significant change from the otherwise viable 0% affordable housing provision as set out above and one which members are requested to support.

The omission of a requirement for the development to provide a dedicated community facility i.e. a village hall is a notable one. However, the developers are willing to work with the council and Drakelow Parish Meeting (soon to become Drakelow Parish Council) in this respect and proposals for such a facility would need to be brought forward through the detailed reserved matters applications for the area around and including the local centre – a welcome approach from the developers.

The provision of a healthcare facility on the site is a matter which has understandably been the subject of concern for local residents, Officers and Members alike. Especially given the initial response received from the CCG due to their preference for a financial contribution rather than an on-site facility. As detailed above in their consultation response the CCG are currently commissioning a feasibility study to look into the options for increasing clinical capacity in Swadlincote and the surrounding area (including Drakelow, Walton, Rosliston etc) and as such the likelihood of one of the existing healthcare providers in Staffordshire or Derbyshire wanting to take on a facility at the site is not known at this stage but should become clear following the study. As such and in order to facilitate the much-needed commencement of development, the Walton Bypass and improvements to Walton Road it is considered appropriate in this case to ensure that the Section 106 Agreement is worded in such a way so as to provide the opportunity for a facility to be provided on-site rather than as requested by the CCG simply deferring to a financial contribution.

The S106 DOV signed in June 2016 extends to 211 pages and includes 11 separate schedules, as can be expected of a scheme of this magnitude and complexity. This application does not propose to change those provisions in principle save for the removal of the affordable housing schedules ensuring that the essential public benefits and effects are the same. The current application does however offer an opportunity to update the agreement brought about by the current proposal, to ensure it is up to date with current Regulations and Guidance (including the provision of shared facilities and other matters as detailed within this report) and take account of the existing development on the site and the fact that some of the required contributions (or part thereof) have been paid. In addition, as various elements of the required infrastructure (i.e. the Walton on Trent Bypass) may be the subject of external funding appropriate claw back mechanisms should be included for any additional funds to be appropriately allocated to local facilities. Overall, the proposed variation to the S106 through a deed of variation is considered to be appropriate.

### Other matters

Heritage; The masterplan and submitted heritage note contains assurance that all 3 designated heritage assets within the site are intended to be retained and repaired as part of the proposals. Indeed, the re-use of the sunken gardens (grade II) as part of the POS provision on the site, and the refurbishment of the former stables (grade II) will remain as requirements of the existing S106 including a two-stage approach to the repair and re-use of the stable block: Stage 1 of the works would be to secure the buildings and reverse their dilapidation, based on an a condition survey of the buildings, highlighting where urgent repairs are required. Interventions to the historic fabric would be minimal, enough to ensure the safety of the public and not to preclude their future appropriate and viable reuse; Stage 2 would be to identify future uses/users for the buildings compatible with sustaining the assets long term future. Previous applications for the site have remained silent on proposals for the remains of the walled garden (grade II), and it is now clear that the wall would be retained in some form within the development that would ensure that this asset is not lost.

In terms of heritage impacts and the impact of the development on the significance of these assets the revised and amended masterplan have focused more open space around the area where the listed



buildings are present on site, including an expansive area between the former stables buildings and the sunken garden which could support possible joint or interconnected uses of these spaces. The new masterplan provides probably the best setting and context for these buildings out of any of the plans previously proposed, and as such the revisions to the masterplan represent an improvement on the previously approved scheme. Whilst the specific detail of any alterations to these assets would need to be secured through separate listed building consent applications (and detailed planning permissions where necessary) it is entirely possible and likely that a suitable scheme (including re-use of the stables) can be secured through future detailed reserved matters and listed building consent applications without the need to cause harm to the assets themselves or their setting.

**Drainage;** At this outline stage the current plans for the use of Sustainable Urban Drainage System (SUDS) to dispose of surface water in mini/sub catchments from the proposed development are above ground and are in principle considered acceptable. The principles and aims of SUDS is to improve water quality, amenity and biodiversity. Surface water runoff from the proposed development would, insofar as is possible, be managed in a sustainable manner to mimic natural drainage and the surface water flows arising from the development. Neither the Environment Agency or Lead Local Flood Authority have raised any objections. SUDS principles are to be incorporated into the scheme, as shown on the masterplan in the form of surface water attenuation areas. Balancing ponds and pumping stations at the site all need to relate well to the woodland, open space and residential area so that different areas are not too compartmentalised within the whole comprehensive new development. Within the plan this appears to be achievable however, the SUDS location, size and design will need careful consideration at the detailed design stage.

**Highway safety;** As the conditions proposed to be varied do not relate to highway safety and were not recommended by the Highway Authority, the revised proposals do not result in a change in circumstances since the previous approval including the trigger for the required delivery of the Walton Bypass and Walton Road improvements and noting that access is a reserved matter there are no objections on highway safety grounds, which is confirmed in the response from the Highway Authority.

**District heating and cooling opportunity;** In accordance with policy SD6 the developer has considered the potential opportunities available for utilising waste heat for District heating at the site. However, as the supply of heat/energy cannot be guaranteed from this installation traditional means of heat and power will be required for the site.

**Condition 14;** The proposed amendment relates solely to updating the reference to the updated British Standard and as such it is a welcome variation to the condition.

**Condition 19;** Relates to the required submission of a statement assessing the proposal against the Code for Sustainable Homes (Code) and replaces with a requirement for a sustainability statement to be submitted with each detailed application. As the Code was withdrawn in 2015 this requested amendment is also welcomed.

**Condition 34;** The variation requests the inclusion of reference to Secured by Design, which again is a welcomed change to this condition.

**Environmental Impact Assessment (EIA);** The PPG advises that a Section 73 application is considered to be a new application for planning permission under the 2017 EIA Regulations. Where the development satisfies the criteria or thresholds set, the Council must carry out a new screening exercise and issue a Screening Opinion as to whether a fresh EIA is necessary. Where an EIA was carried out on the original application, it is necessary to consider if further information needs to be added to the original Environmental Statement (ES) to satisfy the requirements of the Regulations. A fresh Screening Opinion was issued in December 2020 confirming that no further update to the previous ES was required as a consequence of the proposed variation. Any subsequent issues that have arisen since this Screening Decision was issued would not bring about significant adverse effects on the environment in the context of the Regulations.

## Conclusion and the planning balance

The benefits of the development are significant and would facilitate the delivery of a long-standing permission and local plan allocation for up to 2,239 dwellings and new employment floorspace along with local centre and associated community uses. The delivery of these dwellings and employment floorspace would ensure the timely delivery of the Walton on Trent Bypass and improvements to Walton Road which will have numerous benefits to the local highway network and residents in the surrounding areas, not to mention the wider economic benefits that this would bring.

The construction stage of the project would also realise economic benefits, and further economic benefits would be seen in the form of, Council Tax and business rates income. In an environmental sense, derelict and previously developed land would be remediated and brought back into use with enhancement, in the long term, of the environment of the site. The development would also reduce the need and demand on the Council to allocate or support new development on greenfield sites. Biodiversity gain can be secured and the visual attractiveness and access to land in this area would be enhanced. The creation of open spaces, water features and play areas also aids in the mental wellbeing and physical health of those living and working on and off the site. The securing of the delivery of part of the County Council's Key Cycle Network, though the provision of a Greenway though the site, which will aid in delivering wider links between Walton on Trent to the south and the existing urban area of Burton upon Trent would also be a wider benefit of the proposals.

The delivery of the necessary infrastructure to support the development remains as previously secured, including the necessary highway works and improvements and triggers for delivery. The impact of the development on existing and consented businesses and infrastructure has been carefully considered such that the development of the site (subject to detailed design) is not likely to significantly or detrimentally impact upon these facilities.

In terms of heritage impacts, whilst the detailed consideration of specific impacts will need to be borne out of the detailed applications the masterplan provides sufficient detail to be confident that the development can take place without significant harm occurring to the on-site assets and the revised masterplan is considered to result in improvements to the setting of these assets when compared to the extant scheme.

Balanced against these significant benefits is the conflict with the development plan, these conflicts relate to the extended housing land, reduction in employment land, reduction in overall public open space and woodland planting and the lack of an explicit requirement for the delivery of affordable housing on the site. The viability of the scheme is a very important material consideration in this dimension and the requirement for the development to deliver a fully plan compliant level of open space and woodland planting, and affordable housing either by condition or through a S106 would result in the whole development becoming undeliverable. The development would then not come forward and in turn the benefits of the development would not be realised. The complexity of developing the site and its viability as a key consideration is evident from the length of time it has taken for a suitable developer to come forward with viable strategic development proposals. As evidenced by the developer there is reasonable and likely prospect of the affordable housing being 'made good' by intervention from Homes England, which could secure a plan compliant level of affordable housing. Indeed the developer has exchanged contracts with Midland Heart (a registered provider) in order for the first 200 affordable units on the site to be delivered.

With highway, drainage, land condition, arboricultural, biodiversity and amenity impacts all considered acceptable, subject to conditions, and with the masterplan and DAS indicating a well-designed development overall, it is considered that the planning balance sits clearly in favour of approval of this application and the variation to the Section 106 Agreement as set out in the report 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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and

to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

## Recommendation

**A.** Authorise the Head of Planning and Strategic Housing to negotiate and complete a replacement agreement under Section 106 of the 1990 Act in line with that described above;

**B.** Subject to A, **GRANT** permission subject to the following conditions:

1. Application for approval of the reserved matters for all remaining phases, namely access, layout, scale, appearance and landscaping, shall be made to the Local Planning Authority on or before the 29 February 2032 and shall be begun before the expiration of 3 years from the date of the approval of the last reserved matters to be approved.

Reason: The application is expressed to be in outline only. The Local Planning Authority considers it appropriate under Section 92(4) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004) due to the size and nature of the development to allow for the reserved matters to be submitted for an extended period.

2. Unless required by conditions of this permission, the reserved matters submitted in accordance with conditions 1 and 6 and details submitted in accordance with any other condition of this planning permission shall broadly accord with the masterplan and phasing plans approved pursuant to Conditions 3 and 4 below.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

3. The reserved matters shall be broadly in accordance with the proposed masterplan ref. SKM147-S73-12E.

Reason: In the interests of achieving sustainable development, having particular regard to the potential impact of the development on the character of the surrounding area, amenities of adjoining occupiers, biodiversity, flood risk and drainage, and heritage assets.

4. Unless otherwise required by conditions on this permission, the development shall be carried out in accordance with the phasing arrangements shown on drawings SKM147-PHA-01B, SKM147-S73-01C, SKM147-S73-02C, SKM147-S73-03C, SKM147-S73-04C, SKM147-S73-05C, SKM147-S73-06C, SKM147-S73-07C, SKM147-S73-08C and SKM147-S73-09C (or such other replacement phasing arrangements which may be submitted to and approved in writing by the Local Planning Authority as a non-material amendment to this planning permission, or as updated phasing arrangements accompanying an application for a reserved matters approval).

Reason: For the avoidance of doubt and to ensure acceptable impacts during the course of the delivery of the site as a whole.

5. For the purposes of this planning permission all references to a 'phase' shall be interpreted as being a reference to a 'phase' as defined on the phasing masterplan and programme referenced in or subsequently approved pursuant to Condition 4.

Reason: For the avoidance of doubt.

6. Each reserved matters submission shall be accompanied by a statement demonstrating how the phase relates to the Design & Access Statement (3665 Design and Access Statement Rev A 2021\_04\_27). Development of each phase shall be carried out in accordance with the approved plans and details.

Reason: The application is expressed to be in outline only and the Local Authority has to ensure that the details are satisfactory.

