

# **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.

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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

[20/7/2021](#)

**Ref. No.** [DMPA/2021/0570](#)

**Valid date:** 07/04/2021

**Applicant:** Hobbs

**Agent:** TUK Surveyors Ltd

**Proposal:** The erection of 2 rear single storey extensions with first floor terrace to part, erection of front porch and changes to material finishes to front elevation at 58 Main Street, Walton On Trent, Swadlincote, DE12 8LZ

**Ward:** Seales

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

*This report was deferred at the meeting on 22nd June 2021 to allow Members to undertake a site visit. All parts of the report remain unaltered.*

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

#### **Site Description**

The proposal affects a 1970's detached 2-storey property within the rural village and conservation area of Walton on Trent Conservation Area.

The application property and its neighbour to the west (60 Main Street) are of the same era and both are of red brick and plain concrete roof tile construction with matching projecting front gables detailed with vertical boarding and stonework.

#### **The proposal**

The application seeks planning permission for the erection of 2 rear single storey extensions with first floor terrace to part, the erection of a front porch and changes to the material finishes of the front elevation. The proposed changes to the frontage of the property include replacing the existing tile hanging with cedar (concrete fibre timber-look cladding) weatherboard, the rendering of the brickwork and the addition of a front porch canopy over the front door and ground floor bay, the roof of which would be a tiled lean-to arrangement.

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

No supporting information has been supplied.

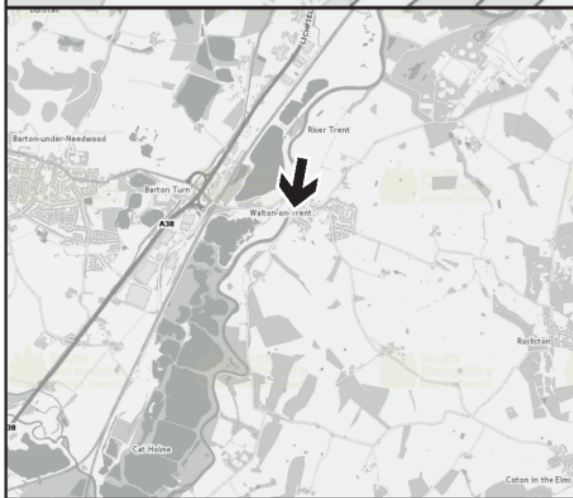
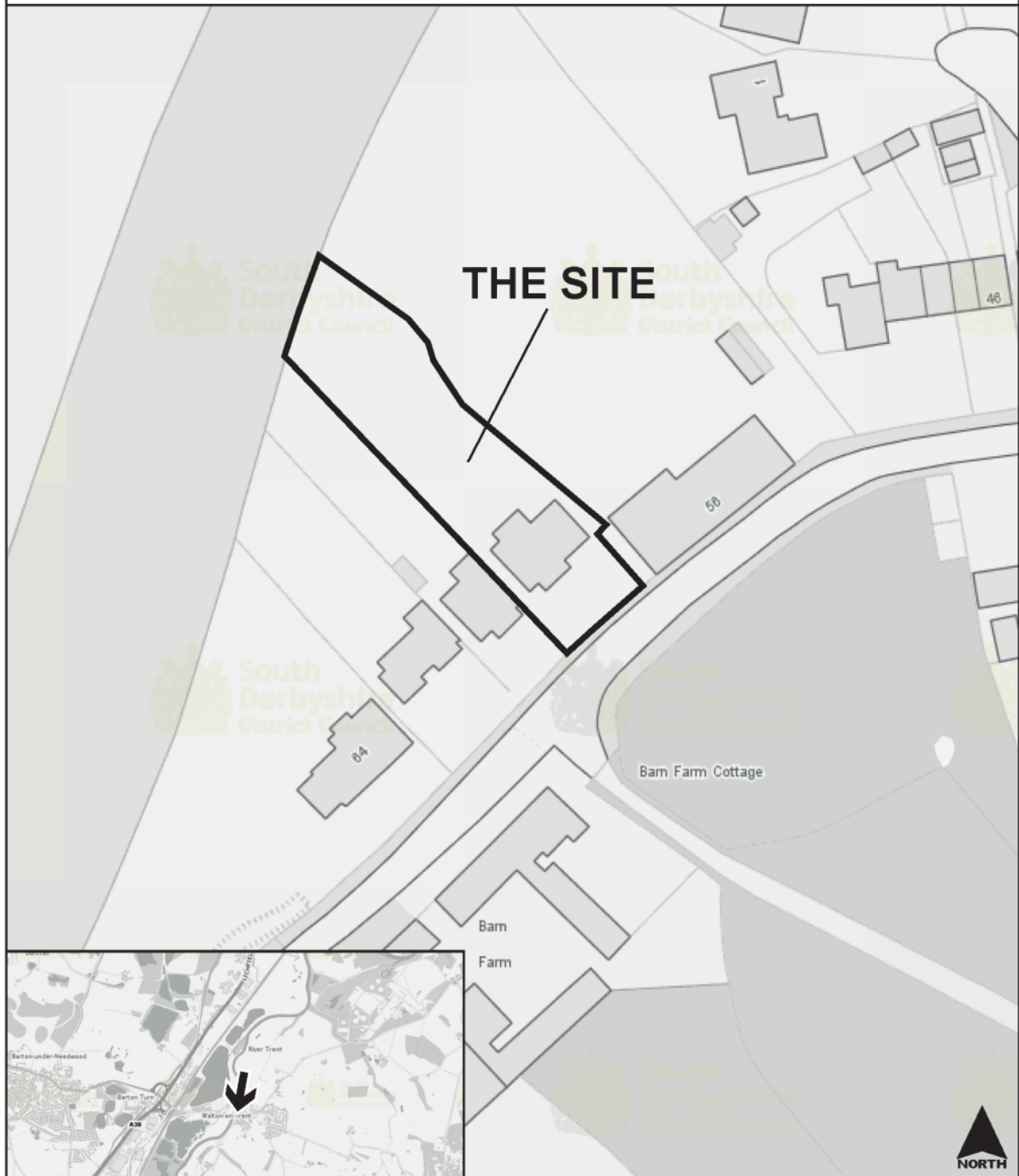
#### **Relevant planning history**

REP/0869/0029 – Demolish 4 cottages and develop land for 6 dwellings – planning permission granted 20th November 1969.

REP/0770/0038 – The erection of 4 detached houses – planning permission granted on 9th March 1971.

9/1280/1155 – The erection of ground floor extensions to the rear and to the south-western flank of the dwelling at 58 Main Street to form a store (rear of attached garage) and utility room (side of property) – planning permission with materials to match condition granted on 30th January 1981.

**DMPA/2021/0570 - 58 Main Street, Walton on Trent, Swadlincote DE12 8LZ**



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**South Derbyshire District Council. LA 100019461.2017**

## Responses to consultations and publicity

The Conservation Officer objects to the [original] wording of the description of development which is technically incorrect and therefore misleading. Both of the rear extensions, claimed as constructed in accordance with permitted development rights, represents a 'side extension' on a property within a conservation area and as such would not be considered to be permitted development (PD). The one behind the house rather than the garage would also be more than half the width of the original dwelling meaning it would not be PD even outside of a conservation area. When a rear extension also projects beyond ANY side elevation – not just the outermost side elevations - it must also be treated as a side extension and the way it is measured includes its entire width, not just any section which projects beyond a side elevation. In this case the larger of the two rear extensions would extend to the side of a smaller rear projection which is shown on the 'as existing' plans and its width would be greater than half the total width of the original house and garage.

The only element of the proposed works to the property's frontage which would give rise to concerns would be the proposed rendering. This would affect a small section of front elevation brickwork to the left hand side and the front garage elevation. In both cases the proposed render would end at the returns to the side elevation necessitating some form of edge beading and a visible transition from render to unrendered areas. Similarly, the side elevation of the front gable projection is shown to be rendered at ground floor (currently stone) but left as exposed stone around the return onto the front elevation, again necessitating some edge beading at the corner. It does seem, and would look, a very odd proposition to arbitrarily end rendered areas in this way. This would be considered more a design issue which would give rise to problematic detailing rather than something which would explicitly harm the special character and appearance of the conservation area.

Following the receipt of amended plans on 28th April 2021, the Conservation Officer would be happy to conclude that the proposal would preserve the special character and appearance of the conservation area.

Walton on Trent Parish Council object to the planning on the principle of work being commenced in a conservation area without prior consent together with the obvious invasion of privacy.

- The development of a balcony on the extension which would lend itself to entertaining offers no privacy to the neighbours. The only option to stop the views directly into the neighbour's bedroom would be to construct a screen of considerable size, but this would affect light and visual amenity.
- This structure would be clearly visible when looking from the bridge across to the conservation area.
- If this balcony was to be rejected, the local authority should insist that the already installed door leading onto the balcony is removed to prevent access.
- The four houses built at the same time of this property share the same type of construction materials; this particular property is one of a pair. The other properties who have undertaken alterations have ensured the material used matched the original. The materials proposed for this development do not and some are not present anywhere else within the conservation area. Even though the front facade of the property is 'of its time' the proposed alteration to the front elevation would create a jarring addition to the street scene within the conservation area and should also be opposed.
- This appears to be a cynical attempt to get the work done before a planning decision can be made because they knew they were unlikely to get it in advance.