7. No development shall commence in a phase until an Open Space Strategy for that phase of the development has been submitted to and approved in writing by the Local Planning Authority. The Open Space Strategy for each phase shall broadly accord with the masterplan and POS linkages plan (SKM147-S73-12E and SKM147-S73-10E or as subsequently amended) and shall set out the proposals for the location, provision, programme of phasing, timing of submission of specifications, arrangements to secure public access and arrangements for short and long term management and maintenance (including funding arrangements) of all areas of open space within that phase including the following where applicable to each particular phase:
- a) The Woodland;
  - b) The proposed sports pitch and associated changing facilities;
  - c) The Sunken Gardens;
  - d) Children's Play Areas (having regard to the fact that such areas will be the subject of detailed design); and
  - e) Any remaining areas of open space within the site.
  - f) The provision of 3m wide pedestrian / cycle links through the development including but not only related to the main road loop linking Walton Road and the dedicated Greenway to be provided on the site.

The Open Space Strategy shall be implemented as approved unless otherwise agreed in writing by the Local Planning Authority or required by the conditions of this permission.

Reason: In the interests of the appearance of the area and to ensure sustainable provision of public open space and recreation facilities as the wider development progresses, noting that works to establish the layout of the phase require this detail to be approved first.

8. The hard and soft landscape details submitted pursuant to condition 1 shall include trees to be retained showing their species, spread and maturity; proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; street furniture; play equipment; refuse or other storage units; and retained historic landscape features and proposals for restoration.

Reason: In the interests of the appearance of the area and to ensure a high quality of design across the development.

9. Soft landscape details to be submitted and approved pursuant to Condition 8 shall include planting plans; written specifications; schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and an implementation programme.

Reason: To ensure an appropriate standard of landscaping in a National Forest location, in the interests of the appearance of the area and the development itself.

10. All hard and soft landscape works submitted and approved for a phase pursuant to Condition 8 shall be carried out in accordance with the approved details and shall be finished not later than the first planting season following completion of the relevant phase of the development to which they relate.

Reason: In the interests of the appearance of the area and the development itself.

11. For each phase a landscape management plan, including phasing and implementation strategy, long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority as part of the reserved matters submission in

accordance with conditions 1 and 6. The landscape management plan shall broadly accord with the Open Space Strategy approved pursuant to Condition 7 for the phase under consideration and shall be implemented as approved.

Reason: In the interests of the long term appearance of the development.

12. Any tree or shrub within a phase which forms part of the approved landscaping scheme for that phase which within a period of five years from planting (ten years for trees) fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved in writing by the Local Planning Authority.

Reason: In the interests of the long term appearance of the development and to provide sufficient protection for vegetation to establish.

13. None of the existing trees or hedgerows indicated as existing on the master plan drawing number E6484-103-GR-PPW-Existing March 2010 (as referred to in the more detailed ES plans 2155/11a (June 2008) and 2155/10b (June 2008)) shall be cut down, uprooted or destroyed, nor shall be topped or lopped without the prior written approval of the Local Planning Authority upon an application pursuant to discharging the requirements of condition 8. If any of the existing trees or hedgerows to be retained are removed or, uprooted or destroyed or dies, a replacement shall be planted in the same place and that tree or hedge shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority and thereafter be subject to the same period of protection as afforded under condition 12.

Reason: In the interests of the long term appearance of the area and the development itself.

14. No site clearance works or development of a phase shall take place until the boundary with the trees and hedgerow to be retained have been fenced off with in accordance with BS5837:2012. The fencing shall be retained in position until all building works on adjoining areas have been completed. The fencing shall be retained in position until all building works on adjoining areas have been completed.

Reason: In the interest of the health and safety of the trees and hedgerows.

15. The area surrounding trees or hedgerows within the protective fencing erected pursuant to condition 14 shall remain undisturbed during the course of the works, and in particular in these areas:
  - a) There shall be no changes in ground levels;
  - b) No material or plant shall be stored;
  - c) No buildings or temporary buildings shall be erected or stationed;
  - d) No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow; and
  - e) No drain runs or other trenches shall be dug or otherwise created;unless alternative details have been first submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the trees/landscape areas from undue disturbance in accordance.

16. The boundary treatments approved pursuant to condition 8 shall be completed prior to first use or occupation of the building, space or area they enclose or in accordance with a timetable which shall have been first submitted to and approved in writing by the Local Planning Authority.

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

17. Prior to the occupation of a dwelling comprising a phase adjoining the existing railway line, details of a 1.8 metre high boundary fence to be provided adjacent to this existing railway boundary to a standard to acceptably mitigate noise from the railway for occupiers of the development, shall be submitted to and approved in writing by the Local Planning Authority. The fence shall be subsequently retained and maintained to the same standard thereafter.



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

18. No construction of any dwelling or hard surface shall commence until details of the materials proposed to be used on the surfaces of the roads, footpaths, Greenway, private and shared driveways, car parking areas and courtyards along with samples of the materials to be used on the external surfaces of the buildings within that phase have been submitted to and approved in writing by the Local Planning Authority. The development of each phase shall be carried out using the approved materials.

Reason: In the interests of the appearance of the area and the built environment.

19. Any application for approval of reserved matters relating to provision of dwellings shall be accompanied by a sustainability statement that sets out the measures to be adopted to achieve a reduction in both energy and water use. The development of phase(s) shall be carried out in accordance with the approved statement.

Reason: In the interests of achieving a sustainable development which reduces its reliance on and consumption of natural resources.

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

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

21. A scheme to accommodate future charging facilities for electric vehicles shall be provided within the development in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. To prepare for increased demand in future years suitable and appropriate cable provision shall be included in the scheme design in accordance with details first submitted to and approved in writing by the Local Planning Authority. The scheme shall be provided in accordance with the approved details prior to the first occupation or use of the respective unit/dwelling and shall thereafter be maintained in working order and remain available for use throughout the life of the development.

Reason: In the interests of protecting and enhancing air quality through reducing and minimising emissions from vehicles.

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

Reason: To protect the amenities of adjoining properties and the locality generally, recognising that initial works have the potential to cause unacceptable impacts.

23. During the period of construction of any phase of the development which abuts any occupied dwelling within the site, no construction work shall take place outside the following times: 0730 – 1900 hours Monday to Friday and 0730 – 1330 hours on Saturdays and at any time on Sundays, Bank and Public Holidays.

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

24. Before use of the non-residential uses hereby permitted commence, a scheme designed to protect the living conditions of occupants of nearby buildings from noise, vibration and odours from the air ventilation and extraction system, including the methods of treatment of the



emissions and the external ducting, shall be submitted to and approved in writing by the Local Planning Authority. Before the non-residential uses commence, the measures approved under the scheme shall be installed and brought into use. Thereafter the approved measures shall be retained, operated and maintained in accordance with the manufacturer's specifications.

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

25. No deliveries shall be taken in or dispatched from the proposed local centre outside the following times: 0700 hours to 1900 hours Monday to Saturday and at any time on Sundays, Bank and Public Holidays.

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

26. Before use commences of any building for retail or commercial use (within Use Class A1-A5) or of the proposed community centre, details of all external lighting equipment associated with the proposed use of that building shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details and no other external lighting equipment may then be installed on or around that building except with the prior approval of the Local Planning Authority on an application made in that regard.

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

27. Prior to the commencement of any phase of the development the developer shall submit a scheme highlighting details of the likely resultant noise levels from activities during the construction phase of that phase at the nearest noise sensitive premises. The investigation shall address the impact that the activities will have, in terms of noise, on nearby residential properties. This assessment and mitigation measures shall be submitted for the approval of the Local Planning Authority prior to commencement of the development of that phase. Once agreed, all identified noise control measures shall be implemented and thereafter retained during the construction phase of the relevant phase.

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

28. Prior to the commencement of any building works within a phase, the applicant shall submit for written approval an assessment of noise likely to affect the future occupiers of the phase. This assessment should follow ProPG: Planning & Noise and BS4142 guidelines for assessing the noise from the surrounding road network and any other local noise sources that the evidence deems significant to the site. The assessment shall identify all noise attenuation measures that may be determined appropriate to reduce the impact of noise on the residential properties on the site. The noise attenuation measures shall achieve the requirements of BS8233 for internal noise levels from all noise sources. The noise attenuation measures shall ensure that the rating level of sound emitted from any individual fixed plant and/or machinery shall not exceed background sound levels by more than 5dB(A) between the hours of 0700-2300 (taken as a 15 minute LA90 at sound sensitive premises) and shall not exceed the background sound level between 2300-0700 (taken as a 15 minute LA90 at the nearest sound sensitive premises). All measurements shall be made in accordance with the methodology of BS4142 (2014) (Method for rating and assessing industrial and commercial sound) and/or its subsequent amendments. Consideration shall also be given to achieving adequate summer cooling and if deemed necessary, alternative ventilation measures shall be identified and incorporated into the noise assessment report. The assessment and mitigation measures shall be submitted for the approval of the Local Planning Authority prior to commencement of the development of the phase. Once agreed, all identified noise control measures shall be implemented and thereafter retained within the phase in accordance with the approved document.

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

29. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Revision D dated 9 November 2009 received

under planning permission ref. 9/2009/0341, undertaken by THDA, and the following mitigation measures detailed within the FRA:

- a) (Paragraph 9.6) Limiting the surface water run-off generated by all events up to the 100 year plus 20 % commercial (for climate change), 40% residential (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and 30% less than the existing Brownfield site, and not increase the risk of flooding off-site.
- b) (Paragraph 9.1) Improvement/protection and maintenance of the existing Darklands Brook.
- c) (Paragraph 8.5) Finished floor levels are set no lower than 600mm above the 100 year plus 20% for climate change flood level, or 150mm above proposed external ground levels or the adjacent highway (whichever is the greater) applicable to each phase of the site.
- d) (Paragraph 9.11) no raising of ground levels within the 100-year flood plain of the Darklands Brook.
- e) (Paragraph 7.14.4) Provision of suitable security/trash screens to both ends of the existing culverts.
- f) (Paragraph 7.14.5) Provision of Structural repairs to Culvert 2, in accordance with the time scales detailed within the supplementary culvert report.

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

30. Development of each phase shall not begin until a surface water drainage scheme for that phase of the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, including roof drainage and sealed at ground level, has been submitted to and approved in writing by the Local Planning Authority. Each phase of development shall subsequently be implemented in accordance with the approved details before the development is completed unless an alternative timetable is approved as part of the drainage scheme submitted. The scheme shall also include:
- a) Limiting the surface water run-off generated by all events up to the 100 year plus 20 % commercial (for climate change), 30% residential (for climate change) critical rain storm in accordance with paragraph 7.4 and tables 7.4, 7.7 and 7.9 of the approved FRA.
  - b) Provision of a minimum of surface water run-off attenuation storage on the site in accordance with paragraphs 7.8 and 7.9 and tables 7.7 and 7.9 of the approved FRA.
  - c) Details of how the scheme shall be maintained and managed after completion

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

31. The development of the Leased/Hatched area shown on Drawing No. 06-0297/114 received under planning permission ref. 9/2009/0341 shall not be commenced until such time as a detailed design of the Culvert 1 Replacement Scheme as outlined on Drawing No. 110 Revision B (also received under planning permission ref. 9/2009/0341), has been submitted to and approved in writing by the Local Planning Authority. Implementation of the Culvert 1 Replacement Scheme shall be undertaken during the ground works phase of the development of the Leased/Hatched area shown on Drawing No. 06-0297/114 received under planning permission ref. 9/2009/0341 and be fully operational prior to the first occupation of new dwellings within this area of the site.

Reason: To secure the implementation of the replacement of Culvert 1 within the site and to reduce the impact and risk of flooding overall.

32. Prior to the commencement of development within the Leased/Hatched area shown on Drawing No. 06/0297/114 received under planning permission ref. 9/2009/0341, a working method statement to cover all works involved in the construction of the Culvert 1 Replacement Scheme shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved designs and method statement for the Culvert 1 Replacement Scheme. The working method statement shall include details on the following:
- a) Time programme for the works;
  - b) Methods used for all channel and bank-side/water margin works;
  - c) Machinery to be used;
  - d) Location and storage of plant, materials and fuel;

- e) Access routes to the works, access to the banks of the watercourses;
- f) Method of protection of areas of ecological sensitivity and importance;
- g) Site supervision; and
- h) Location of site office, compounds and welfare facilities.