There have been 12 letters of objection from 14 individuals covering the following:

- a) The balcony on top of the extension at the rear of the house will mean that when on the balcony, the residents of the house will have a full elevated view of large portions of the objectors garden including the patio immediately outside their property. This will be a clear invasion of privacy and the objectors ask that permission for the balcony on top of the extension is not given.
- b) The balconies would have a direct line of sight view into the objectors garden so they would lose all privacy.

c) The access door has already been made and a door fitted that would enable the occupants of 58 to have a clear view into the objectors conservatory and patio area if they are standing on the roof of the extension. Whilst it is understood the extension can be built under permitted development, the addition of the balcony and access door should be refused in the interest of fairness and respect for people living in close proximity to No. 58.

d) The extension is a complete invasion of the objector's privacy. From the balcony area people could see directly into a bedroom and a lounge at the back of the objector's house. The objector would also be able to hear anything they said as they would be in very close proximity (almost level) to the objector's room. The view of the garden from the nearby bridge would also be affected and the front of the house would change the look of the street completely. The objector is very upset and feels totally disrespected that this extension has got this far with absolutely no consultation or discussion. It is a dreadful invasion of privacy.

e) The balcony is a clear privacy concern with views into all adjacent properties. The glass box option raises similar concerns and will also overshadow adjacent properties. The scale of a glass box at this level is not in keeping with this conservation area or the associated architecture.

f) An objection is still raised to the revised plans, the objector can still be spied upon and will lose their privacy. It is not appropriate as it is in a conservation area.

g) The large balcony at the rear of the house will be extremely ugly when seen from neighbouring properties and from the bridge. This will be especially true when it is dark and the light is on in the bedroom/balcony, making it look like a giant lamp. The large balcony will mean that the neighbouring gardens will lose all privacy. The large balcony projects too far into the garden, making the privacy issue worse - if it must be allowed, it should only project half as far as on the plan. The street side of the house is being changed so it no longer fits with any of the neighbouring houses. It looks very much as if the new owners knew this would be unpopular and deliberately tried to make it harder for planning permission to be refused by ensuring much of the work was done before they requested permission. It will be difficult to maintain any kind of conservation area if it becomes known that this approach will be successful.

h) The revised features in no way stop the residents at 58 Main Street from overlooking the majority of the neighbouring gardens so the previous objection remains unchanged. The roof level of the larger of the 2 rear extensions where there is to be a balcony is already above the boundary wall and fence lines. When standing or sitting out on that balcony the residents will be looking over the majority of the neighbouring gardens even with the proposed "privacy screens". These screens will only stop them from being able to look directly into the closest bedroom windows in objector's property and the rear of the house. At least three quarters of the objector's garden is in front of the end of these screens. The land to the rear of 58 Main Street drops down quite steeply towards the river as do the boundary wall and fence lines. This exacerbates the privacy issue posed by this planning application. The larger of the 2 extensions currently under construction is already relatively intrusive in that the top half of the opening for the large bi-fold doors is already visible above the boundary wall from the majority of the objector's garden and external seating area. A balcony on top would have foot level well above the partition wall and an intrusive viewing platform would thus be provided into all the neighbouring gardens. The appearance of 2 large opaque glass and stainless steel screens is not in keeping with the area or any of the adjoining properties. When there are lights on in between these screens or in the bedroom, they will automatically appear to be illuminated like a large light box on top of the extension. The appearance comment also applies with respect to the proposed finishes on the street side of the property.

i) Objection to the proposed terrace and juliet balconies as they will overlook neighbouring properties. The latest proposal shows raised opaque glazed sides to the terrace balcony but this still will not stop properties from being overlooked and privacy being infringed.

j) Retrospective applications show a scant regard for the planning process, especially when they are only submitted when reported to the local authority. The objectors strongly disagree that this balcony would fall under permitted development. The balcony gives views directly onto several neighbour's property even giving views into the immediate neighbours bedrooms. The addition of obscured screens will not be a solution to the overlooking issues. It will add to the height and make the structure even more overbearing having detrimental effect on the light enjoyed by the neighbours as well as impacting on the visual amenity of other neighbours. The size of the balcony would lend itself to entertaining which would create noise which would spread to all the riverside properties. One can assume that this balcony would be lit, if not the borrowed light from the bedrooms will essentially create a light box which

will be viewed across the conservation area when you enter the village. If this balcony was to be rejected the local authority should insist that the already installed door leading onto the balcony is removed to prevent future access. The four houses built at the same time as this property share the same pallet of materials; this particular property is one of a pair. The other properties who have undertaken alterations have ensured the material used match the original. The material proposed for this development do not and some are not present anywhere else within the conservation area. Even though the front facade of the property is 'of its time' the proposed alteration to the front elevation would create a jarring addition to the street scene within the conservation area.

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

The relevant Development Plan policies are:

- 2016 Local Plan Part 1 (LP1): Policy S2 (Presumption In Favour of Sustainable Development), Policy SD1 (Amenity & Environmental Quality), Policy BNE1 (Design Excellence), Policy BNE2 (Heritage Assets), Policy INF2 (Sustainable Transport)
- 2017 Local Plan Part 2 (LP2): H27 (Residential extensions and other householder development), BNE10 (Heritage)

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)
- Walton on Trent Conservation Area Character Statement 2014 (CACS)
- County Highways Authority (CHA) – Standing Advice

The relevant national policy and guidance is:

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

### **Planning considerations**

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issue(s) central to the determination of this application is/are:

- The impact on the character and appearance of the conservation area;
- The impact on the living conditions of the adjoining properties and the general character and appearance of the area; and
- Parking provision.

### **Planning assessment**

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

The Adopted Conservation Area Character Statement for Walton on Trent has not identified the application property as a building that makes a positive contribution to the historic or architectural character of the conservation area. Given this lack of contribution and the fact that the proposed cosmetic alterations to the property's façade would be sympathetic to its existing character, the impact on the special character and appearance of the conservation area would be considered neutral.

The proposed rear extensions and associated external terrace would not be visible from the public realm (Main Street) and as such would not harm the special character and appearance of the conservation area.

The proposal, as amended on 28th April 2021, would preserve the special character and appearance of the conservation area, as is described as a desirable objective within Section 72 of the Planning



(Listed Buildings and Conservation Areas) Act 1990. The amended proposal would therefore conform to the requirements of the NPPF and with Policy BNE2 of the LP1 and Policy BNE10 of the LP2 in that the significance of the heritage asset (conservation area) would not be harmed.

In response to public objections/comments regarding the potential views of the proposed development from the Station Road Bailey bridge to the north of the application site, these views would be partial, being partly screened by the existing tree planting which dominates the banks of the River Trent along this stretch and they would also be at a distance of some 150m. The fact that the proposed extensions would be visible in glimpses, as are the existing host building and the other neighbouring properties along this stretch, from a bridge that is soon to become redundant and which is outside the conservation area by a substantial distance, would not amount to a harmful impact upon the special architectural and historic character and appearance of the conservation area.

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

The proposed changes to the front elevation of the host property would not change its character and appearance to the extent that the property could not still be read as forming part of a 1970's development that includes its matching neighbour at 60 Main Street. The overall form of the original host, as viewed from the public realm (Main Street), would not be significantly altered and the external appearance of the existing forwarding facing gable would remain essentially the same, albeit in slightly differing materials for the horizontal boarding but with the retention of the ground floor stone details which are also reflected at No.60. It should be noted that the plot for No. 58 is wider than that of its matching neighbour and the host property has been extended to both its side elevations such that its character is slightly different to that of its neighbour. Despite these additions the character of the original host is still clearly contemporary with its neighbour and the proposed cosmetic alterations would not adversely alter this relationship nor would they adversely alter the character of the existing street scene or general character of the area.

The proposed front porch would be a non-habitable open-sided canopy to offer protection against the elements and the proposed roof would have the same pitch as that of the existing single storey west side extension, which is slightly shallower than the roof of the main host and the attached garage. As such it would be considered a sympathetic addition that would have a negligible impact on the character of the host and street scene and would have no impact on the amenities of the surrounding neighbours in line with the requirements of the Council's SPD (Appendix A - Extending your Home).

The proposed rear extensions would be single storey and would present blank elevations towards the neighbours to either side (56/56A and 60 Main Street) where there is adequate screening to preserve the existing ground floor privacy levels in line with the requirements of the Council's SPD.

Most houses overlook neighbouring rear gardens to some extent and the removal of the proposed first floor double doors and Juliette balcony to bedroom 3 in the existing house, to which there have been objections in relation to overlooking, could possibly be negotiated. Having said that, although verandas, balconies and raised platforms are not permitted development (PD) and would normally require planning permission, the only exceptions to this would be for Juliette balconies where no platform or external access would be created, which is the case here. As such, it would be difficult to sustain an argument for its removal if the works do not require planning permission in the first instance.

The amended plans of 28th April 2021 show that the glazed screens to the proposed external terrace would be 1.8m tall and opaque glazed (a condition can be imposed so the most obscure type of glazing can be agreed) and this would be sufficient to prevent side views towards the adjoining neighbour's gardens. The proposed screens would also prevent any overlooking from the external terrace into the windows of the adjacent properties and would help to channel the views from the new terrace down the applicant's own rear amenity space. It should be noted that the neighbours external seating area, mentioned as being overlooked in the publicity comments above, is some 45m away from the rear of the application property so it could not be argued that there would be significant overlooking of this external space due to the existing separation distance and the existing mature trees along the side

boundary between No's 58 and 56/56a which aid in screening views in both directions already, albeit more in the summer months. As previously mentioned, most houses overlook neighbour's gardens to some extent and the SPD guidelines seek to protect the areas closest to the main windows of adjacent neighbours where occupants most value their privacy. In this case, the sector of view from the northwest facing end of the proposed external terrace would not overlook any amenity space that is immediately adjacent to the rear elevations of the neighbouring properties and as such the amended proposal would conform to SPD.

The effect of extensions on neighbours often causes the most concern and one person's idea of what is acceptable is not necessarily the same as another's hence the Council's SPD guidelines have been written in such a way to be fair to both sides. The main issues arising from publicity concern overlooking (or the loss of privacy) and overshadowing (or overbearing). The proposed rear extensions would be single storey and although the proposed screens around the new external terrace would raise the height of the structure by another 1.8m, this could not be considered to be tantamount to a 2-storey structure that would require the proposed structure to not breach the minimum distances, as set out in the SPG, along a 45 degree line drawn from the centre of the nearest ground floor 'primary' windows of the neighbouring properties. Even if a proposed single storey extension with a roof terrace were considered together as constituting a 2-storey structure, it would not breach these distances in any case and would therefore conform to SPD.

In view of the above assessment, the Local Planning Authority would not be able to sustain an argument for refusal based on the overlooking and overshadowing issues raised via publicity. The amended 28/04/2021 proposal would conform to the Council's SPD and with the requirements of Policy BNE1 of the LP1 and Policy H27 of the LP2 in that the proposed development would not adversely affect the character of the host property and would not be unduly detrimental to the living conditions of adjoining properties or the general character of the area.

#### Parking provision

The proposal would provide an additional bedroom at ground floor level and would increase the total number of bedrooms from 4 to 5 within the property. The existing attached garage has a width of 4.95m and a depth of 7.39m and the proposed extension of just over 2m at the rear of the garage and the internal works to split the space to accommodate the new bedroom would reduce the depth of the garage to 5.2m. Although this resultant depth would be below the recommended minimum of 6m required by the County Highways Standing Advice, there is sufficient space within the existing hardstanding area to the front of the property to accommodate the 3 car spaces that are recommended by the Council's SPD for a property of 4 bedrooms or more. There would feasibly be space for more than 3 cars on the existing frontage and the new garage depth would accommodate an 'average car' estimated as being 4.2m to 4.9m in length. As such the proposal, as amended, would be considered to not conflict with the requirements of the Council's SPD or with the objectives of Policy INF2 of the LP1.

The proposal, as amended on 28/04/2021, would conform to Policy SD1 of the LP1 in that it would not lead to adverse impacts on the environment or amenity of existing and future occupiers within and around the proposed development.

The proposal, as amended on 28/04/2021, would conform to the requirements of the NPPF and the NPPG and with Policy S2 of the LP1 in that planning applications received by the Council that accord with the policies in the Local Plan Part 1 (and where relevant, with policies in neighbourhood plans) will be dealt with positively and without delay unless material considerations indicate otherwise.

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

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

1. The development hereby permitted shall be carried out in accordance with the submitted application form and plans (unless superseded), received on 6th April 2021 and made valid on 7th April 2021 and the amended plan (drawing no. 2101-G01-A-P03 Revision B) received on 28th April 2021; 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.

2. All external materials (bricks and roof tiles) used in the development shall match those used in the existing building in colour, coursing and texture unless, prior to their incorporation into the development hereby approved, alternative details are first submitted to and approved in writing by the Local Planning Authority pursuant to an application made in that regard, whereafter the approved alternative details shall be incorporated into the development.

Reason: In the visual interest of the building(s) and the surrounding area.

3. Prior to their incorporation in to the external terrace hereby approved, details of the screen panels and their fixings and a sample of the obscure glazing shall be submitted to and approved in writing by the Local Planning Authority. The details shall include drawings to a minimum scale of 1:10 of the external screen panels, including horizontal and vertical sections and precise construction. The development shall thereafter be constructed using the approved drawings and materials.

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

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the balcony screens hereby approved enclosing the sides of the external terrace area, as depicted on drawing no. 2101-G01-A-P03 Revision B, shall be glazed in obscure glass and non-opening and permanently maintained thereafter as such.

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

**Item No.** 1.2

20/7/2021

**Ref. No.** DMPA/2020/0255

**Valid date:** 30/10/2020

**Applicant:** John Pullen

**Agent:** CC Design Consultancy Ltd

**Proposal:** The conversion of existing dwelling with retail element and 2 storey storage unit to form 5 dwellings in a mews style development including the raising of the roof of the storage element to form first floor accommodation at 53 High Street, Newhall, Swadlincote, DE11 0HU

**Ward:** Newhall and Stanton

### **Reason for committee determination**

The item is presented to Committee at the request of Councillor Richards as local concern has been expressed about a particular issue and unusual site circumstances should be considered by committee and debate the issues in this case which are very finely balanced.

### **Site Description**

The site is formed by two buildings incorporating a mix of retail and residential use on the corner of High Street and Chapel Lane positioned at the back of pavement and predominantly surrounded by residential development but with more shops to the east, High Street being the main thoroughfare of Newhall. The site drops away at the rear and has a small area of outside space with Chapel Lane forming the boundary. Some limited off street parking exists at the front of the site off High Street between the two buildings.

### **The proposal**

The development comprises the conversion of the existing dwelling and retail unit into five two bedroomed dwellings making use of the original dwelling, retail unit and outbuilding. The scheme proposes seven off street parking spaces as set out in the Design and Access Statement with three spaces directly off High Street (one single and two in tandem) and a further four spaces laid out to the rear off Chapel Lane.

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

Design and Access Statement (DAS) considers the proposal setting out the justification for the amount, layout, scale, access and parking provision and that the proposal would provide additional new housing in the urban area through the conversion of existing buildings which would have no effect on the character of the streetscene. The applicant states that the proposed development would provide, through the re-use of existing buildings, housing designed to fit with the scale and character of the area of Newhall and improve the streetscene.

### **Relevant planning history**

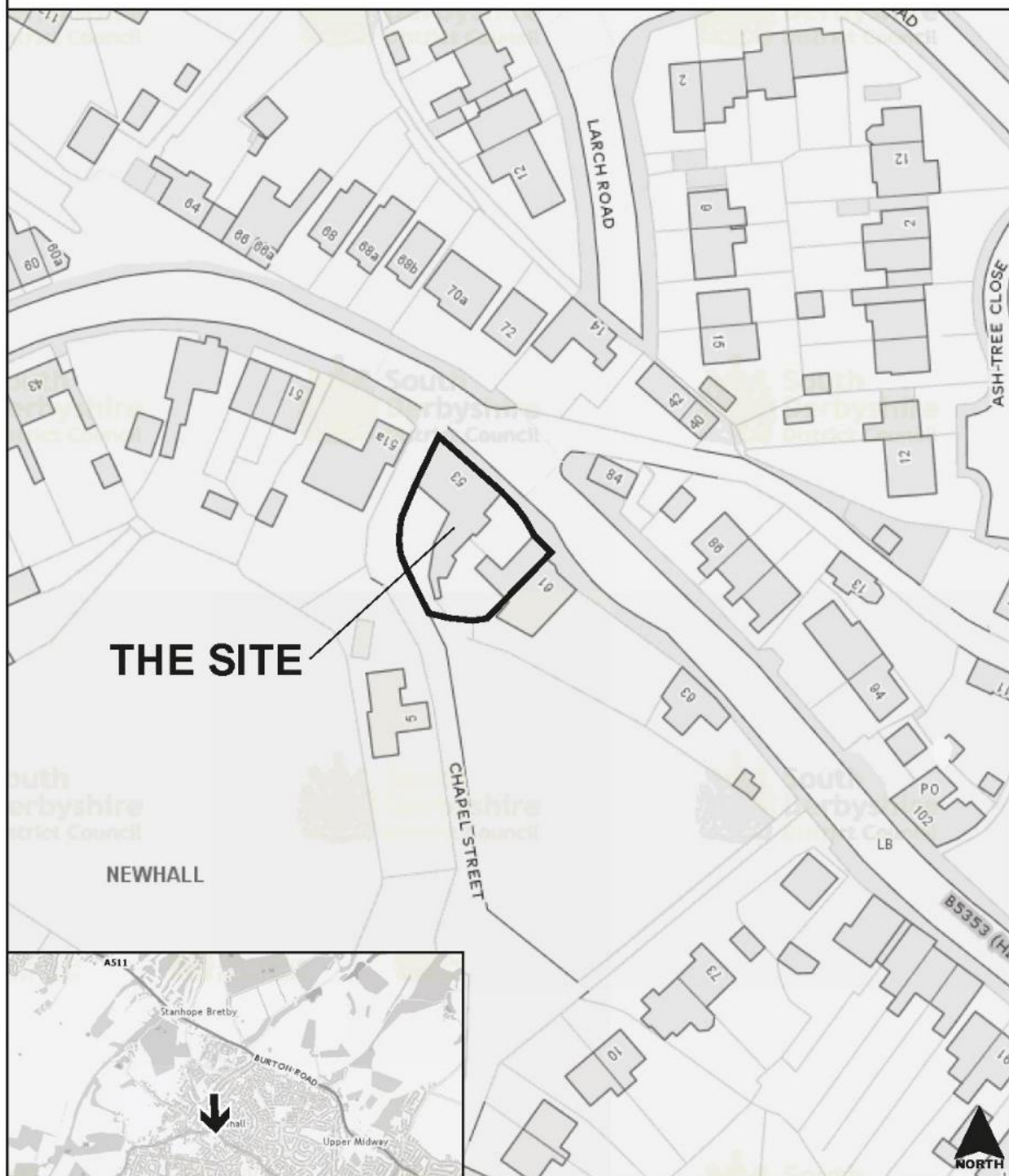
The applicant states that 53 High St was once three separate dwellings. No planning history is recorded to verify this though this would seem plausible given the three separate gable construction. Additional planning history is limited and mostly tied up with the adjacent property No 61, the gents hairdressers which currently owns land at the rear of 53 High St.

9/1989/0372 - Retention of use of the storage of empty skips and two small trucks on land to rear of 53 High St - Withdrawn.

9/2001/0365 - The renewal of planning permission 9/0796/0309/F for the erection of a single and a second storey extension to provide two flats over the hairdressing salon at land to the rear of 61 High St - Refused 21/04/2001 (Appeal Withdrawn)

9/2009/0817 - Application for approval of details reserved by condition (9/2006/0826/B) for the

**DMPA/2020/0255 - 53 High Street, Newhall, Swadlincote DE11 0HU**



**South  
Derbyshire  
District Council**

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**South Derbyshire District Council. LA 100019461.2020**

residential development of 0.18 hectares of land to the rear of 61 High St - Withdrawn  
9/2010/0614 - Outline application for the erection of five dwellings with associated parking - Granted 13/09/2010  
9/2016/0931 - Outline application for the erection of five dwellings (three townhouses and two apartments) with associated parking - Granted 10/05/2017

### **Responses to consultations and publicity**

The County Highway Authority originally objected to the proposal as much of the car parking to be provided is to be to the rear of the building would be accessed off Chapel Lane which would introduce traffic movements to and from Chapel Street under severely substandard visibility sightlines and increase the traffic movements at the Chapel Street / High Street junction. However, if measures can be taken to minimise the increase in traffic at the High Street / Chapel Street junction and to create safe access to Chapel Street, the Highway Authority may be in a position to comment favourably on the proposals. Following additional representations from the applicant citing the use of the adjacent building as a men's hairdressers generated significant use which has now ceased, this could be used to off set the increase, the CHA maintained their objection. Following a revised proposal without parking at the rear the Highway Authority states that provided that a condition is included in any consent requiring the existing three parking spaces to be allocated and deeded and a condition requiring measures to be implemented to ensure that parking does not take place on the site accessed via Chapel Lane - in accordance with a scheme first submitted to and approved in writing by the local Planning Authority, there are no objections to the proposal.

Environmental Health Officer has responded on issues of noise and air quality. Conditions relating to noise levels on High Street are recommended given the significant traffic levels. A condition to ensure that the internal amenity of the proposed development is adequately protected. Electric charging points are also recommended.

Derbyshire Wildlife Trust after reviewing the above application, the potential for ecological impacts is considered limited to whether bats may be affected by any works to the roof. If internal conversion of the loft space is required or extensive re-roofing, then a Preliminary Bat Roost Assessment should be undertaken by a suitably qualified ecologist prior to determination. Should this conclude that there is potential for bats to be present, nocturnal surveys would then be required. Aside from any requirement for bat survey and appropriate mitigation DWT has no objection subject to condition to secure bat and bird boxes on the side of the building.

Two letters of objection have been received, raising the following comments:

- a) Additional traffic on a poor road junction;
- b) Impact on Listed Chapel;
- c) No residents of the Chapel have been consulted;
- d) Access required to the front of the chapel (north)

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

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), INF2 (Sustainable Transport), and
- Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), and BNE10 (Heritage)

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (Design SPD);

The relevant national policy and guidance is:

- c) National Planning Policy Framework (NPPF); and
- d) Planning Practice Guidance (PPG).

## **Planning considerations**

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

- The principle of the development;
- Local character and the setting of designated heritage assets;
- Residential amenity;
- Highway safety and parking;
- Biodiversity; and
- Coal mining legacy and contaminated land.

## **Planning assessment**

### The principle of the development

With reference to policy H1 of the LP1 and policy SDT1 of the LP2 the site is located within Newhall, within the defined settlement boundary of the Swadlincote Urban Area. New development is targeted towards these defined settlement areas subject to any development being of an appropriate scale with regards to the size and role of that settlement and where subject to it complying with other relevant policies and guidance.