Reason: In the interests of flood protection.

33. The construction of any building, hard surface or road within a phase shall not be commenced until a scheme has been submitted to and approved in writing by the Local Planning Authority for disposal of foul water from that phase. The development of each phase shall be carried out in accordance with the approved details.

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

34. The construction of any hard surface or road within a phase shall not be commenced until a scheme has been submitted to and approved in writing by the Local Planning Authority to install oil and petrol separators in that phase. The development of the phase shall be carried out in accordance with the approved details.

Reason: In the interests of pollution control.

35. a) No demolition/development shall commence in each phase until a Written Scheme of Investigation has been submitted to and approved by the Local Planning Authority in writing for that phase. The scheme shall include an assessment of significance and research questions; and
- i) The programme and methodology of site investigation and recording
  - ii) The programme for post investigation assessment
  - iii) Provision to be made for analysis of the site investigation and recording
  - iv) Provision to be made for publication and dissemination of the analysis and records of the site investigation
  - v) Provision to be made for archive deposition of the analysis and records of the site investigation
  - vi) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- b) No demolition/development shall take place within a phase other than in accordance with the Written Scheme of Investigation approved under condition (a).
- c) The development within a phase shall not be occupied until the site investigation and post investigation assessment has been completed for that phase in accordance with the programme set out in the Written Scheme of Investigation approved under condition (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.
- d) Unless otherwise agreed in writing with the Local Planning Authority any historic or archaeological features not previously identified which are revealed within a phase when carrying out the development hereby permitted shall be retained in-situ and reported to the Local Planning Authority in writing within two working days. Works shall be halted in the area/part of the building affected until provision has been made for the retention and/or recording in accordance with details submitted to and approved in writing by the Local Planning Authority.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible, noting initial groundworks could lead to the irrevocable loss of items of archaeological interest.

36. Each application for approval of reserved matters shall be accompanied by a statement setting out the principles and practices of 'Secured by Design' have been incorporated within the development.

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

37. a) No phase of development shall be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters within that phase 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 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 phase (or, if agreed with the Local Planning Authority, parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- c) In the event that it is proposed to import soil onto site in connection with the phase, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- d) Unless otherwise agreed with the Local Planning Authority, no development shall take place within a phase until monitoring at the site for the presence of ground/landfill gas within the phase and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3, 1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it, noting initial groundworks could open up a pathway to a receptor.

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

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

39. Prior to the commencement of development in each phase, details of a programme of further survey work for that phase (beyond that having taken place for the Environmental Impact Assessment) relating to great crested newts, bats, breeding birds, slow worm, common lizard and grass snakes shall first be submitted to and approved in writing by the Local Planning Authority. Details of any required conservation measures and proposed habitats (including the creation of brown roofs and/or wildlife gardens where such features are to be provided in accordance with Condition 40) and implementation, management and maintenance proposals shall be included in the report (the Ecological Management Plan). Development of that phase shall be implemented in accordance with the approved details.

Reason: To ensure protected species and species of interest along with the habitats are not unacceptably impacted upon, noting initial groundworks and site clearance could lead to the net loss of biodiversity.

40. The Bat Mitigation Strategy (dated 10 November 2008 and submitted to the Local Planning Authority as part of planning application ref. 9/2009/0341) shall be implemented, where applicable to a particular phase, in accordance with a programme for that relevant phase to be first submitted to and agreed in writing by the Local Planning Authority.

Reason: To safeguard European protected species and to satisfy the Council's requirements under the Habitat Regulations.

41. Notwithstanding the submitted details, a scheme for the retention or the translocation of the onsite railway ballast habitat, as shown on the Green Infrastructure Plan submitted with

application ref: 9/2009/0341, shall be submitted to and approved in writing by the Local Planning Authority. Alternatively any such habitat lost shall be compensated through the creation of brown roofs and/or wildlife garden (as described in the Ecological Management Plan submitted with application ref: 9/2009/0341) in accordance with details first submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved details.

Reason: To ensure that as much of the biodiversity of the site as possible is retained.

42. Any measures set out in the Ecological Management Plan which are applicable to a particular phase shall be implemented in accordance with a programme for that phase which has been submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development of that phase.

Reason: To ensure that as much of the biodiversity of the site as possible is retained and/or enhanced.

43. Before any other operations are commenced in each phase, a scheme shall be submitted to the Local Planning Authority for that phase for written approval indicating the proposed temporary means of construction access, site accommodation, storage of plant and materials, and areas for parking and manoeuvring of site operatives and visitors vehicles and loading, unloading and manoeuvring of goods vehicles.

Reason: In the interests of highway safety, noting that initial works on site could lead to unacceptable impacts.

44. Before any other operations are commenced within a phase, excluding demolition and site clearance, the access and on-site facilities the subject of condition 43 above shall be laid out and constructed in accordance with the approved scheme and retained throughout the construction period free from any impediment to their designated use.

Reason: In the interests of highway safety.

45. Notwithstanding the submitted information, any reserved matters submission involving the creation or opening of an access between Walton Road and the development shall be accompanied by details of the traffic counting/monitoring equipment to be provided at the accesses in accordance with paragraphs 7.1.6 and 8.2.3 of the Framework Travel Plan dated 27 September 2011 submitted as part of application ref: 9/2009/0341).

Reason: In the interests of highway safety and to enable monitoring of Travel Plan objectives.

46. No more than 400 dwellings shall be occupied on the site until the widening of the Walton Road carriageway to 6.75m minimum between the site and the proposed Walton on Trent Bypass has been implemented generally in accordance with drawing no. 07-0297 100 submitted under application ref: 9/2009/0341, but more specifically in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and to ensure that sufficient mitigation is in place to assimilate the development in to the adjoining highway network.

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

Reason: In the interests of highway safety.

48. No development or combination of development shall be occupied that would result in trip generation exceeding 426 vehicle trips in the AM peak or 380 vehicle trips in the PM peak (based on the trip rates set out below) unless and until road schemes broadly in accordance with Infrastructure Planning and Design Limited layout drawings IPaD-09-104-P-110 Rev D, IPaD-09-



104-P-111 Rev D, and IPaD-09-104-P-112 Rev D (submitted under application ref: 9/2009/0341) have been submitted to and approved in writing by the Local Planning Authority, implemented in full and opened to traffic. The vehicular trip rates to be applied are as follows:

- Residential (per dwelling): AM Peak 0.37, PM Peak 0.335
- Employment (per 100sqm): AM Peak 0.87, PM Peak 0.76

Reason: In the interests of highway safety and to ensure that sufficient mitigation is in place to assimilate the development in to the adjoining highway network.

49. Prior to the occupation of the 100th dwelling within each of Phases 3 or 4 (separately and defined by condition 4) on the site, highway and pedestrian links between that phase of the development and the implemented David Wilson Homes Development (Phase 1), as detailed in the approved masterplan, shall be constructed to an adoptable standard, as far as reasonably possible, up to the site boundary line. Prior to the occupation of the 200th dwelling on that phase, any remaining highway link(s), shall be constructed to an adoptable standard. Prior to any construction work taking place, with respect to the highway links, details of the specification, vertical and horizontal alignment, and of any ancillary construction works necessary on Phase 1 shall be submitted to and approved in writing by the Local Planning Authority. Within 3 months of the necessary highway works being completed, any additional works that are necessary (within the application site) shall be carried out to facilitate the contiguous completion of the two highways.

Reason: In order to ensure the provision of a holistic road network across the wider urban extension, allowing for vehicular (including servicing and bus routing), cycle and pedestrian movement.

50. The employment land and flexible non-residential use as detailed in the approved masterplan shall include a minimum of 25% of the overall floorspace to be provided as 'starter' and 'grow on' industrial units. The mix shall comprise 40% of the floorspace to be provided in units not exceeding 100 sq.m and 60% of the floorspace provided in units not exceeding 500 sq.m unless planning permission has first been granted by the Local Planning Authority.

Reason: In accordance with policy E1 to ensure that the delivery of a balanced sustainable development and to meet an identified need within the District.

#### Informatives:

- a. Method statements are required to be submitted to Network Rail's Territory Outside Parties Engineer for approval prior to works commencing on site. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. "possession" which must be booked via Network Rail's Territory Outside Parties Engineer and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavations/piling/buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.
- b. Consideration should be given to ensure that the construction and subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land, and therefore all/any building should be situated at least 2 metres from Network Rail's boundary. This will allow construction and future maintenance to be carried out from the applicant's land, thus avoiding provision and costs of railway look-out protection, supervision and other facilities necessary when working from or on railway land. The Developer should be aware that any development for residential use adjacent to an operational railway might result in neighbour issues arising. Consequently every endeavour should be made by the developer to provide adequate soundproofing for each dwelling. Please note that in a worst-case scenario there could be trains running 24 hours a day and the soundproofing should take this into account.
- c. Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. Network Rail would wish to be involved in the approval of any landscaping scheme adjacent to the railway.

- d. Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Detail of any external lighting should be provided as a condition if not already indicated on the application.
- e. Under the terms of the Water Resources Act 1991, and the Land Drainage Byelaws, the prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 8 metres of the top of the bank, or the flood plain of the River Trent, and the Darklands Brook, both designated a 'main river'.
- f. The Environment Agency recommends that developers should:
  - i) Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.
  - ii) Refer to the Environment Agency Guidance on Requirements for Land Contamination Reports for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, e.g. human health.
  - iii) Refer to their website at [www.gov.uk/environment-agency](http://www.gov.uk/environment-agency) for more information.
- g. The Environment Agency actively encourages the use of SUDs at new developments. However it should be noted that the preliminary risk assessment indicates the potential for contamination to be present on the site. Drainage of surface or roof water through any contamination could act to mobilise it therefore posing a risk to 'Controlled Waters' receptors. Consequently proposals for the drainage of surface or roof water into the ground will need to be taken into account if contamination is found during the site investigation as the subsequent risk assessment will need to consider the additional infiltration from the surface and roof water system(s).
- h. The Environment Agency notes that there may be a requirement for water to be used for dust/dirt control measures such as damping down, water sprays and wheel washes. If water is abstracted from a watercourse or well or borehole for these purposes and more than 20 cubic metres per day is abstracted, an abstraction licence will be required.
- i. The Environment Agency has a river flow gauging station at SK 2391 2039. This site is an important part of their flood-forecasting network and vehicular access is required 24 hours a day 7 days a week.
- j. The proposal shows high density housing adjacent to the employment area (which includes B2 usage). The potential for noise disturbance to future residents is high and the applicant should contact the Environmental Protection Section to discuss this issue prior to submission of any reserved matters application.
- k. All archaeological work should be undertaken by a suitably qualified and experienced archaeological contractor. The Development Control Archaeologist at Derbyshire County Council should be contacted in the first instance for a written brief from which the WSI may be developed.
- l. Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of Derbyshire County Council. Prior to any Agreement being entered into the Council will require engineering designs of all proposed highway works, which will be subject to a construction approval process. Advice regarding the technical, legal, financial and administrative processes connected with Section 278 Agreements may be obtained from the Strategic Director of Environmental Services at County Hall, Matlock (tel: 01629 538582). The applicant is advised to allow at least 12 weeks in any programme of works to obtain Section 278 approval.
- m. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 6 weeks prior notification should be given to the Strategic Director of Environmental Services at County Hall, Matlock (tel: 01629 538582) before works commence on the temporary construction access.
- n. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must ensure that mud or other extraneous material is not carried from the site and deposited on the highway. If this does occur the applicant must take all reasonable steps to ensure that the surrounding streets are cleaned. The Highway Authority reserves the right to undertake street cleansing on the applicant's behalf should this be deemed necessary and recharge the applicant for the work.
- o. The applicant is advised that where development related highway works engender the re-routing or other changes to bus services, the developer will be expected to meet all of the costs involved in modifying the public transport routes/services for the duration of the works.