The most applicable policies and guidance to consider are H1 and SDT1. The proposed development would create 5 no. two bedroomed homes in a sustainable location through the re-use of existing buildings which are currently vacant. The sub-division of the buildings require only modest alteration and are within the urban setting of Swadlincote being well served by a range of services and facilities and is located adjacent to a bus stop with a regular bus service. It is considered the development would make the most efficient use of the land whilst taking into account what is appropriate for the surrounding local and built environment. The principle of the development is therefore considered acceptable.

### Local character and the setting of designated heritage assets

The site is surrounded by predominantly residential properties with some retail and local facilities perforating this. There is no overarching architectural theme to dwellings in this area of Newhall though it can be said the majority are two storey, split between a mix of mainly semi-detached and terraced style homes constructed in facing red or mixed blend brick with black rainwater goods and either clay or Staffordshire blue tiles. Most existing dwellings are set back from the highway by driveways and front gardens, except for the older terraced styles which open out onto the pavement. The building line to High Street is consistent and follows the highway bend. There is no regular form or pattern to the layout of development to this area of Newhall, likely due to historical coal and industrial workings with dwellings historically being erected as and when necessary. There is also no theme as to the size, positioning or landscaping types for rear gardens or amenity areas. The site lies close to an area of land that has been vacant for some time, an area of land to the north of the Grade II listed Newhall Methodist Church/Chapel.

The most applicable policies to consider are BNE1 and BNE2 of the LP1 and BNE10 of the LP2 and the Design SPD which between them seek that new development is of an appropriate size, siting, scale, material componentry and character with regards to characteristics of the area in which they are located. This proposal is substantially a conversion of the existing buildings into five modest two bedroomed dwellings with the only addition being the raising of the roof of the former storage building



to incorporate the addition of first floor accommodation. Visually, there would be little change to the character of the area other than some changes to the frontage with the removal of the shop front being replaced with smaller windows and a creation of separate access points for units 1 - 3. The Council's Conservation Officer comments that the alterations to the exterior are modest and would have no notable implications for the setting of the grade II listed building (Methodist Chapel) which sits to the south of the application site and is not concerned that the proposal would harm the special significance of the chapel as a listed building and is happy that the desirable objective described within section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 would be achieved. The proposal is therefore considered to comply with BNE1, BNE2 and BNE10.

#### Residential amenity

The most applicable policies and guidance to consider are SD1 and BNE1 and the Design Guide which between them seek that new development does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments. The site is surrounded by residential form and fronted by High Street to the north and Chapel Lane to the rear. The conversion of the existing buildings uses predominantly the same openings for windows and doors and none of these existing or proposed openings has any adverse impact on existing neighbouring properties in terms of distance guidelines as set out in the Design SPD and in any event these distance standards are usually relaxed when fronting a public highway. There are windows facing each other as part of the proposed dwellings (Units 3, 4 and 5 where living space, kitchens and bedrooms are closer than the minimum standard but the Design Guide is clear that within new developments guidelines are applied flexibly. The applicant has stated in the D&A that proposed layout was proposed to take account of the existing surrounding properties. Limited outdoor space is provided predominantly as parking for the proposal. However, as parking at the rear is an issue for the Highway Authority (See below) the area would be better served as amenity open space for the dwellings. A condition requiring an alternative layout for this area is attached.

The individual dwellings are modest in size and appear capable of accommodating downstairs WCs in understairs locations in each unit which do not appear to be shown on plan. Whilst this is not a planning issue, it will be a requirement for Building Regulations approval. Environmental Health raise the issue of the close proximity of the new dwellings to the High Street being back of pavement. A condition is proposed for the window to be of an acoustic rating of at least 33 Rw and provided with sufficient trickle ventilation to meet the requirements of Building Control Approved Document F (Ventilation).

Given the flexibility of the Design SPD the layout is considered to be acceptable and in compliance with policies SD1 and BNE1.

#### Highway safety and parking

The original proposal information appears to state the potential for different numbers of parking spaces to be included in the proposal with the numbers of spaces varying between 7 and 10. The plans show 7 spaces, three accessed from High Street direct and four spaces at the rear of the property accessed via Chapel Lane. Whilst Chapel Lane is an adopted highway, The CHA raised objections to the intensification of this sub-standard access. Whilst the applicant maintained that there would be no intensification as the parking provided for the proposed dwellings would, in effect, fill the gap that the now vacant hairdressers visitors have left, this carried limited weight. It was proposed the the CHA by Officers that, given the location in the urban area and the availability of public transport and local facilities nearby, an alternative would be the reduction of the parking provision to the three parking spaces accessible from High Street. A formal response from the CHA has been received withdrawing their objection on the basis that no parking is to be provided via Chapel Lane and that the three spaces accessible from the existing access via High Street be limited to two properties by deed to prevent vehicles attempting to enter the site or slow down on High Street to see whether space is available, these spaces should be deeded to individual properties – the two tandem spaces to one property and the third to another. It can be argued that the remaining parking demand and vehicle movements generated by the development will be off-set by the removal of the retail use on the site. Given the location of the proposal and the comments from the CHA it is considered that the proposal complies with policy INF2.



### Biodiversity

The site is formed by two traditional buildings in poor condition and as such has the potential to provide roosting opportunities in the roof. The relevant policy to consider is BNE3. The application is not supported by any ecology study or bat survey. Derbyshire Wildlife Trust state that after reviewing the application, the potential for ecological impacts is considered limited to whether bats may be affected by any works to the roof. As the roof of the storage building is proposed to be raised this would constitute significant works to the roof and therefore a preliminary bat roost assessment is required. Given the location of the buildings Officers queried the need for this survey work and DWT undertook a site visit but confirmed that this survey work was required prior to determination due to the poor condition of the roofs and potential for roosting. If this survey work concludes that there is potential for bats to be present, nocturnal surveys would then be required (between May and August and also prior to determination). This application cannot therefore be determined before the survey work is completed and mitigation measures are recommended by DWT and attached as conditions to the decision. The application is reported to committee in advance of this work as it is considered that it will be possible to include any mitigation measures by means of condition. Subject to a commitment to provide the survey work and abide by the mitigation measures a resolution to permit could be granted by Committee to delegate authority to the Head of Planning and Strategic Housing Services.

### Coal mining legacy and contaminated land

Whilst the site is located in an area of high risk from coal mining legacy, the proposal is for the conversion of existing buildings and as such no coal mining risk assessment was required. Environmental Health raise no objection to the proposal as regards contaminated land but do raise issues relating to noise referenced 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.

### **Recommendation**

**Approve** planning permission subject to;

A. Acceptable ecological mitigation (through the use of conditions as required) following the submission of all reports and survey works required and consultation with Derbyshire Wildlife Trust on such.

B. 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 the following plans; Location Plan; Existing and and Proposed Front Elevations; Existing and and Proposed Side Elevations; Proposed Floor Plans 1 - 5; Unit 5 Existing and Proposed; Existing and Proposed Floor Plans; 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. Notwithstanding the information set out in the application form, prior to their incorporation in to the building(s) 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: In the visual interest of the building(s) and the surrounding area.

4. 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 [[[ dwelling(s)/building(s) ]]] to which they serve is/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.

5. Prior to the occupation of the dwellings fronting High Street, the windows to all of the habitable rooms on the north facade of the proposed dwellings shall be fitted with secondary glazing to a specification of Rw 33dBA or better (or equivalent). The provision of ventilation within these rooms shall be such that the ventilation rates for dwellings specified in Approved Document F of the Building Regulations are capable of being achieved with the windows closed (such as through the use of sound insulated trickle vents). Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, all subsequent replacement of windows to habitable rooms shall achieve at least the same level of noise suppression.

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

6. Notwithstanding the approved plans, no parking shall be provided to the rear of the dwellings accessed from Chapel Lane. Prior to first occupation of the dwellings a scheme shall be implemented to ensure that parking does not take place on the site accessed via Chapel Lane which shall first be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the parking spaces accessed from High Street to be provided in connection with the development shall not be used other than for the parking of vehicles allocated to and secured by title deed - the two tandem spaces to one dwelling, the single space to another dwelling - except with the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

Reason: To ensure that dedicated parking is retained for two of the proposed dwellings and that no increase occurs and to prevent other vehicles attempting to enter the site or slow down on High Street to see whether space is available and in the interests of highway safety.

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

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

#### Informatives:

- a. The applicant/developer is reminded that it is an offence to damage or destroy species protected under separate legislation, which includes, but is not limited to, nesting birds which may be present in hedgerows, trees or ground habitats on the site. Planning permission for a development does not provide a defence against prosecution under wildlife protection legislation. You are advised that it may be necessary, shortly

before development commences, to commission an ecological survey from suitably qualified and experienced professionals to determine the presence or otherwise of such protected species. If protected species are found to be present, reference should be made to Natural England's standing advice and/or the Derbyshire Wildlife Trust should be consulted for advice.

- b. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority). Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com).

**Item No.** 1.3

**Ref. No.** [DMPA/2020/1391](#)

**Valid date:** 08/02/2021

**Applicant:** Anzar Maqsood

**Agent:** AK Innovative Design Solutions LTD

**Proposal:** **Outline application (matters of access, layout, scale, appearance and landscaping reserved for later consideration) for the erection of up to 5 apartments at Land to the South Side of High Street and Corner of Sun Street, Woodville, Derby, DE11 7DU**

**Ward:** Woodville

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

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

#### **Site Description**

The site has most recently been used in the front section for hoarding advertising, but has ceased over the last few years. It seems to be an area of land left over from development, due to previous constraints. The land lies above the line of an historic underground industrial railway line which passed underneath High Street and served probably coal mines to the south. South of High Street, Woodville, this former line has been developed for housing in Mistletoe Drive. North of High Street the line of the disused railway is still in place as it moves north west behind Woodville.

Immediately to the south of the site on Sun Street there are some two storey link detached houses approx 1990's known as Thorn Street Mews. These have garages or on site parking and dropped kerbs. Then further around the corner are a number of link terraced two storey properties of similar era. These dwellings generally have 2 spaces each on the front drive of their dwellings. On the west side of Sun Street there is a mixture of traditional Victorian dwellings and a recent semi detached pair of dwellings which has roofspace accommodation on the second floor. Sun Street widens out after the first section from the junction with High Street.