- p. The supporting documents submitted with the planning application identify Derbyshire County Council's Landscape Character Types in the baseline information but fails to make the link to the use of landscape character type key characteristics to landscape mitigation proposals. This should be addressed fully in the landscape scheme and in particular species selected should reflect local landscape character, especially the new woodland planting. The landscape scheme should recognise the local landscape character of the surrounding countryside and identify how the development will be incorporated into it. Further advice can be obtained from [www.derbyshire.gov.uk/environment/conservation/landscape](http://www.derbyshire.gov.uk/environment/conservation/landscape).
- q. Derbyshire County Council's Greenways Officer from time to time should as far as possible be consulted on the design, creation and construction of the greenway/bridleways that will serve and cross the application site. Contact Derbyshire County Council on 01629 539653 or at: [countrysideservice@derbyshire.gov.uk](mailto:countrysideservice@derbyshire.gov.uk).
- r. The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com).
- s. This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.

**Item No.** 1.2

**Ref. No.** [DMPA/2020/1004](#)

**Valid date:** 28/10/2020

**Applicant:** Bellway Homes East Midlands **Agent:** Georgina Doyle

**Proposal:** The erection of 189 dwellings including public open space, landscaping and associated infrastructure and works on Land at Broomy Farm, Woodville Road, Hartshorne, Swadlincote, DE11 7EY

**Ward:** Woodville

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

The proposed development has received more than four objections and is a major application and the development does not fully accord with the Development Plan.

#### **Site Description**

The site is located within the residential allocation known as Broomy Farm under policy H4 of the Local Plan, to the north west of the allocation. Phases 1, 2a and 3 have been approved with conditions for the erection of 70 dwellings under phase 1, 182 dwellings under phase 2a and 148 dwellings under phase 3, equating to a total of 400 dwellings. The full extent of the housing allocation at Broomy Farm extends some 27.5ha with the current application consists of 7.16ha out of the 27.5ha and is located to the north west of the site adjacent to the dense landscaping buffer to the north of the site and the edge of phase 3 to the south. The overall site, including phases 1, 2a, 3 and 4 amounts to 27.5 hectares and was formally arable land. The land levels at the site fall towards the west.

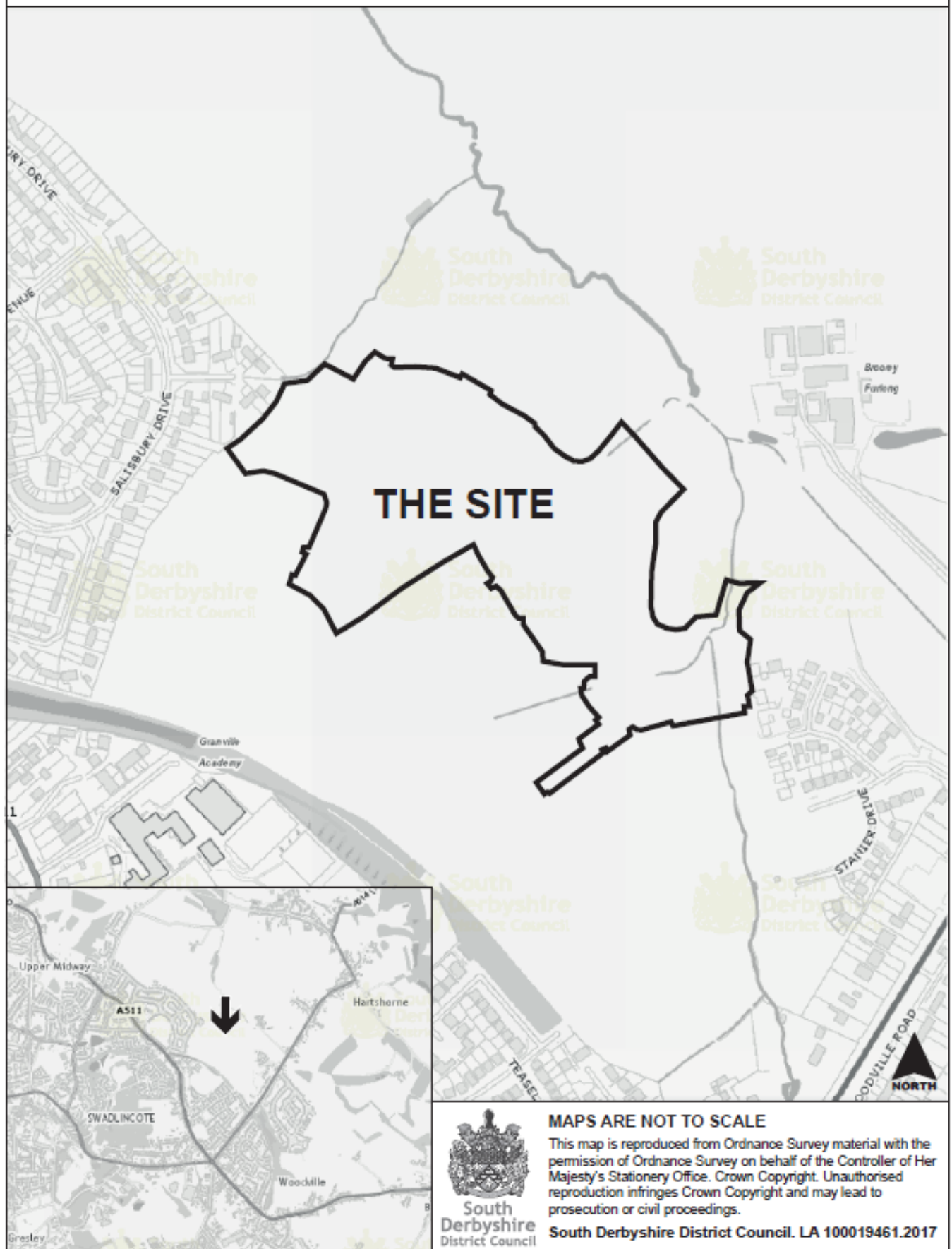
#### **The proposal**

Consent is sought for the erection of 189 dwellings with associated open space and landscaping, the site would be accessed by the proposed spine road that runs through the site and has now been completed to allow the building out of phases 1 and 2a. The proposed development would consist of a mix of; 1, 2, 3 and 4 bedroom properties and bungalows with a total 53 affordable dwellings which would meet the required 30% affordable as stated in policy H21 of the Local Plan.

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

The [Design and Access Statement](#) and [Planning Statement](#) demonstrates how the proposal has responded to its context and considers matters such as use and amount; access and movement; scale and appearance; layout and landscaping. The open market housing proposal includes a range of detached and semi-detached 3 and 4 bedroom properties with a maximum height of 2.5 stories and affordable homes (30% of the overall site) with a tenure split of 75% social rent and 25% shared ownership. The affordable units range from 1-4 bed properties including maisonettes and bungalows. Vehicular and pedestrian access points connect into the previous phases of development. This includes the creation of a network of new pedestrian/cycle links linking to the previous phases of development and into the wider area. An accessible framework of open space including the proposal to enhance the adjacent consented children's play areas and retain existing trees and hedgerows. Commensurate with the outline planning permission, a significant area along the northern edge of The Site is also provided as National Forest land. This National Forest provision equates to 30% of the gross site area for the whole housing allocation, in accordance with the policy requirement for a site of this size. The application will be subject to a Section 106 agreement to ensure delivery of such requirements as are reasonable and which accord with the tests set out in Framework and the statutory limitations set out in Reg. 122 of the Community Infrastructure Levy Regulations 2010 in respect of the grant of planning permission for this site.

**DMPA/2020/1004 - Land at Broomy Farm, Woodville Road, Hartshorne, Swadlincote DE11 7EY**





The Flood Risk Assessment notes that the local watercourses run in a northerly direction through the site and are considered to be the primary flood risk to the proposed development. Despite this it is concluded that there is a low risk of flooding from the fluvial sources at the site even during extreme event. The surface water runoff from the site will be managed during extreme events by the introduction of attenuation restricting runoff from the site to the current runoff rate.

The submitted Transport Assessment and Travel Plan concludes that the proposed dwellings will generate 140 two-way vehicle movements in the morning peak hour and 139 in the evening peak hour. The development adds only 27 and 10 traffic movements to Clock Island (the A511/A514/Moria Road roundabout) in the morning and evening peak hours. Nevertheless, the roundabout is heavily congested and because each approach is over its practical capacity, there is a detrimental impact, with longer queues and delays. Improvements to the junction have been explored many times and a cost effective response has not been found. Instead, it has been necessary to deliver other measures, such as the Woodville Regeneration Route, which takes traffic away from Clock Island. The Woodville Regeneration Route is being delivered through a mix of public funding and private funds from developers who would benefit from its delivery. Hence it is appropriate to contribute to the delivery of the Woodville Regeneration Route, as the mitigation to the proposed development. A contribution proportional to that derived for the 2016 consent would be reasonable. Overall, the proposed development would accord with the aims of the NPPF. Safe and suitable access can be achieved by all modes of travel, and there are opportunities for sustainable travel. There are proposals to mitigate the impact of the development and there would not be an unacceptable impact on highway safety. The development should not be refused on highways grounds.

The Statement of Community Involvement notes that Bellway Homes have conducted an extensive programme of consultation already to help shape the proposed development. The general consensus among respondents who provided feedback is that the development is welcomed in the area and is very much seen as a completion of Broomy Farm Phases 1 – 3 (Hartsthorpe View and Woodland Rise) that has been a popular area for residents to settle in. Bellway is committed to the green infrastructure to create greater biodiversity on the site and will work with the local authority on the required infrastructure works specifically in relation to schools and medical faculties where the S106 contributions will no doubt help to create the necessary infrastructure to accommodate the extra residents.

The Desk Based Study (Land Contamination) concludes that the Phase I Site Appraisal has shown the site is suitable for the proposed development, assuming compliance with all the recommendations contained within this report relating to additional investigation works in relation to ground gas effects and chemical analysis of the soil.

The Coal Mining Risk Assessment recommends mitigation for the potential presence of shallow un-recorded workings and recorded and un-recorded mine entries, spontaneous combustion and gas emissions. The Coal Authority (CA) Consultants Report lists no recorded workings beneath the Phase 4 area. Therefore the risk posed to the ground surface from recorded workings is assessed as negligible and no mitigation should be required. The Coal Authority report confirms there are no probable un-recorded workings in coal seams at, or close to, the ground surface. However, borehole records held by the British Geological Survey (BGS) have been obtained, originating from opencast coal prospecting in the 1960's. The BGS boreholes revealed shallow coal workings adjacent to, and within the western boundary of Phase 4, which conflicts with the Coal Authority information: It should be noted that Phase I of Broomy Farm, adjacent to the east, required grouting of unrecorded mine workings in the same coal seam. Therefore, given the BGS information and that from Phase I Broomy Farm the risk to surface stability from unrecorded workings is assessed as high. The Coal Authority confirms that the site does not lie within 500m of the boundary of an opencast site. The risk from current, future or past opencast workings is therefore assessed as negligible. The CA confirms that there is one known coal mining entry within, or within 100 metres, of the boundary of the property. The entry is recorded adjacent to the north western Phase boundary and close to the BGS boreholes listed above. The coal mining entry recorded by the CA was located during the 2016 strategic ground investigation and described as: brick-lined, c.1.8m in diameter and backfilled.

The purpose of the shaft is unclear. The shaft may have been sunk for coal or clay (seatearth) extraction or possibly a combination of the two. A plan showing the shaft location in relation to the proposed layout is presented in Appendix C.