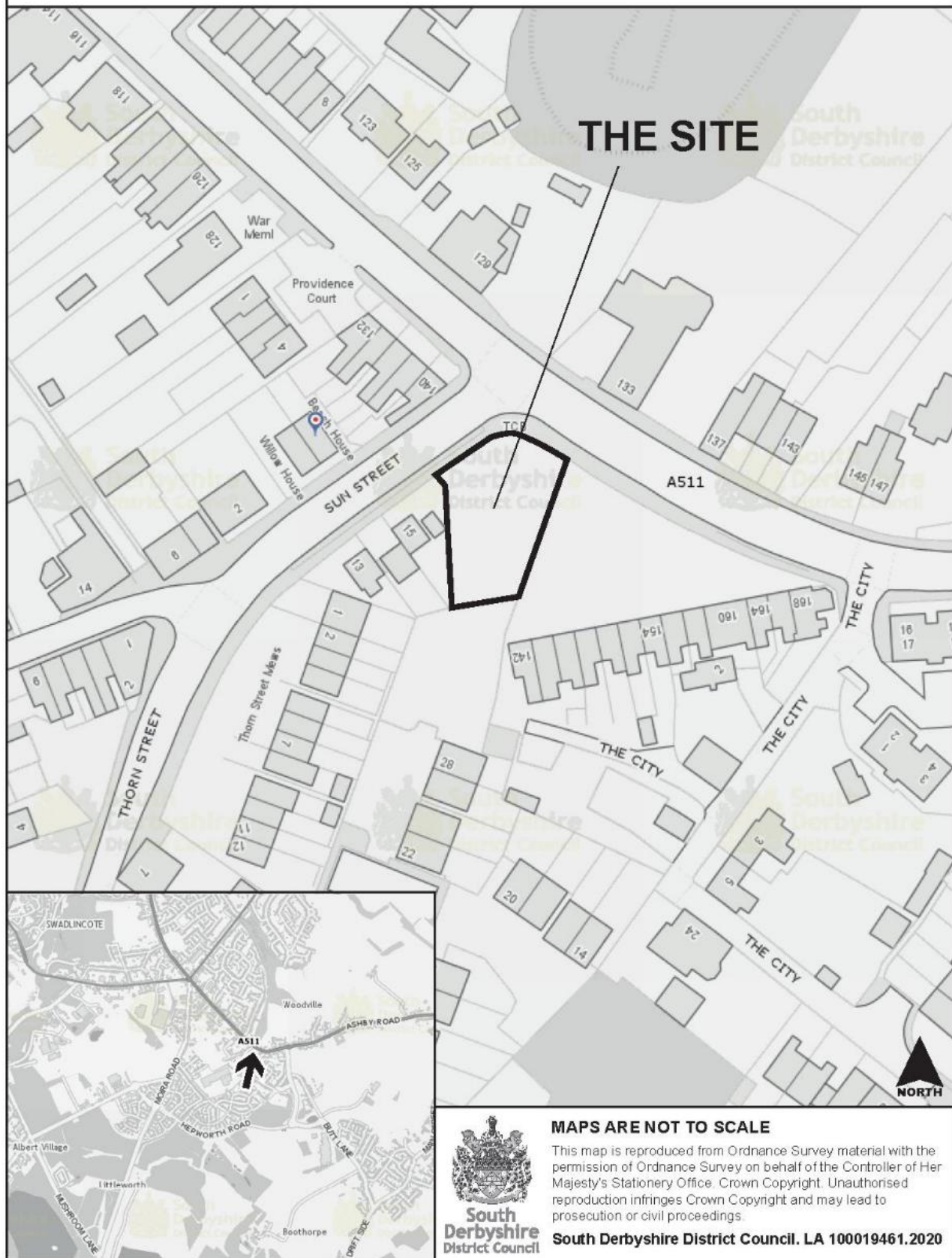
There are double yellow lines around the junction with High Street and then after a short distance, no restrictions on on-street parking. There are spaces for on-street parking for residents of dwellings on the west side of Sun Street or visitors to dwellings on the east side.

Opposite the site is a retail convenience store. The dwellings immediately to the west of the junction are Victorian and are two storeys in a terrace. Further to the west, there are two storey dwellings with dormer windows on the second floor facing the High Street.

To the east of the site, the two storey dwellings are set an angle to High Street as it turns the corner past The City towards Clock Garage. Each of these two storey terraced properties have longer front gardens as it reaches the end of the terrace at number 142 High Street.

The land itself is predominantly rough grassland with no redeeming features. There is a shrub situated close to the rear boundary of the site with 15 Sun Street. There is street furniture just in front of the site, in the form of a telephone box and a bus stop. There is also a telegraph pole with wires which go across the site, which would need to be re-directed or put underground, and a seating bench. There are cement bollards on the highway verge in Sun Street.

**DMPA/2020/1391 - Land to the South Side of High Street and Corner of Sun Street, Woodville, Swadlincote DE11 7DU**



## **The proposal**

The proposal is an outline application for up to 5 dwellings on the site. All matters are reserved for further consideration. Negotiations during the course of the application have been undertaken to reduce the maximum number on the site from 7 to 5, on the basis of concerns about possible over development at the site. The proposal as amended provides flexibility to design the scheme to ensure that it meets the requirements of the competing interests at the Reserved Matters stage.

Illustrative drawings have been submitted to show what the development could look like. This shows a development which predominantly sits at the front of the site and turns the corner into Sun Street. There could be a corner feature with a glazed finish and gable fronting the corner. The vehicular access is likely to be at the southern end of the site from Sun Street, adjacent to the vehicular access for 15 Sun Street.

The illustrative scheme does show some second floor accommodation in the form of dormer windows fronting High Street with rooflights at the rear. The illustrative plans show 5 car parking spaces, which would be approx. 1 space per dwelling. There is only a small area of communal space for residents. These details would need to be worked through at Reserved Matters stage, but roofspace accommodation could be possible and is a feature within the existing built form of the surrounding area.

## **Applicant's supporting information**

The applicant has submitted a Design and Access Statement and illustrative plans which outlined how 7 dwellings could be provided on the site. These would have been in 4 x 2 bedroom apartments and 3 x 1 bedroom apartments. This proposal has subsequently been reduced to a maximum of 5 dwellings. The details are to be designed as part of a Reserved Matters proposal depending on what design can work on the site, taking into account the adequate provision of parking, separation from nearby residential properties and a satisfactory design and appearance, particularly as the development turns the corner between High Street and Sun Street, taking cues from the nearby urban form.

The applicant considers that the site is located within a sustainable residential location with good access to nearby facilities in Woodville, and with bus services to Swadlincote and Burton. The development would have bicycle storage facilities and parking spaces with electric charging points. They comment that a Section 106 could be provided to limit car ownership, if required by the local highway authority. The design would be traditional brick, but would use modern sustainable methods of construction. The space would provide some communal space for residents and a bin store. Additional trees can be planted on the site.

The applicant considers that there are plenty of shops, a doctors, and dentists nearby, and it is a short walking distance to local parks for residents.

It is concluded that the scale, massing and rhythm can be appropriate for the site and the development would sit well with existing urban form.

## **Relevant planning history**

No recent relevant planning history.

## **Responses to consultations and publicity**

The County Highway Authority conclude that, in principle, there is no objection to the development. They note that there is a Prescribed Improvement Line under the Road Improvement Act 1925 which affects the front of the site. This could be rescinded through an application to the Highway Authority. It is noted that the drawings and layout are illustrative. It is noted that 5 parking spaces are shown. There are no parking restrictions on Sun Street other than near the junction. Parking could overflow on to Sun Street. It is recommended that conditions be imposed to deal with highway issues at the Reserved Matters stage.

Severn Trent Water Limited has no objection to the proposal subject to the imposition of conditions

relating to the details of the disposal of surface and foul water drainage from the site. Disposal of surface water by soakaway should be considered. An informative is suggested with regard to possible public sewers nearby.

The Coal Authority note that the site falls within the defined high risk area. The site is underlain by probable unrecorded coal mine workings at shallow depth. The submitted report identifies a moderate risk posed by probable unrecorded mine workings, and recommends that intrusive investigations are undertaken to determine the ground conditions. It is therefore recommended that planning permission can be granted subject to the imposition of appropriate conditions.

The Environmental Health Officer notes that the site is within influencing distance of a potential contaminated land site. There are no objections subject to the imposition of a condition relating to the identifying and controlling of any contamination of land or pollution of controlled waters has been submitted to and approved by the local planning authority.

Woodville Parish Council object to the proposal on the grounds of over development of the site and highway concerns. Objections include the lack of car parking on the site and the comings and goings from the site.

Ward Member Councillor Taylor has been contacted by a number of residents. He notes that the area has been a cause of concern for a number of years in terms of difficulties for access for HGV's, due to parking problems, and obstruction and entry on to Sun Street. HGV's access the nearby Montracon site where business activity has increased.

In terms of design, the intent is to develop a three storey building. It does not appear to be in keeping with the area. There are no other buildings or similar height nearby, There are three storey flats further along the High Street.

New design should be of a high standard and intrusion to the street scene minimised. There have been historic problems with obstruction and parking problems on Sun Street. The site could result in a demand for 14 cars. The proposed car parking provision is unacceptable. The site could accommodate some development. There is potential for overlooking existing properties.

#### Neighbour response to consultation

A number of objections have been received by nearby neighbours as result of the consultation process. These can be summarised as follows:-

- a) The plans show that the view from the front windows would be completely obscured. The upper apartments will look into the front bedrooms and lounge and dining room.
- b) Who will maintain the boundary?
- c) There will be vehicle noise from the parking area.
- d) The vehicular access on Sun Street is inadequate.
- e) Parking on Sun Street shouldn't be allowed. Cars are parked too close to the junction. There is a lack off on street parking here and residents have trouble getting onto private drives. There would be an unacceptable increase in traffic and parking demand
- f) HGV's access the street on a daily basis and need a wider route.
- g) The scale of the building would be intrusive to the residents. There would be a loss of privacy and natural light.
- h) There is an old railway tunnel underneath. The bus stop and phone booth and bench must be re-located.
- i) The site could be used for car parking for other nearby residents.
- j) There is no shortage of housing in the area. It is green space and not allocated for housing in the local plan. It could be a community garden.
- k) The proposal will put additional strain on local services, like schools, doctors, etc.
- l) The Sun Street/High Street junction is busy and dangerous. Visibility is poor.
- m) The Section 106 agreement to prevent residents having cars would not be adhered to.
- n) The nearest train station is in Burton on Trent and require bus or car journeys to get to.

- o) Buys services may get cut.
- p) The design of the houses will result in larger development than what is in the area.
- q) The waste proposals will result in increase in noise and smells close to windows and doors. This could be moved to the other side.
- r) Five car parking spaces for 5 dwelling units would be better.
- s) The valuation of houses in the area will be affected.

There are two comments in support of the proposal which can be summarised as follows:-

- a) The apartments are well thought out and will improve the area. It has been vacant for some time. It will be a brilliant investment and encourage others.
- b) Brownfield development is better than greenfield developments.