RLE conducted two dynamic probes within the shaft (2016), which indicated fill materials to c.11m below existing ground level (begl). As part of a 2018 ground investigation program GRM undertook two rotary probe holes within the shaft under CA Permit 15771. The probe holes progressed through the shaft-fill materials and both encountered rock at depths of between 10m and 10.3m begl. A further ten rotary boreholes, progressed to 15m begl, were conducted around the exterior circumference of the shaft in an attempt to locate any workings radiating from the shaft. All of the exterior boreholes recorded solid coal at depths of between 7.2m and 8.6m begl, with no evidence of workings encountered. Therefore, the risk from recorded mine entries is assessed as high. Given the presence of previously unrecorded shallow workings in adjacent areas of the Broomy Farm development together with the recorded mine entry there exists the possibility of further unrecorded entries of which the Coal Authority have no knowledge. Accordingly, the risk of further, unrecorded entries is assessed as moderate. The Coal Authority states that there is no record of mine gas emission requiring action by the CA within 500m of the boundary of the site. It seems reasonable to conclude that the risk to the proposed development from mine gas emissions is negligible. However, in light of the potential for unrecorded old workings it is considered reasonable to increase the risk to low; this does not preclude the additional risk of ground gases from other sources. Where Coal Measures strata lies close to the ground surface foundations could potentially penetrate or encounter coal seams within their excavation. There is therefore a potential for spontaneous combustion. The risk from spontaneous combustion from near surface coal seams is generally assessed as low but some form of precautionary mitigation might be required.

The strategy and aims of the Archaeological Written Scheme of Investigation (WSI) is to monitor topsoil stripping at the site in order to record any such remains relating to the former coal works to the east of the site and outlines the method of recording of these details. The aims of the monitoring are to ensure that the archaeological works are undertaken within the limits set by the WSI and to the satisfaction of South Derbyshire District Council and the County's Development Control Archaeologist.

The Arboricultural Method Statement provides the methods of protection and pruning requirements for retained trees at the site. The report outlines the methodology by which construction will be undertaken in order to safeguard trees in a satisfactory condition during the construction. This method statement sets out a definitive account for the treatment of retained trees and specifies industry approved construction methods.

The Biodiversity Impact Assessment and Ecological Assessment Appraisal notes that the development of phase 4 along with pond 3 within the area of National forest planting would result in a net gain of biodiversity of +1.34 hedgerow units and +2.41 habitat units. There are very few features for habitats for bats, badgers, great crested newts and the majority of hedgerow on site would be retained.

This Sustainability Statement includes details on material selection, pollution, waste management, water efficiency and energy efficiency. The key endeavours are the use of sustainable sourcing of building materials; that the construction specification for the phase 4 site achieves A+ and A ratings when assessed against the Building Research Establishments Green Guide; A site waste management plan will operate at the development; Recycling facilities will be provided to each home; Pollution during the construction phase will be minimised through the adoption of best practice measures with respect to waste, dust and air pollution; Best practice policies with respect to site pollution will be implemented as standard. The strategy addresses energy efficiency, water efficiency, pollution and material selection. When assessed against the definition included in the NPPF, the proposals can be described as sustainable.

### **Relevant planning history**

DMPA/2021/0109 – Approval of reserved matters (layout, scale, appearance and landscaping) relating to the provision of a parking area for 8 vehicles and the realignment of woodville footpath 3 (ref

SD51/3/1) pursuant to outline permission ref. 9/2016/0882 – Approved April 2012.

DMPA/2021/0061 – The creation of two new vehicular accesses for maintenance for planting and open space and existing agricultural and equestrian uses at Broomy Farm - Approved April 2012.

DMPA/2020/0422 – Approval of reserved matters (layout, scale, appearance and landscaping) for erection of 148 dwellings along with creation of roads and public open space pursuant to outline permission ref. 9/2016/0882 (phase 3) - Approved February 2021.

DMPA/2019/1327 - Approval of reserved matters for layout, scale, appearance and landscaping of outline permission ref. 9/2016/0882 (for the erection of 10 plots in lieu of 8 previously approved under reserved matters approval ref. 9/2018/0767, along with substitution of remaining housetypes and adjustment to plot boundaries, relating to former plots 117-120, 144-145 & 160-161) – Approved December 2019.

DMPA/2019/0893 - Approval of reserved matters for layout, scale, appearance and landscaping of spine road through phase 1a and 1b (in part) and approval of reserved matters for layout, scale, appearance and landscaping of the public open space areas for phase 1a and 1b (in part) - Approved October 2019.

9/2019/0382 - Approval of reserved matters for layout, scale, appearance and landscaping relating to phase 2a only for the erection of 70 dwellings, along with layout, scale, appearance and landscaping of public open space areas and layout, scale, appearance and landscaping of the spine road for phase 1b (re-plan) and 2a.under outline permission ref. 9/2016/0882 - Approved August 2019.

9/2019/0355 - The erection of a boundary entrance feature – Approved August 2019.

9/2019/0291 - Approval of reserved matters for layout, scale, appearance and landscaping of outline permission ref. 9/2016/0882 (substitution of housetypes relating to plots 82-87, 93-95, 110 and 113-114) – Approved May 2019.

9/2019/0290 - Approval of reserved matters for layout, scale, appearance and landscaping of outline permission ref. 9/2016/0882 (substitution of housetype relating to plot 18) – Approved May 2019.

9/2019/0289 - Approval of reserved matters for layout, scale, appearance and landscaping of outline permission ref. 9/2016/0882 (substitution of housetype relating to plot 3) – Approved May 2019.

9/2018/0767 - Approval of reserved matters for layout, scale, appearance and landscaping relating to phases 1a and 1b only for the erection of 180 dwellings, along with layout & landscaping of public open space areas for phase 1 only (re-plan) under outline permission ref. 9/2016/0882 - Approved November 2018.

9/2017/0730 - Approval of reserved matters (in so far as layout & appearance for the spine road for the whole site and layout & landscaping of public open space areas for phase 1 only) - Approved June 2018.

9/2016/0882 - Variation of conditions of outline application ref. 9/2014/0740 - Approved June 2018.

9/2014/0740 - Outline application (all matters except for access reserved) for the erection of up to 400 dwellings and provision of new school pick up/drop off area, together with associated highway works, public open space, landscaping, parking and attenuation facilities - Approved July 2016.

## Responses to consultations and publicity

There have been no objections raised by Derbyshire Wildlife Trust subject to the inclusion of condition for a Landscape and Ecological Management Plan to secure biodiversity gain. Overall, the submitted biodiversity Impact Assessment demonstrates that the proposed development achieves a net gain in accordance with National policy.

The County Highways Authority notes that this site has consent for 400 dwellings, secured by an outline permission and subsequent reserved matters and that the current application would see construction of a further 196 dwellings. This would be within the existing red line boundary as the 2016 consent and will take the total dwellings to 596.

The submitted Transport Assessment suggests that the proposals will generate around 140 two-way trips during the weekday morning and evening peak hours, although exact numbers are likely to be a reflection of the type of property, mix of private and affordable housing and the tenure of the affordable housing. This site is located towards the periphery of Woodville and whilst there are some amenities locally, inevitably though, people will need to travel to wider destinations. However, the rate of trips as submitted are reasonably robust.

Access to the development would be via the spine road routing through the wider development approved in the 2016 consent. The spine road has a 6.75m wide carriageway with 2m wide footways on both sides and has been designed to operate as a bus route should an operator wish to do so.

Traffic generated from the development is predicted to divide along the spine road in more or less equal proportion. The junction on the A514 Woodville Road at the south eastern end comprises a staggered ghost island simple priority junction with Goseley Road. The junction on the A511 Burton Road at the north western end of the spine road would be a signal-controlled T-junction. Both junctions would be able to accommodate the additional development traffic.

The submitted Transport Assessment also considers other committed development, notably the proposed mixed-use development on land adjacent to Occupation Lane, approximately 1.5km south of the proposed development (application ref. DMPA/2019/0931). This application comprises up to 300 residential dwellings, a local centre comprising retail and employment land uses, together with access from the proposed Woodville Regeneration Route. The Woodville Regeneration Route is currently under construction and will, when opened anticipated next summer, provide a connection between Moira Road and the A514 Swadlincote Road. It will inevitably give rise to some rerouting of background traffic thereby providing some relief to the Clock Island junction.

The submitted Transport Assessment includes a capacity assessment of Clock roundabout. The analysis confirms that under existing (pre-Covid) conditions, using base flows observed from January 2020 together with traffic added to take account of committed development that the junction operates at/over capacity with congestion i.e. queuing and delays experienced by drivers on all of the approaches to the junction. It is understood that with the Swadlincote Regeneration Route (SRR) in place, 25% of traffic could possibly switch to the proposed SRR which suggests that there would be some improvements to the operation of the Ashby Road and Swadlincote Road approach to the junction although inevitably, queuing and delay would return, this could be more or less to current day levels as a result of future traffic growth.

Unfortunately, it is not possible in the absence of a dynamic traffic model to indicate definitively what the traffic impacts will be. However, the overall likely redistribution effects would be a function of the origin, destination of longer distance east – west through traffic and the level of congestion at the Clock Island. During periods of peak hour congestion at the junction, more background traffic would likely use the SRR as an alternative.

Improvements to the junction have been explored many times and a cost-effective response has not been found to date. Instead, it has been necessary to consider other measures, such as the Regeneration Route, which takes traffic away from Clock Island. The submitted Traffic Assessment

notes that the Woodville Regeneration Route is being delivered through a mix of public funding and private funds from developers who would benefit from its delivery and consider that a contribution proportional to that derived for the 2016 consent would be reasonable. The County Highway Authority consider that this would seem a reasonable proposition.

The Transportation Assessment has looked at Personal Injury Accident (PIA) data for the local highway network for the five years between April 2014 and March 2019 albeit acquired from the Occupation Lane Transport Assessment (application ref. DMPA/2019/0931), this concludes that overall, the analysis of accident data has not revealed any trends or features of the highway that are contributing to the accidents or that road safety will be affected by the proposed development.

On the basis of this, the County Highway Authority considers that there is sufficient capacity at the junctions serving the site onto A514 Woodville Road and A511 Burton Road to accommodate the proposed additional dwellings and that a contribution towards the Occupation Lane/ Regeneration Route, commensurate to that included in the Section 106 Agreement for the original 400 dwellings as suggested in the TA, would be appropriate to mitigate the impact of the additional dwellings on the Clock Island.

According to the information available to me, the Traffic Congestion Mitigation Sum included in the S106 Agreement for the original outline application (9/2014/0740) and the subsequent 2016 application for 400 dwellings was £305,100.00 which equates to £762.75 per dwelling or £149,499.00 for 196 units.

In addition, the layout of the proposed development would be acceptable. The County Highway Authority, therefore, raise no objections to the proposal subject to the inclusion of planning conditions and subject to the inclusion of the Traffic Congestion Mitigation Sum included as part of a Section 106 Agreement.

The Lead Local Flood Authority (LLFA) has raised no objections to the application subject to the inclusion of pre-commencement conditions to provide details of surface water drainage.

The Strategic Housing Manger has raised no objections to the application, following the submission of amended plans, the application proposes a residential development of 189 dwellings, with an affordable housing contribution of 30% or 57 affordable dwellings on site. Out of these 57 dwellings, 75% would be social rent (43 dwellings) and 25% of which will be shared ownership (14 dwellings). Both the affordable housing contribution and the tenure mix would be in line with the Council's Local Plan and Affordable Housing SPD. The dwellings proposed as part of the social rent on site would provide the following:

- 10 x 1 bed maisonette
- 11 x 2 bed house
- 6 x 2 bed bungalow (M4(3)) with LAS
- 12 x 3 bed houses
- 4 x 4 bed house

The shared ownership on site would provide the following:

- 7 x 2 bed houses
- 7 x 3 bed houses

This would accord with the locally identified housing need and provide the full 30% requirement of affordable housing as on site provision as part of policy H21 of the Local Plan. This would be subject to a Section 106 Agreement to carry through these requirements.

The County Planning Policy Officer notes that infant and junior schools do not have the capacity to accommodate the additional pressure on places from this development and seek contributions:



- £807,299.73 towards the provision of additional education facilities for 47 primary pupils at Eureka Primary School;
- £1,009,394.10 towards the provision of additional education facilities for 39 pupils at Granville Academy; and
- £131,798.09 towards 1.37 Special Educational Needs and Disability (SEND) places.

In addition, the proposed development would put additional pressure on local library facilities, whilst the proposed development would not amount to requiring capital improvements to Swadlincote Library, the following amounts would be required in order to maintain adequate stock levels to meet the catchment area:

- 196 dwellings x 2.3 (average household size) = 450 people = 450 people x 1.532 (stock level per person) = 689 stock items
- 689 (stock items) x £20 (cost per stock item) = £13,780 (i.e. £70.30 per dwelling).