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

The relevant Development Plan policies are:

- South Derbyshire Local Plan Part 1 2016 (LP1): Policy S1 Sustainable Growth Strategy; Policy S2 Presumption in Favour of Sustainable Development; Policy S3 Environmental Performance; Policy S6 Sustainable Access; Policy H1 Settlement Hierarchy; Policy SD1 Amenity and Environmental Quality; Policy SD3 Sustainable Water Supply, Drainage and Sewerage Infrastructure; Policy SD4 Contaminated Land and Mining Legacy Issues; Policy BNE1 Design Excellence; Policy INF2 Sustainable Transport
- South Derbyshire Local Plan Part 2 2017 (LP2): SDT1 Settlement Boundaries and Development.

The relevant local guidance is:

- e) 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**

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

- The principle of residential development;
- The effect of the proposal on the character and appearance of the street scene;
- The effect on residential amenity of nearby occupants
- The effect of the proposal on the highway network;
- The effect on contamination and mining legacy issues; and
- The effect on the environment.

### **Planning assessment**

#### The principle of residential development

The site is located within the 'Limits to Development' of the Swadlincote Urban Settlement boundary. Woodville is identified as an Urban Area within the settlement hierarchy. The site is in a sustainable location and has good access to public services and facilities. There are good transport links to Swadlincote, Burton on Trent, Ashby and Derby. The site does not have any particular merit as an area of brownfield land. In principle, there are no restrictions to residential development.

On this basis, it is concluded that the principle of residential development is acceptable. The proposal would thereby comply with policies S1, S2, and H1 of the South Derbyshire Local Plan Part 1 2016, and policy SDT1 of the South Derbyshire Local Plan Part 2 2017.



#### The effect of the proposal on the character and appearance of the street scene

The submitted proposal is in outline form with all matters subject to further detail. Illustrative plans show how a development could be predominantly fronted to the High Street and turning the corner of Sun Street.

In terms of the characteristics of surrounding development, it is predominantly two storey. Development facing High Street does have more of a prominence and there is opportunity to provide a building which adds to the character and appearance on this important corner site. It would not be correct to say that there isn't some three storey development along High Street. There are flats further to the west of the site, and closer to the site there are properties which have roofspace accommodation fronting High Street in the form of front facing dormer windows. Being early 20th Century properties, these also tend to have higher floor to ceiling height too so would be likely to be taller than the proposed development. There is more recent development close to the site with second floor accommodation within the roofspace.

On this basis, it is possible that a building of predominantly two storey, but with some element of roofspace accommodation could be provided to create a positive development on this corner, and add to the appearance of the street scene in framing this junction on this main thoroughfare into Swadlincote urban area. It will be an issue about how this is to be designed to find something suitable for this corner site, which can be dealt with through the Reserved Matters process.

It is therefore concluded that the proposal could have an acceptable impact on the character and appearance of the street scene and be capable of complying with Policies S1, S2, S3, S6, and BNE1 of the South Derbyshire Local Plan Part 1 2016 and the Design Guidance 2017.

#### The effect on residential amenity of nearby occupants

There are residential properties adjacent to the site, to the western side on the other side of Sun Street and the row of terraces to the south east in High Street. There is the possibility of the greatest impact being on dwellings at 140-142 High Street. The fronts of these properties are set well back from the road and are situated some 34.75m approx. from the front part of the application site, approx. 23m from the rear elevation of the building on the illustrative layout adjacent to 15 Sun Street, and 23.5m from the rear of the section fronting High Street to the front elevation of 142 High Street.

These illustrative plans show that a development could be achieved on the site which would protect the residential amenities of the occupants of that section of High Street which is set back from the road, at sufficient separation distances such that there would be no significant harm caused to the amenities of those residents and meet the requirements of the Supplementary Planning Design Guidance Document 2017.

Whilst there are adjacent properties on Sun Street, these are set away from the shared boundary and have a blank side elevation facing the site. It is considered that the proposal could be designed so as not to have a significant impact on the amenity of these neighbours.

The details of the layout would be decided at the Reserved Matters stage in terms of the exact layout and where rooms would be located, but the illustrative plans show that a residential scheme can be provided, in principle, which would not cause significant concerns to neighbours through loss of privacy, overbearing impact, or result in a material loss of light to habitable rooms.

It is therefore concluded that the proposal is capable of complying with policies BNE1 and SD1 of the South Derbyshire Local Plan Part 1 2016.

#### The effect of the proposal on the highway network

Objection to the proposal has been raised on the basis of the lack of parking within the area, particularly in Sun Street, and the potential for the development to result in parking on the street. The applicant has reduced the number of units down from 7 to a maximum of 5. Depending on the details of the Reserved Matters this could be lower. There seems to be room on the site for at least 5 car parking

spaces and in principle this seems to be a better balance.

The site is located within a sustainable location and therefore residents could live in the flats who don't have a car as they can access local services and facilities without owning a car. There is opportunity to provide on site cycle parking facilities to assist residents travel out to access facilities. The site is close to public transport facilities with good access to main services.

Although complaints have been received from neighbours, many of the immediate neighbours have parking within their own properties to provide sufficient parking for their needs either in garages, on the drive, or in front of their dropped kerb. Some of the terraced properties on the west side of Sun Street would traditionally park outside on the street. It is possible that there may be some additional demand created for on street parking, but as with a number of cases, in terraced streets, no one is entitled to park outside their own property, and any car which is taxed is entitled to park on the highway. It would be a case of first come first served in terms of availability of street spaces. Any blocking of existing drives, is obstruction and is a Police matter.

In highway safety terms, it will be important to ensure that there is no detrimental impacts on the junction between Sun Street and High Street. There are traffic regulations both on the main road and around the junction for a number of metres down Sun Street.

The Highway Authority consider that, in principle, additional residential development can be accommodated on the site, and that the applicant will need to submit additional details of proposed car parking within the site at Reserved Matters stage when the number and siting of the dwellings are determined. This may include some proposals to limit car ownership on the site, but generally speaking residential units of this nature tend to be self policing with future tenants with cars put off if there is a lack of specific allocated parking, and therefore would be more likely to attract occupants without cars. Over time, this tends to balance itself out.

In conclusions, the changes to the outline scheme would provide for a better relationship between the number of units provided and car parking spaces to reduce off site demand for spaces. Even if there is some additional demand for car parking spaces, it is not considered that this would result in significant harm to highway safety in the vicinity. On this basis, the proposal is acceptable and would be likely to comply with policy INF2 of the South Derbyshire Local Plan Part 1 2016, and the NPPF.

#### The effect on contamination and mining legacy issues

The site is located in an area where there is a likelihood of effect from previous mining activity. There are likely to be potential effects from both gas migration and land contamination issues. A Coal Mining Risk Assessment was submitted with the application. This concluded that there is a moderate risk posed by probable unrecorded coal mine workings at shallow depth. It recommends intrusive site investigations to determine the ground conditions and the risk posed by shallow coal mining legacy. It is recommended that these conditions be imposed.

Due to the location of the site within influencing distance of areas of potential land contamination, it is also recommended that a condition is imposed to identify and control any contamination which may effect controlled waters as recommended by the Council's Environmental Health Officer.

It is concluded that the above conditions would satisfactorily deal with contaminated land and mining legacy issues. On this basis, the proposal complies with policy SD4 of the South Derbyshire Local Plan Part 1 2016.

#### The effect on the environment

Severn Trent has been consulted on the proposal. At this stage, the details of the layout have not been agreed. The details of the scheme will need to be worked up at the Reserved Matters stage to provide a development which can comply with the requirements of the Building Regulations, and that provides, where possible, drainage which does not result in an increase in run off greater than Greenfield run off rates and that drainage by soakaway can be provided, if possible through a sustainable drainage scheme. It is recommended that appropriate conditions are imposed to deal with this as recommended

by Severn Trent.

It is recommended that the Reserved Matters details also include a condition which requires the provision of at least one electric charging point within the development to enable future occupiers to plug an electric car into a charging point whilst parking their cars.

In accordance with policy SD3 of the local plan, it is also recommended that a condition be imposed to provide for an upper limit on water usage of 110 litres per day for each dwelling.

It is therefore concluded that the proposal complies with policies S3 and SD3 of the South Derbyshire Local Plan Part 1 2016.

### Conclusion

It is concluded that the proposal are acceptable and it is recommended that outline planning permission be granted subject to the imposition of appropriate conditions.

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**

**Approve** the application subject to the following conditions:

1. (a) Application for approval of the reserved matters listed at condition two shall be made to the local planning authority no later than three years from the date of this decision notice; and  
(b) The development hereby permitted shall be commenced before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To conform with Sections 73 & 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. Before any development is commenced the further approval of the local planning authority is required with respect to the following matters (herein referred to as the reserved matters) on an application made in that regard:
  - (a) appearance;
  - (b) means of access;
  - (c) landscaping;
  - (d) layout; and
  - (e) scale.

Reason: This permission is granted in outline under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015 and section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

3. The development hereby permitted shall be carried out in accordance with plan(s)/drawing(s) ref;

Application Form received 14th December 2020;

Design and Access Statement received 14th December 2020;

Location Plan and illustrative plans and elevations, Drawing No. A102 received 19th April 2021;  
and

Email correspondence to amend description of development received 8th June 2021.

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.

4. No development shall commence until;
  - a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;
  - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: To ensure that the development provides the necessary mitigation measures required to ensure that the development is safe for future residential occupiers of the site in the interests of public safety.

5. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the local planning authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: To ensure that the development provides the necessary mitigation measures required to ensure that the development is safe for future residential occupiers of the site in the interests of public safety.

6.
  - a) No development shall commence until a scheme to identify and control any contamination of land or pollution of controlled waters has been submitted to and approved in writing by the local planning authority, and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated' (herein referred to as 'the Guidance'), unless the local planning authority dispenses with any such requirement specifically and in writing.
  - b) Prior to occupation of the development (or parts thereof) an independent verification report which meets the requirements given in Box 2 of Section 3.1 of the Guidance shall be submitted to and approved in writing by the local planning authority. With the prior written agreement of the local planning authority pursuant to part (a) of this condition, this may be carried out on a plot-by-plot basis.
  - c) In the event that it is proposed to import soil onto site in connection with the development, this shall comply with the specifications given in Box 3 of Section 3.1 of the Guidance.
  - d) If required by the conceptual site model, no development shall commence until monitoring at the site for the presence of ground gas and a subsequent risk assessment which meets the requirements given in Box 4, Section 3.1 of the Guidance has been completed in accordance with a scheme first submitted to and approved in writing by the local planning authority.

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

7. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use. Planning Practice Guidance and section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by

means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse is available as an alternative other sustainable methods should also be explored. If these are found unsuitable, satisfactory evidence will need to be submitted, before a discharge to the public sewerage system is considered.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

8. A subsequent reserved matters or full application shall include a detailed scheme showing the proposed new access to Sun Street to be submitted to the local planning authority for written approval and provided with visibility sightlines of 2.4m x maximum achievable splays in either direction measured over controlled land. The access shall be implemented in accordance with the approved designs, and the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: In the interests of highway safety.

9. The access, the subject of condition 1 above, shall not be taken into use until 2m x 2m x 45° pedestrian intervisibility splays have been provided on either side of the access at the back of the footway, the splay area being maintained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.

Reason: In the interests of highway safety.

10. A subsequent reserved matters or full application shall include details of vehicle parking spaces within the site for the occupants and visitors to be submitted to and approved in writing by the local planning authority. The layout shall be implemented as approved and shall be maintained free from any impediment to their designated use throughout the lifetime of the development. Each parking space measuring at least 2.4m x 5.5m.

Reason: In the interests of highway safety.

11. A subsequent reserved matters or full application shall include details of secure cycle parking facilities for the occupants and visitors to be submitted to and approved in writing by the local planning authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.

Reason: To encourage sustainable transport movements.

12. No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the agreed details and the facilities retained for their designated purposes at all times thereafter.

Reason: To ensure adequate provision of necessary facilities in the interests of highway safety.

13. Where gradient of the private driveway/access slopes towards the highway, measures shall be installed at the interface between private driveway/ vehicular access and the highway to prevent the flow of surface water onto the highway.

Reason: In the interests of highway safety.

14. The proposed access driveway to Sun Street shall be no steeper than 1:20 for the first 5m from the nearside highway boundary (absolute maximum 1:12). Where sloping towards the highway, measures shall be installed at the interface between private driveway/ vehicular access and the highway to prevent the flow of surface water onto the highway.

Reason: In the interests of highway safety.

15. No development shall take place including any works of demolition until a construction management plan or construction method statement has been submitted to and been approved in writing by the local planning authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for: Temporary access, Parking of vehicles of site operatives and visitors, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway, pedestrian and cyclist protection, proposed temporary traffic restrictions, areas for standing plant and materials clear of the highway, arrangements for turning vehicles.

Reason: In the interests of highway safety.

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

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

17. Recharge points for electric vehicles shall be provided within the development to comply with the following criteria: - Residential - 1 charging point per dwelling with dedicated on plot parking, or 1 charging point per 10 spaces (or part thereof) where the dwelling(s) are served by courtyard parking;  
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 shall 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 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 electric vehicle charging points shall be provided in accordance with the stated criteria and approved details prior to the first occupation or use of the respective premises 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.

18. Except in an emergency, no demolition, site clearance, construction, site works or fitting out shall take place other than between 08.00 hours and 18.00 hours Mondays to Fridays, and between 0800 hours and 1300 hours on Saturdays. There shall be no such activities whatsoever on Sundays, public holidays and bank holidays. Except in an emergency, no demolition, site clearance, construction, site works or fitting out shall take place other than between 08.00 hours and 18.00 hours Mondays to Fridays, and between 0800 hours and 1300 hours on Saturdays. There shall be no such activities whatsoever on Sundays, public holidays and bank holidays.

Reason: To protect the amenity of occupiers by way of noise and disturbance during the phase of construction.

#### Informatives:

- c. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy Transport & Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available by email [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk), telephone Call Derbyshire on 01629 533190 or via the County Council's website: Vehicle accesses, crossovers and dropped kerbs - Derbyshire County Council.

- d. The site is affected by a Prescribed Improvement Line under the Road Improvement Act 1925. However whilst it is an offence to undertake building works in advance of this line, it may be possible for the applicant to apply to rescind the line. The applicant should contact Derbyshire County Council (ETC.HighwaysExtents@derbyshire.gov.uk ), for further information and the applicant would need to make an application for rescinding the line at least 6 weeks before programming the commencement of any permitted works. It is advised that there is a fee payable to cover administration and legal costs.
- e. The Highway Authority recommends that the first 6m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.
- f. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- g. Each parking bay should measure 2.4m x 5.5m (with additional 0.5m clearance margin if any side of the parking bay is bounded by wall or fence) with adequate space behind each space for manoeuvring. The parking bays need to be larger in the case of spaces for use by disabled drivers. The minimum internal dimensions for garage are 3.6m x 6.5m (absolute minimum 3.0m x 6.0m) for a single garage and 7.2m x 6.5m (absolute minimum 6.0m x 6.0m) for a double garage. Reference made to 'Delivering Streets and Places 2017' under Table 8.13.
- h. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.

**Item No.** 1.4

**Ref. No.** [DMPA/2020/1467](#)

**Valid date:** 04/01/2021

**Applicant:** Pete and Linda Jesper and  
Anderson

**Agent:** IBA Planning Limited

**Proposal:** **Proposed change of use of part of the site from agriculture to construct (self-build) infill dwelling, and creation of new access within existing residential curtilage on Land between The Cedars and The Stables, Shardlow Road, Aston On Trent, Derby, DE72 2AN**

**Ward:** Aston

### **Reason for committee determination**

This application is presented to the Committee at the request of Councillor Watson, as local concern has been expressed about a particular issue and because there are unusual site circumstances to be considered by the Committee. The application only need to be presented to Committee in the event of a recommendation for refusal.

### **Site Description**

The site is situated outside of the village 'Limits to Development', on the eastern side of the recreation ground. There are two isolated dwellings which sit on the north side of Shardlow Road; namely The Stables, and The Paddocks/The Cedars.

There is a bend in the road further to the east which limits visibility to the left out of the access. Visibility to the right is good. There are open fields opposite to the south of the site. There is a mature tree in the front garden close to the hedgerow, part of which, would need to be removed to create the access. The footpath is close to the hedge and there is also a grass verge to the carriageway.

The applicant's house is a much extended 1 and a 1/2 storey dwelling sitting at an angle to the road. The adjacent property, The Stables is a small single storey bungalow set back parallel to the road. This has a relatively small back garden which sits adjacent to the site of the application site. To the west of the site is the village recreation ground, which also has a modern two storey social building situated on it towards its south eastern corner. There are several mature trees along the boundary with the site, within the recreation ground area, some of these have branches which overhang into the site.

The application site is a small holding with some agricultural buildings and animals situated on the land to the north of the application site. The applicant has a grassed area behind the house which is domestic in appearance and mown up to a 1.5m high wooden fence which visually separates it from the domestic appearance of the land. There is planning history at the site and the 2011 application have set the boundaries between the domestic curtilage and the remaining agricultural land.

### **The proposal**

The proposed access to the dwelling would be situated between two of the dwellings sitting north of the Shardlow Road and run close to the western boundary of The Cedars before turning left to open out in the plot where the dwelling would be situated.

The proposed 3 bedroomed single storey dwelling would be set within the plot with a south west south orientation. There would be a car port at the front of the dwelling. There would be rooms with a southern orientation to take account of solar gain.



**DMPA/2020/1467 - Land between The Cedars and The Stables, Shardlow Road, Aston on Trent, Derby DE72 2AN**



**South  
Derbyshire  
District Council**

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**South Derbyshire District Council. LA 100019461.2020**



The proposed design takes a contemporary approach using a Passiv Haus approach to reduce carbon footprint.

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

The applicant's consider that the proposal whilst being outside the 'Limits to Development', is allowed by policy BNE5 of the South Derbyshire Local Plan on the basis that the proposal is considered as infill development, and that the proposal would not impact on landscape character and would not affect heritage assets, best and most versatile land or biodiversity interests.

The proposed development has been designed to be low profile and not be prominent within the landscape being situated behind The Stables. It has been designed to be redolent of an agricultural/horticultural outbuilding. The building would replace some of the existing garden buildings. The dwelling by virtue of its design could be considered to be an exceptional dwelling allowed in the countryside under paragraph 79 of the National Planning Policy Framework. The building takes a fabric first approach to reduce its environmental impact within its lifetime.

The proposal would not detrimentally effect trees outside of the site boundary, and additional trees would be planted within the site. The Preliminary Ecological Appraisal identifies the absence of any significant ecological interest. The development would be drained sustainably to reduce surface water run off. A wetland habitat would be created which would dually function as an attenuation basin.

The proposal would also add to the provision of self build dwellings within the Borough, which is supported by policy H20 of the Local Plan.

### **Relevant planning history**

9/2011/0089. Change of use from agriculture to garden and erection of replacement poultry store. Approved.

9/2011/0390. Extensions and alterations to raise roof to provide loft conversions. Approved.

### **Responses to consultations and publicity**

The County Highway Authority note that Shardlow Road is a classified road, mainly rural in character with footway and grass verge fronting the site. They requested some amendments to the proposal to provide better pedestrian and vehicular visibility splays and width on plans and position of the existing signage which may affect the splays.

The Local Lead Flood Authority has no objection to the proposal and suggests informatives be added regarding sustainable drainage.

Derbyshire Wildlife Trust has noted that the proposal would result in the loss of a number of the orchard fruit trees within the site but there is little scope for compensatory planting as shown on the submitted plans. However, there is likely that there is no detrimental effect on protected species.

The Derbyshire Beekeepers Association notes that the proposed landscape scheme includes native plants and trees which would add to the foraging of bees and other insects in the area.

The Tree Officer notes that the proposal is close to mature trees within the Sports Recreation Ground, which are outside the site. These have roots and branches which overhang the site. There is potential for detrimental impact from the development to the trees. Some of the trees within the recreation ground are worthy of protection.

The Environmental Health Officer has no objection subject to the imposition of an appropriate condition relating to the hours of operation of construction and deliveries.

The Landscape Architect has no objection to the proposal subject to a detailed planting scheme to show new tree and hedgerow planting and protection of existing hedgerow and trees. This can be conditioned.

A number of representations of support have been received from residents of Aston and Chellaston. These can be summarised as follows:-

- a) The proposed Passive House design is innovative and attractive. The proposal would accommodate modern building techniques which would result in a zero carbon dwelling, and uses solar panels, ground source heat pumps, solar gain and rainwater harvesting for the benefit of the development.
- b) The proposal would not be detrimental to the appearance of the area, and will fit well into the landscape. The proposal will protect existing trees, and will provide additional hedgerow and add to the quality of the landscape and enhance it for the wildlife. The proposal protects and enhances its setting.
- c) Although the proposal is outside the village, it will be attractive and add to the quality of development in the vicinity through its innovative design and exterior and interior appearance. It will be a credit to the village.

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

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): Policy S1 Sustainable Growth Strategy; Policy S2 Presumption in Favour of Sustainable Development; Policy S3 Environmental Performance; Policy S4 Housing Strategy; Policy S6 Sustainable Access; H1 Settlement Hierarchy; Policy SD1 Amenity and Environmental Quality; SD3 Sustainable Water Supply, Drainage and Sewerage Infrastructure; Policy BNE1 Design Excellence; Policy BNE3 Biodiversity; Policy BNE7 Trees, Woodland and Hedgerow; and Policy INF2 Sustainable Transport.
- Local Plan Part 2 (LP2): Policy SDT1 Settlement Boundaries and Development; BN5 Development in Rural Areas, and BNE7 Trees, Woodland and Hedgerows.