NHS Derby and Derbyshire stipulate that the proposed development would increase the population by around 473 people. Owing to the impact of the proposed development on surgeries and local practices in the local area, the potential for S106 funding to be used as a contribution to GP capacity in the Swadlincote area. The draft primary care estates strategy has identified Swadlincote as a priority area, and with pressure coming from short-term growth in years 1-5 from potential developments in and around Swadlincote, Drakelow and Woodville. Facilities are already fully utilised/over-utilised with limited/no capacity to absorb additional growth. Growth beyond current capacity may require a possible solution to be developed in the vicinity within 5 years which may take the form of one or more extensions to current premises or a new build. A contribution of £90,816 has been sought, for potential extensions to existing doctors surgeries in the vicinity.

The National Forest Company have raised concerns about the extent of extent of new dwellings and the likelihood that this will reduce the available public and private amenity space across the overall site.

The Environment Agency does not wish to make a formal comment on the site as there are no environmental constraints that would fall within the remit of the Environment Agency and that the Lead Local Flood Authority (LLFA) should be consulted with regard to the disposal of surface water arising from the development.

Natural England has no comment to make on the application.

Network Rail has no observations to make on the application.

The Police Architectural Liaison Officer notes that the site layout is acceptable, albeit denser along certain frontages than other phases. The use of post and rail fences between the boundaries of dwellings would not be suitable and a condition shall be required for alternative boundary treatment details to be submitted and approved.

The Development Control Archaeologist has raised no objections to the application, the area of the proposed for development has been the subject of detailed archaeological assessment and recording, under a condition attached to the outline planning permission (9/2016/0882). The report on this work has been approved and submitted by the applicant, and we await the deposition of the archaeological archive in advance of advising discharge of the relevant condition. The Development Control Archaeologist would therefore, not wish to comment further on these proposals therefore.

County Footpaths – No comments received.

Severn Trent – No comments received.

No comments have been received by the Coal Authority for the application.

The Environmental Health Officer has no objections subject to conditions relating to vehicle charging points to be provided as part of the development and for the construction period to accord with

construction hours for the remainder of the site.

Peak and Northern Footpaths – No comments received.

Hartshorne Parish Council - The Parish Council which to object to this application as it will be a further intrusion into the countryside and not provide any affordable housing for local people. The original application was for 400 properties to be built on the site which the local community reluctantly agreed to, thinking that this would be the maximum number of properties built and would go a long way to meet the 5 Year Local Housing need/plan; but with this application, it takes the number of properties to over 600 which is an increase of nearly 50%. Nearly all are within the Hartshorne Parish which currently has only a total of 1600 properties. The Parish Council is very concerned that there is no progress on the entrance off Lincoln Way and they would like assurances that this will be complete before the proposed development is commenced. It is noted that there is an allocation of affordable housing within the development, the Parish Council wants assurances that this number will not be decrease in the future.

In addition, for an additional 196 dwellings there appears to be insufficient/additional recreational facilities therefore putting pressure on the Parish Council to provide additional facilities at both Goseley and Salisbury Drive recreation grounds. The Parish Council has at no stage has been consulted on any additional s106 monies available due to the proposed 50% in additional dwellings.

There have been four letters/emails of objection received raising the following comments:

- The area around Midway will have more pressure from vehicles. The roads can not cope now because of all the new building works that are taking place.
- There aren't enough Schools and Doctors in the area as is.
- Affordability of the homes for our younger population will not be acessible to them.
- These properties because of the Postcode and it states Hartshorne will attract people from out of the area not locals as it should be .The Government wanted the local Councils to build affordable properties for their younger generation and not people from Birmingham, Derby, Tamworth who can afford these highly priced accommodation. Local people are being priced out of the Market place both homes and traders prices will rocket.
- The younger generation will no longer be home owners they will be home renters. Bellway homes and the Planners need to take a minute and look at the structure of Swadlincote Roads and infrastructure. The new bypass that is to be built through Occupation Lane is just tip of the ice-burg. The A5111 and A444 are nightmare roads in and out of Swadlincote.
- With these 196 homes if everyone has 3 cars that is another 588 cars of this section of the estate alone. Bellway have not put enough money into the infrastructure again.
- Objection relating to the Power lines that have been moved before planning permission has been granted.
- There are no plans that can be seen regarding landscaping or additional houses on this site, these need to be made public.
- These houses will overload local services and overlook neighbouring proprieties.
- Bin collections cannot cope with demand around South Derbyshire with bins not being collected in parts of South Derbyshire regularly.
- There is a lack of NHS dentist places and limited availability of doctors appointments with Woodville surgery already struggling with demand with over 9,000 patients registered.
- Tollgate island experiences traffic jams regularly especially around school pick up and drop off times and around rush hour. It is also an accident blackspot. Getting off Lincoln Way estate can also be hard enough with the amount of traffic that uses Burton Road, this planned estate will add to existing traffic concerns.
- The local schools are also struggling with increased demand from housing already being built out already. Another 196 houses will cause more demand for struggling schools and local services.
- Concerned about the impact on wildlife as there are bats and owl that fly around the site, with planned housing being built here this wildlife will be lost.

- Concerned that green space that many local people used for walking during lockdown is going to be replaced with expensive housing that many locals cannot afford in this current climate.
- The loss of this green space especially now building works have started on other phases has already been noticed as locals have lost an area that can be used for local exercise during this new lockdown period. The Government is looking for a healthy population but the loss of this local green space will impact on the local community and their health.
- These houses will be bought not by local people who cannot afford £450,000 houses but others outside the area not really solving local affordable housing crisis.
- There is also no information on these plans on how far these houses will be away from existing properties on Truro Close? There needs to be urgent clarification on this and if there will be any planting of trees or plant boarder between existing properties on Truro close and new planned development.
- Bellway has not had any communication regarding removal of pylons and creation of some pylons without any communication. The pylons were removed before permission was granted in October. We are highly concern that Bellway would not stay within any future planning permission granted.
- The new phase of this estate will cause loss of value to existing homeowner's properties on Truro Close with loss of view and change light conditions in our gardens and houses. The impact on our families who live in properties on Truro Close's quality of life will be affected by this proposed development.
- Extremely concerned about the impact on these planned houses on neighbours daily lives, they are already being affected by building works from other phases with increase dust and noise coming from the works taking place and usually starting very early in the morning.
- This application would result in almost 600 houses on the Broomy farm site and is therefore in conflict with the approved local plan which allowed for a total of 400 houses.
- This would result in additional pressure on local community facilities, in particular to local community buildings providing meeting places and local sporting facilities i.e. the football pitch on the Salisbury Drive recreation ground lacks changing facilities and is therefore not usable by adult teams.

### **Relevant policy, guidance and/or legislation**

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), H4 (Land at Broomy Farm, Woodville), H20 (Housing Balance), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF7 (Green Infrastructure), INF8 (The National Forest) and INF 9 (Open Space, Sport and Provision).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas) and BNE7 (Trees, Woodland and Hedgerows).

The relevant local guidance is:

- South Derbyshire Design Guide SPD
- Affordable Housing SPD
- S106 Contributions SPD

The relevant national policy and guidance is:

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

## Planning considerations

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

- Principle of Development;
- Affordable Housing and Section 106 Contributions;
- Open Space Provision and National Forest planting;
- Highways and Connectivity;
- Layout and Amenity; and
- Scale and Appearance of Dwellings.

## Planning assessment

### Principle of Development

The site at Broomy Farm, extends some 27.5ha with around 400 dwellings having been designated at the site under housing allocation policy H4 of the Local Plan. Up to 400 dwellings have been permitted at the site and are currently being built out through phases: 1 (182 dwellings), 2 (70 dwellings) and 3 (148 dwellings). The current application extends some 7.16ha of the original site (would have been originally included within the 27.5ha area of the allocation) and proposes 189 dwellings with associated open space and landscaping. This would increase the number of dwellings at the site to a total of 589 dwellings, which would exceed the number stipulated within policy H4 of the Local Plan by 189 dwellings. The proposed site would be contained within the extent of the area of the Broomy Farm allocation under policy H4 of the Local Plan and contained within the same red line boundary as the outline application approved under application 9/2014/0740.

On the basis of this, the proposed development would not accord with policy H4 of the Local Plan as the proposed development would exceed 400 dwellings on the site and the application has been brought to Planning Committee for consideration.

Policy H4 of the Local Plan stipulated around 400 dwellings in order to ensure that the site was capable of securing onsite open space and facilities and ensure that the scheme could achieve a good level of design and character across the whole site, with no dense pockets of development. Given the additional 189 dwellings now proposed it will be important to fully assess the extent to which new dwellings at the site could have a harmful impact on the wider Broomy Farm allocation or could squeeze infrastructure that has been secured on site through the allocation, such as open space.

The Local Authority currently benefits from a Five Year Housing Land Supply of 5.09 years and whilst the Council can currently demonstrate a Five Year Housing land Supply and an up to date Development Plan, the erection of up to 189 additional dwellings would make a positive contribution to the Councils supply of housing. Owing to the allocation of the Broomy Farm development, the site is largely contained within the settlement boundary of the Swadlincote Urban Area, as defined within policies H1 and SDT1 of the Local Plan. The overarching purpose of these policies would be to steer new development and new dwellings to the most sustainable locations within the District, of which the Swadlincote Urban Area would be considered favourable.

The principle of the development would be underpinned by the applications ability to demonstrate that the erection of an additional 189 dwellings at the site would not harmfully affect or devalue the housing allocation at Broomy Farm in terms of reducing or removing necessary infrastructure to support the site and that the addition of the proposed dwellings would not result in a dense pocket of development amongst the wider allocation and would continue to achieve the same level of design and character as the rest of the scheme, with the proposed dwellings. It would therefore, be necessary for the proposed development to not create a “lesser” scheme by way of the proposed additional dwellings and add value to the existing allocation. It would also be necessary that the proposed development would respond positively to the requirements of policy H4 of the Local Plan and continue the policy’s overriding principles through the proposed development, of which policy H4 stipulates a requirement for the proposed development to provide:

- A significant green buffer to the north and east of the site in order to soften the urban edge of the development with green infrastructure;
- A spine road through the allocation to provide access between the A511 and A514;
- High quality pedestrian and cycle links within the site;
- A strategy to deal with foul water;
- Consideration of improvements in community facilities;
- Retention of the hedgerow along the watercourse at the site and a significant buffer to the southern edge of the site; and
- Developer Contributions towards Household Waste Recycling centre.

Owing to exceeding the housing numbers specified in policy H4 of the Local Plan, the proposed development would need to be weighed against other material considerations such as the additional points contained within policy H4, on site or off site contributions towards affordable housing, education, open space and health facilities as a way of improving the quality of community facilities for local people in the area in accordance with policies INF1, H21, INF8 and INF9 of the Local Plan.

#### Affordable Housing and Section 106 Contributions

Policy H20 of the Local Plan requires sites to make the most efficient use of the site area in terms of housing balance whilst taking into account what is appropriate for the surrounding local and natural environment. Policy H21 of the Local Plan aims to secure 30% of a new housing development as affordable housing where a housing development would exceed 15 dwellings. The proposed development proposes 57 affordable dwellings out of the proposed 189 dwellings and would provide a full 30% of affordable dwellings as part of the proposed development which would fully accord with the requirements of policy H20 and H21 of the Local Plan.

There have been no objections raised by the Strategic Housing Manager, as the proposed development would provide the required 30% of affordable dwellings on the site with a suitable mix that responds well to local needs, of which the details could be secured by way of a Section 106 Agreement.