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

### **Planning considerations**

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issue(s) central to the determination of this application is/are:

- The principle of a new dwelling in this countryside location;
- The effect of the proposal on the character and appearance of the site and surrounding area;
- The effect of the proposal on the highway network;
- The effect of the proposal on the residential amenity of nearby occupiers; and
- The effect of the proposal on the environment.

### **Planning assessment**

The principle of a new dwelling in this countryside location

The site is located outside of the 'Limits of Development' of Aston Upon Trent. The boundaries of the

settlement run behind Shirley Park and Willow Close to the west of the Recreation ground. This makes sense in terms of the eastern end of the main part of the village before it opens out into the countryside. The two dwellings on Shardlow Road which the proposed access bisects, are stand alone dwellings, built around the 1960's/70s.

The applicant has secured extensions and additions to The Paddock (now known as The Cedars) in previous years to allow some first floor accommodation. There was also an application from 2011 which provided details of a proposal for use of land as an agricultural unit with provision for poultry sheds and other buildings in connection with a typical small holding. It was also agreed as part of the approval for a small extension of the residential curtilage of the property.

However, there were concerns raised at the time about the extent of the domestication of the land, and a plan was agreed which only extended a small area of increase in garden land up towards a fence line to the north of the applicant's land, and limited in width. The western extent of the extension of the garden area was approximately in line with the rear apex of the dwellinghouse.

Only the part of the site which provides the new access up to and past the house is part of the existing domestic curtilage before it changes to land which is authorised as agricultural use and not forming part of the domestic curtilage of either The Stables, or The Cedars but is land within the countryside.

The site is therefore part of the open countryside. In terms of strategic housing policy, Aston on Trent is identified as a Key Service Village in policy H1 Settlement Hierarchy. Residential development of all sizes is considered acceptable in principle within the settlement boundaries. Housing development is also acceptable adjacent to settlements as an exceptions or cross subsidy site.

The recent re-assessment of a proposal for 3 dwellings at Church Street, Hartshorne (9/2018/0968) at appeal confirmed that the dwellings were not for affordable housing, or a cross subsidy site, and therefore the development would not comply with policy H1 or BNE5. That development was similarly, not essential to a rural based activity. That development which was adjacent to a settlement was not considered a suitable location for development and in conflict with policies S1, S4, H1 of the Local Plan Part 1 2016, and policies SDT1 and BNE5 of the Local Plan Part 2 2017.

The proposed development site is not situated adjacent to the settlement boundary. It is situated on the eastern side of the village recreation site and therefore is within the countryside. The two dwellings which front Shardlow Road whilst being situated relatively close to the village, are nevertheless dwellings which are ribbon developments in a countryside location. The development is not proposed as an exception (affordable housing), and is not part of a cross subsidy scheme.

The applicant considers that the development is acceptable on the basis of policy BNE5 Development in Rural Areas on the basis that this development can be considered as 'infill' development. It is considered that the siting of this proposed dwelling is not considered to be consistent with an infill development. There is no obvious gap between The Stables and The Cedars. The proposed dwelling does not have a street frontage and to all intents and purposes, it is more accurately described as backland development. It is not backland development within a residential curtilage, but within the countryside outside of, and detached from, the 'Limits to Development' of the settlement of Aston on Trent.

The Council currently has a five year supply of housing. Decisions should be made in compliance with the requirements of the development plan unless material considerations indicate otherwise. The Local Plan should be read as a whole, and sets out the strategic policies of the Council. It allows for development within the countryside in strict circumstances essential to a rural activity, or for residential development which is identified as a exception where there is a particular need. Development in this instance cannot be said to be compliant with those strategic policies identified within the Local Plan.

The proposal is therefore unacceptable development in the open countryside. It is not an acceptable location for development, and would be an unsustainable development. It is considered that the proposal is contrary to policies S1, S2, S4, and H1 of the South Derbyshire Local Plan Part 1 2016, and

policies SDT1 and BNE5 of the South Derbyshire Local Plan Part 2 2017.

#### The effect of the proposal on the character and appearance of the site and surrounding area

The proposed dwelling would be situated in a backland location almost directly behind the existing dwelling known as The Cedars. There would only be glimpsed views for drivers and highway users travelling along Shardlow Road. Its single storey nature would mean it would not stand out or be prominent to road users. There would be some medium distanced views of the dwelling from Shardlow Road when travelling south towards the village before turning the corner near The Paddocks.

The greatest effects in terms of visual appearance would be from the public recreation ground to the west of the site. The proposal would be seen beyond the hedgerow and mature trees and would provide an urbanisation of the site which is located within the countryside. There would be minor detrimental impacts on the visual amenity of the site through this urbanisation of a countryside location which has an agricultural use, albeit there are some aspects of a domestication of this part of the agricultural holding, which appear to fall outside of the 2011 permission.

The proposal would result in some minor detrimental impacts by introducing an urban domestic development within a countryside location, particularly when viewed from the local recreation ground and views towards the east, increasing the depth of what is isolated ribbon developments along Shardlow Road. For this reason, it adds to the detrimental impact of the proposal in the open countryside harming its intrinsic nature and qualities and being situated outside of the 'Limits to Development' of the settlement of Aston on Trent.

In conclusion, it is a development which is not allowed within this countryside location and is therefore contrary to the policies aiming to manage the balance between appropriate rural development, and protecting the intrinsic beauty and character of the open countryside.

#### The effect of the proposal on the highway network

The proposal as submitted would provide an additional new access onto Shardlow Road. Traffic speeds along here can be quite high as vehicles leave the village or come from Shardlow, and turn the corner towards the village. Nevertheless, the proposal shows that the visibility splays can be achieved in accordance with the speed limit without obstruction on both sides. The visibility splay lies within the highway on both sides of the access. The access and the amount of parking is considered acceptable. Vehicles can turn and leave in a forward gear. The Highway Authority recommend conditional approval and on this basis, it is considered that the scheme would not result in significant detriment to highway safety.

It is concluded that the proposal complies with policy INF2 of the South Derbyshire Local Plan Part 1 2016 and paragraphs 109 and 110 of the NPPF.

#### The effect of the proposal on the residential amenity of nearby occupiers

The proposal would be single storey and sit directly behind the single storey dwelling at The Stables. By its nature therefore there would be no overlooking between the two dwellings. The proposed siting of the main habitable windows would be some 30m separation. There is a 1.8m high hedge which separates the two dwellings. There is the opportunity if required to provide further boundary treatments to prevent direct views. The proposed distance together with the single storey aspect of the proposal means there would be no overlooking, loss of sunlight or overbearing impact on the existing dwelling.

There would be some additional detrimental impacts from traffic which would go past the side of the existing dwelling. This will have a detrimental impact on residential amenity over the existing scenario. There would also be likely to be increased noise and disturbance from normal residential use of a garden and the domestication of what is part of an agricultural use of the land. However, there are several metres between an adjacent habitable room in The Stables, and the new driveway, and whilst there would be minor detrimental impacts on the amenity of those residents from normal domestic activities, it is not in itself likely to result in significant harm to their amenity. On this basis, it is not considered that there would be significant harm caused to the residential amenity of these occupiers sufficient to refuse the scheme.

It is therefore concluded that the proposal would comply with policy SD1 of the South Derbyshire Local Plan Part 1 2016.

#### The effect of the proposal on the environment

The submitted plans show how the proposal would incorporate methods of drainage which would be by way of soakaway, and also make the use of rainwater through recycling and use of water butts, and retention on the site, rather than impacting on land outside of the site. It is accepted that the submitted urban drainage system to deal with surface water is acceptable in principle, including a grass sedum roof, rainwater harvesting, permeable surfaces for the driveway, and a bio-retention pond. These have the potential to manage the treatment of water on the site to achieve an equal or lower rate of discharge than the current greenfield run off rate and design out any peak storm water surge. On this basis, the proposal is acceptable subject to a condition requiring further details of this scheme as a pre-commencement condition in accordance with the informative advice of the Local Lead Flood Authority in the event of a permission being granted.

There are mature trees situated outside of the site boundary, but which have roots and branches which overhang the site. None of the trees on the site, or the adjacent site are currently protected. There is an opportunity to impose a Tree Preservation Order if considered necessary. The submitted Arboricultural Assessment identifies the trees and also notes the presence of the new dwelling situated some metres away from the edge of the canopies of the mature trees within the recreation grounds site. There is also a large tree close to the proposed access into the site.

It is considered that a 'no dig' construction could be provided near the tree in accordance with an agreed Arboricultural Method Statement (AMS). It is acknowledged that most of the private drive would have a gravel non bound surface, and it is considered that there would be no significant detrimental long term impacts upon this mature tree.

In terms of the trees within the recreation ground, the proposed building would be situated beyond the root protection area of the trees. It is considered that it could be constructed without significant detrimental effects on the health of these trees. There maybe effects in terms of throwing shade onto the rear garden of this dwelling, but this is an issue with the applicants and future residents would need to accept. There are no significant trees within the site which would prevent the development. It is considered that in the event of the proposal being acceptable an AMS could be required to be submitted.

The proposed development has the potential to have detrimental impacts on the environment through carbon emissions from vehicles at the site. To reduce CO2 emissions, it is recommended that an electricity charging point is put within the development site to allow for a lower future energy demand and to meet climate change targets. This can be dealt with through the imposition of a condition. Similarly, a condition can be imposed which reduces the demand for water consumption per person within the dwelling.

It is concluded that the proposal therefore is capable of complying with policies S3, and SD3 of the South Derbyshire Local Plan Part 1 2016, and policy BNE7 of the South Derbyshire Local Plan Part 2 2017.

#### Conclusions

It is concluded that whilst the proposed building could help to meet the Councils self build plots need, and be constructed to a high degree of environmental construction standards, this, of itself, does not outweigh the detrimental impacts from the unsustainable location outside the 'Limits to Development' of the village, being detrimental to the intrinsic openness of the countryside, and being contrary to the strategic aims of the Council's policies as set out in S1, S2, S4 and H1 of the South Derbyshire Local Plan Part 1 2016 and policies SDT1 and BNE5 of the South Derbyshire Local Plan Part 2 2017.

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:**

**Refuse** planning permission for the following reason:

The proposed dwelling would be located within the open countryside, outside the Limits to Development of the village of Aston on Trent, and would result in a development in an unsustainable location. The proposal would result in the unacceptable backland development of isolated ribbon developments, along Shardlow Road, resulting in further urbanisation and harm to the intrinsic character and beauty of the open countryside, particularly when viewed from the adjacent recreation ground. The proposals would be contrary to policies S1, S2, S4, H1 and BNE4 of the South Derbyshire Local Plan Part 1 2016 and policies SDT1 and BNE5 of the South Derbyshire Local Plan Part 2 2017, and paragraph 170 of the National Planning Policy Framework.