As part of the application, full contributions towards Education, Libraries, Health, Open Space Built facilities and Open space facilities would be brought about with continued negotiations regarding improvement to community facilities as part of the Open Space Built facilities and a Household Waste Recycling Centre in accordance with policy H4 of the Local Plan and could be secured by a Section 106 Agreement. With the exception of on site open space and National Forest Planting, the proposed development would provide the full infrastructure requirements to support the proposed development and would not therefore, cause a strain to any existing infrastructure secured by way of the previous 400 dwellings approved at the site and would accord with the principles of policy INF1 of the Local Plan and the Councils S106 Contributions SPD.

#### Open Space Provision and National Forest Planting

Concerns have been raised by local residents with regard to the extent of open space that would be lost from the site to accommodate the proposed dwellings. It would be necessary for the current application to provide the correct amount of onsite open space provision, whilst at the same time, ensuring that any required onsite open space provision for the existing 400 dwellings at the site is not in any way diminished by the proposed development.

The original applications for phases 1, 2 and 3 were required to secure a total of 2.54ha of formal and informal open space on site as well as areas for children and young people to support up to 400 dwellings. In addition, a further requirement was secured to provide up to 30% of the overall site area equating to 8.1ha for National Forest Planting, in accordance with policy INF8 of the Local Plan. These requirements were both secured as part of a Section 106 Agreement for the original outline permission



at Broomy Farm (9/2014/0740) and have been channelled to the later phases.

In accordance with policy INF9 of the Local Plan, the current application would be required to provide a total of around 1.46ha of onsite open space, which would be broadly divided between:

Formal open space = 0.75ha;  
Informal Open Space = 0.6ha; and  
Children and Young People = 1,092sqm.

Owing to the extent of the oversupply of onsite open space on earlier phases and the extent of remaining open land at the site, the overall site would be capable of providing 2.54ha of open space to serve the earlier phases that were allocated through planning policy H4 of the Local Plan in accordance with existing Section 106 Agreements as well as the required 1.46ha of onsite open space for the proposed development.

In addition, policy INF8 of the Local Plan requires sites of over 10ha in area to provide 30% of the site area as National Forest planting owing to the sites position within the National Forest. As part of the original application a total of 8.1ha was required as National Forest planting to serve the full extent of the site and was secured as part of a Section 106 Agreement and carried forward to later phases of the development which would be inclusive of the current development. Concerns were initially raised by the National Forest Company that the proposed dwellings would reduce the 8.1ha of National Forest planting that had been secured for the overall the site. However, owing to the existing onsite open space and National Forest planting that has been accommodated across earlier phases and the extent of remaining land area across the site, the proposed development would be capable of providing the required 8.1ha of National Forest planting, as well as the required amounts of onsite open space for both the existing 400 dwellings on site and the proposed 189 dwellings and would still ensure surplus site area. Retaining the strong green buffer and planting to the north and east of the site that was crucial to requirements of policy H4 of the Local Plan, of which the proposed development would support this requirement.

The proposed development would not result in the loss of existing onsite open space for the approved 400 dwellings on site and the proposed development would not compromise the original scheme or reduce the open space allowance on site to a level that would harmfully affect the original scheme. In addition, the site would also be capable of providing the onsite open space requirements for the proposed 189 dwellings as well as the onsite requirements for National Forest planting. On the basis of this, the proposed development would pose no harm to the onsite open space contributions and planting that has been secured to date and would be capable of providing the necessary open space and planting requirements for a total of 589 dwellings across the whole site with surplus and the proposed development would accord with the principles of policies INF8 and INF9 of the Local Plan.

#### Highways and Connectivity

Policy INF2 of the Local Plan notes that developer contributions towards offsite works would be required in order to minimise the car travel generated by the proposed development. Concerns have been raised by local residents with regard to the increase in car journeys as a result of the proposed development and the strain that this will place on neighbouring Clock Island.

The site would be accessed off the spine road that runs through the Broomy Farm allocation, of which its delivery was crucial to policy H4 and the allocation as a whole and has already been provided as part of earlier phases of the site. The spine road has access points at both Woodville Road A514 and Burton Road A511 for incoming and outgoing traffic. The County Highway Authority have assessed the application in accordance with other large schemes that are coming forward within the vicinity and whilst the County Highway Authority considers that there is sufficient capacity at the junctions serving the site onto A514 Woodville Road and A511 Burton Road to accommodate the proposed additional dwellings as part of the wider allocation, that it would be necessary for a contribution towards the Occupation Lane/Regeneration Route to be required to mitigate the additional flows at Clock Island due to the proposed dwellings. The original outline application for 400 dwellings at Broomy Farm, under

outline permission 9/2014/0740 also secured similar contributions and the proposed development would be consistent with this.

There have been no objections to the proposed layout or parking provision on site, which would provide a suitable level of parking and manoeuvring space which would be consistent with the principles of policy INF2 of the Local Plan and the Councils Design SPD.

The proposed development connects well to other phases of the wider development with open spaces linking up to existing hedgerows and watercourses, existing areas and footpaths linking through. Policy H4 of the Local Plan stipulates a need for high quality footpaths and cycle links to connect the different phases of the site and the wider area of which the proposed development responds to positively and would accord with this requirement of policy H4 of the Local Plan.

### Layout and Amenity

The proposed site abuts phases 1, 2 and 3 of the wider allocation at Broomy Farm with the main road through the proposed development coming off the spine road that runs through the middle of phases 1 and 3. Amended plans have been submitted following design comments that were made by the County Councils Urban Design Officer. The concerns related mainly to the extent of frontage parking along entire frontages and the lack of separation between the proposed dwellings, which would have a harmful, urbanising visual effect. The amended plans have responded positively to these comments and large extents of frontage parking have now been removed and replaced with dwellings with side parking which provides more visual relief along the frontages, with larger gaps between the dwellings and additional landscaping that can now be incorporated to the front of the dwellings. These changes have resulted in a reduction in the overall number of dwellings at the site from 196 to 189.

The proposed layout would be consistent with the density and scale of the adjacent phases and when viewed as a whole site, the proposed layout would make a positive contribution and would not detract from the wider design principles of the overall site. The proposed development would retain the strong green buffer to the north of the site that was a crucial requirement of policy H4 of the Local Plan, of which the proposed development would respond positively to this requirement. Therefore, despite exceeding 400 dwellings on the site, the proposed layout demonstrates that the site would be capable of accommodating up to around 589 dwellings and that this would not devalue the wider scheme or create a concentrated pocket of development, in which to achieve this. The proposed development would accord with the principles of policy BNE1 of the Local Plan and the Councils Design SPD.

Policy SD1 of the Local Plan stipulates that development should not lead to adverse impacts on the amenity of existing and future occupiers. The proposed development would maintain in excess of 21m separation distances from the rear elevations of existing neighbouring properties adjacent to the site and the proposed layout would accord with the requirements of policy SD1 of the Local Plan and the Councils Design SPD.

### Scale and Appearance of Dwellings

The proposed development consists of a mix of 1, 2 and 2.5 storey dwellings and bungalows, with the 2.5 storey dwellings located predominantly to the south and central areas of the site and predominantly 2 storey dwellings to the north and north west of the site so that the scale of the development becomes less dense adjoining the landscape buffer to the north of the site, which would be a requirement of policy H4 of the Local Plan and allows the landscaping buffer and planting to be better appreciated and soften the urban edge of the proposed development.

The house types are similar in size, scale and appearance to other dwellings that have been built out as part of phases 1 and 2 and recently approved as part of phase 3 and is a continuation into phase 4 of the site. It would be necessary for proposed external materials to be submitted as part of planning conditions and through the use of suitable materials the proposed development would be consistent with the other phases and make a positive contribution to the allocation at Broomy Farm as a whole.

Overall, the dwellings would appear well balanced and would have a symmetrical appearance, which are strong characteristics of dwellings that have been permitted at other phases of the site. Adequate design detail could be secured as part of planning conditions to include details of brick detailing such as brick string courses, header and cill finishes and porch details. The development would therefore be consistent with the requirements of policy BNE1 of the Local Plan and the Design Guide SPD and the overarching principles of the NPPF.

### Conclusion

Whilst the proposed development would exceed the policy requirement of 400 dwellings for the site, the proposed development would accord with many of the requirements set out within policy H4 of the Local Plan, such as the retention of a strong green buffer to the north of the site and well considered footpaths and connectivity to the other phases of the development. With the exception of the housing numbers contained within policy H4 of the Local Plan, the proposed development would be a fully policy compliant scheme. Despite the increase in the number of dwellings at the site, the proposed development would maintain the same level of design and visual character as the other phases of Broomy Farm and there would be no recognised increase in the density of the development in order to accommodate the proposed development. The site would also be capable of providing on site open space and National Forest Planting for the original 400 dwellings as part of previous applications and agreements and the full extent of open space on site for the proposed 189 dwellings. The proposed development would therefore, pose no harm to the layout, design and infrastructure requirements of the housing allocation at Broomy Farm and would not devalue or reduce the quality of the original scheme and would fully accord with the principles of policies H20, H21, BNE1, SD1, INF1, INF8 and INF9 of the Local Plan. On balance, the proposed development would provide an additional 189 dwellings which would make a positive contribution towards the Councils housing land supply with full planning contributions towards health, education, open space built facilities and a full 30% of on site affordable housing which would weigh in the balance as strong material considerations in support of the application.

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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

### **Recommendation**

**A.** Secure the completion of a section 106 agreement to carry forward the obligations as referred to in the above report, with delegated authority given to the Head of Planning and Strategic Housing to agree the finer detail of that agreement;

**B.** Subject to A, **GRANT** permission subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plan(s)/drawing(s) ref.P19-2591 002 (Location Plan); S0000/100/PH4/PLANLAY Rev G; and P19-2591 (B)\_202A (September 2020 Housetype Pack; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. The garages/parking spaces hereby permitted shall be kept available for the parking of motor vehicles at all times. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) the garage/car parking space(s) hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.

Reason: In the interest of highway safety and to ensure that sufficient car parking can be accommodated for the life of the development.

4. No construction works shall take place on the site other than between 7:30am to 7:00pm Monday to Friday, and 7:30am to 1:30pm on Saturdays. There shall be no construction works (except for works to address an emergency) on Sundays or Public Holidays.

Reason: The use of the building as part of another agricultural enterprise or for other uses could lead to the intensification in the use of a substandard access, contrary to the best interests of highway safety.

5. The development shall be carried out in strict accordance with the recommendations outlined in section 4.30 of the Ecological Appraisal Update Addendum dated September 2020 prepared by FPCR.

Reason: In the interests of safeguarding against harm to protected species throughout the construction period.

6. No development, including preparatory works, shall commence until a walkover badger survey has been undertaken by a suitably qualified ecologist to ensure that there have been no setts created within the site since the date of the badger survey provided in support of the application. The results of this survey work and the scope and timing of any necessary mitigation measures shall be submitted to and approved in writing by the Local Planning Authority prior to any works commencing, with the mitigation measures implemented and retained in accordance with the approved timetable.

Reason: In the interests of safeguarding against harm to protected species during the period of construction and throughout the life of the development.

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

Reason: To protect existing trees and hedgerow through the construction period of the development.

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

Reason: In the interest of highway safety and that there would be no debris on the highway during the construction period.

9. Before any other operations are commenced, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning

Authority. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

Reason: In the interest of highway safety and that there would be no obstruction to the highway during the construction period.

10. No development shall take place until full construction details of the residential estate roads and footways including the approved layout, levels, gradients, surfacing and means of surface water drainage, have been submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter be constructed in accordance with the approved details unless otherwise agree in writing by the Local Planning Authority

Reason: In the interest of highway safety.

11. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and maintenance company has been established.

Reason: In the interest of highway safety.

12. The carriageways of the proposed estate roads shall be constructed in accordance with Condition 3 above up to and including at least road base level prior to the commencement of the erection of any dwelling intended to take access from that road. The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surface course within twelve months (or three months in the case of a shared surface road) from the occupation of such dwelling, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of highway safety.

13. Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of water from the drives/accesses/shared drives onto the proposed adopted highway. The approved scheme shall be undertaken and completed prior to the first use of the access and retained as such thereafter.

Reason: In the interest of highway safety.

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

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

15. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:



a. Proposed Residential Development Broomy Farm Woodville Road Swadlincote Flood Risk Assessment referenced 2013/1499 by EWE Associates Ltd, (dated July 2014 Revision A) and document RESIDENTIAL DEVELOPMENT AT BROOMY FARM WOODVILLE PHASE 4- DRAINAGE STRATEGY AND FLOOD RISK ASSESSMENT ADDENDUM by Stephen Daykin Consulting Ltd referenced E706/SWD (dated September 2020) and including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team,

b. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority."

Reason: To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority, in advance of full planning consent being granted.

16. Prior to commencement of the development, the applicant shall submit for approval to the LPA details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the LPA, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.

Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development.

17. The attenuation pond should not be brought into use until such a time as it is fully designed and constructed in line with CIRIA SuDS manual C753 and to the agreed specifications on documents:

"Engineering Layout Pond 3" referenced E706-PH03-12 Revision A (dated June 2020 by Stephen Daykin Consulting limited), and an associated management and maintenance plan, in line with CIRIA SuDS Manual C753 is submitted to and approved in writing by the Local Planning Authority

Reason: To ensure that the proposed attenuation pond does not increase flood risk, that the principles of sustainable drainage are incorporated into the proposal, the system is operational prior to first use and that maintenance and management of the sustainable drainage systems is secured for the future.

18. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance.

Reason: To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- I. into the ground (infiltration);
- II. to a surface water body;
- III. to a surface water sewer, highway drain, or another drainage system;
- IV. to a combined sewer.

And to ensure that development will be safe from flood risk including from groundwater and natural springs.

19. Prior to the construction of a dwelling a scheme for the provision of affordable housing as part of the development shall be submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework, or any document that amends or replaces it, and the requirements of the Councils Affordable Housing SPD. The scheme shall be based on the latest data available from the Councils Strategic Housing Manager (or equivalent postholder) and include:
- (i) the numbers, type, tenure and location of the affordable housing provision to be made which shall consist of not less than 30% of all housing units provided on the site, provided in clusters of no more than 10 dwellings (6 where provided as flats, in whole or in part) with internal space standards comparable to equivalent market dwellings;
  - (ii) a tenure mix of not less than 75% rented properties and no greater than 25% intermediate properties;
  - (iii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - (iv) the arrangements for the transfer of the affordable housing to an affordable housing provider (subject to the product concerned);
  - (v) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing (subject to the product concerned); and
  - (vi) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reason: The creation of a residential use in this location would not normally be permitted and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy these requirements.

20. Prior to their incorporation in to the buildings hereby approved, details and/or samples of the facing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved facing materials.

Reason: To protect the visual character of the area.

21. Notwithstanding the approved drawings/plans and submitted details, no development involving the construction of a dwelling shall commence until revised or additional details, including samples and/or drawings where necessary, of the following materials/features for the respective dwelling have been submitted to and approved in writing by the Local Planning Authority:
- a. colour of fascia boards and mortar for verges;
  - b. eaves/verges/string/dentil course/window reveal details;
  - c. porch canopies; and
  - d. utility cupboard colours (both wall and ground mounted).

For the avoidance of doubt, no fascia boards shall be placed over corbelling and there shall be no use of cloaking tiles/dry verges. The dwellings shall be constructed and thereafter maintained in accordance with the approved details.

Reason: To protect the visual amenity of the area.

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

Reason: To protect the visual amenity and character of the area.

23. Bin collection points shall be provided within private land at the entrance to shared private accesses and/or courtyards, sufficient to accommodate two bins per dwelling served, in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The bin collection points shall be provided prior to the first occupation of a dwelling to which they serve and shall be retained thereafter free from any impediment to their designated use as such.

Reason: To ensure the free flow of footways and walkway and to protect the visual amenity of the area.

24. No part of the development shall be occupied until each junction has been provided with visibility sightlines extending from a point 2.4m from the carriageway edge, measured along the centreline of the junction, for a distance of 25m in each direction measured along the nearside carriageway edge. The land in advance of the sightlines being levelled, constructed as footway and not being included in any plot or other sub-division of the site.

Reason: In the interest of highway safety.

25. The gradient of the new estate streets shall not exceed 1:30 for the first 10m into the site from any junction and 1:20 thereafter.

Reason: In the interest of highway safety.

26. The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: In the interest of highway safety.

27. The proposed access driveways to the new estate streets shall be no steeper than 1 in 20 for the first 5m from the nearside highway boundary and should never exceed 1:12.

Reason: In the interest of highway safety.

28. Prior to the first occupation of the development a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:
- a) Description and evaluation of features to be managed;
  - b) Ecological trends and constraints on site that might influence management;
  - c) Aims and objectives of management, including mitigation and enhancement for species identified on site;
  - d) Appropriate management options for achieving aims and objectives;
  - e) Prescriptions for management actions;
  - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a twenty-year period);
  - g) Details of the body or organisation responsible for implementation of the plan, along with funding mechanism(s) for that body or organisation; and
  - h) Ongoing monitoring and remedial measures, including where monitoring shows that conservation aims and objectives of the LEMP are not being met.
- The approved plan shall be implemented in accordance with the approved details.

Reason: In the interests of safeguarding against harm to protected species throughout the construction period and for the life of the development.

29. Prior to the occupation of a dwelling a scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The details submitted shall include a timetable for the provision of such planting relative to the occupation of individual dwellings on that phase. All planting, seeding or turfing comprised in the approved details of soft landscaping shall be carried out in accordance with the approved scheme and timetable; and any plants which within a period of five years (ten years in the case of trees) from the completion of the phase die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interest of the visual setting of the development and the surrounding area over the lifetime of the development, and to ensure appropriate recreation facilities remain available to the public.

30. No part of the development hereby permitted shall be first occupied until an amended Travel Plan, which sets out actions and measures with quantifiable outputs and outcome targets has been submitted to and agreed in writing by the Local Planning Authority. Thereafter the agreed Travel Plan shall be implemented in accordance with the approved details.

Reason: In the interest of highway safety and to promote sustainable modes of travel.

31. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

Reason: To ensure that the drainage system is constructed to the national Non-statutory technical standards for sustainable drainage and CIRIA standards C753.

32. Notwithstanding the plans hereby approved, prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwellings to which they serve are 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 character and appearance of the area.

33. Prior to the construction of a road, driveway, parking area, footpath or footway, details of surfacing materials shall be submitted to and approved in writing by the Local Planning Authority. The roads/driveways/parking areas/footpaths/footways shall be constructed in accordance with the approved details and thereafter maintained using such materials.

Reason: To protect the visual character of the area.

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

Reason: To secure the long term landscaping and planting at the site.

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

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

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

Reason: In the interest of highway safety.

37. Residential charging points shall be provided with an IP65 rated domestic socket 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket should be located where it can later be changed to a 32amp EVCP. Non-residential charging points shall be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2. Alternative provision to this specification must be approved in writing, by the Local Planning Authority. The electric vehicle charging points shall be provided in accordance with the stated criteria prior to occupation and shall be maintained for the life of the approved development.

Reason: In order to safeguard the amenities of the occupiers of the proposed development in respect of atmospheric pollution in compliance with the South Derbyshire Design SPD & policy BNE1.

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

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

39. No part of the development served by a 'shared private drive' shall be occupied until details of arrangements for temporary storage of bins on collection days, located immediately adjacent to the proposed adopted highway, have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for the designated purposes at all times thereafter.

Reason: In the interest of highway safety and to ensure no obstruction of the carriageway or footway.

#### Informatives:

- a. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- b. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness
- c. Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Executive Director Economy, Transport and Environment at County Hall, Matlock (tel: 01629 538658).
- d. Pursuant to Sections 219/220 of the Highways Act 1980, relating to the Advance Payments Code, where development takes place fronting new estate streets the Highway Authority is obliged to serve notice on the developer, under the provisions of the Act, to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the



Highways Act 1980.

e. SITE SPECIFIC COMMENTS

Please ensure to consult the Flood Risk Management Team on any works in or nearby an ordinary watercourse as according to advisory notes B.

Please also ensure as according to advisory notes J. to demonstrate how the 100 year + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites'.

Advisory/Informative Notes (It should be noted that the information detailed below (where applicable), will be required as an absolute minimum in order to discharge any of the drainage conditions set by the LPA):

A. The County Council does not adopt any SuDS schemes at present (although may consider ones which are served by highway drainage only). As such, it should be confirmed prior to commencement of works who will be responsible for SuDS maintenance/management once the development is completed.

B. Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council. For further advice, or to make an application please contact [Flood.Team@derbyshire.gov.uk](mailto:Flood.Team@derbyshire.gov.uk).

C. No part of the proposed development shall be constructed within 3-8m of an ordinary watercourse and a minimum 3 m for a culverted watercourse (increases with size of culvert). It should be noted that DCC have an anti-culverting policy.

D. The applicant should be mindful to obtain all the relevant information pertaining to proposed discharge in land that is not within their control, which is fundamental to allow the drainage of the proposed development site.

E. The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water discharge, in line with Table 4.3 of the CIRIA SuDS Manual C753.

F. The County Council would prefer the applicant to utilise existing landform to manage surface water in mini/sub-catchments. The applicant is advised to contact the County Council's Flood Risk Management team should any guidance on the drainage strategy for the proposed development be required.

G. The applicant should provide a flood evacuation plan which outlines:

- The flood warning procedure
- A safe point of extraction
- How users can safely evacuate the site upon receipt of a flood warning
- The areas of responsibility for those participating in the plan
- The procedures for implementing the plan
- How users will be made aware of flood risk
- How users will be made aware of flood resilience
- Who will be responsible for the update of the flood evacuation plan

H. Flood resilience should be duly considered in the design of the new building(s) or renovation. Guidance may be found in BRE Digest 532 Parts 1 and 2, 2012 and BRE Good Building Guide 84.

I. Surface water drainage plans should include the following:

- Rainwater pipes, gullies and drainage channels including cover levels.
- Inspection chambers, manholes and silt traps including cover and invert levels.
- Pipe sizes, pipe materials, gradients, flow directions and pipe numbers.
- Soakaways, including size and material.
- Typical inspection chamber / soakaway / silt trap and SW attenuation details.
- Site ground levels and finished floor levels.

J. On Site Surface Water Management;

- The site is required to accommodate rainfall volumes up to the 1% probability annual rainfall event (plus

climate change) whilst ensuring no flooding to buildings or adjacent land.

- The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas, etc, to demonstrate how the 100 year + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).
- Production of a plan showing above ground flood pathways (where relevant) for events in excess of the 1% probability annual rainfall event, to ensure exceedance routes can be safely managed.
- A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc).

#### Peak Flow Control

- For greenfield developments, the peak run-off rate from the development to any highway drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event, should never exceed the peak greenfield run-off rate for the same event.

#### Volume Control

- For greenfield developments, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must not exceed the greenfield runoff volume for the same event.

Note:- If the greenfield run-off for a site is calculated at less than 2 l/s, then a minimum of 2 l/s could be used (subject to approval from the LLFA).

- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.
- Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within the highway.
- Guidance on flood pathways can be found in BS EN 752.
- The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the drainage network, whatever the size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space, etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.

K. If infiltration systems are to be used for surface water disposal, the following information must be provided:

- Ground percolation tests to BRE 365.
- Ground water levels records. Minimum 1m clearance from maximum seasonal groundwater level to base of infiltration compound. This should include assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.
- Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689- 1:2003.
- Volume design calculations to 1% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2.
- Location plans indicating position (soakaways serving more than one property must be located in an accessible position for maintenance). Soakaways should not be used within 5m of buildings or the highway or any other structure.
- Drawing details including sizes and material.
- Details of a sedimentation chamber (silt trap) upstream of the inlet should be included. Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.

L. All Micro Drainage calculations and results must be submitted in .MDX format, to the LPA. (Other methods of drainage calculations are acceptable.)

M. The applicant should submit a comprehensive management plan detailing how surface water shall be managed on site during the construction phase of the development ensuring there is no increase in flood risk off site or to occupied buildings within the development.