

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

SECTION 1: Planning Applications SECTION 2: Appeals

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

1. PLANNING APPLICATIONS

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

Reference	Item	Place	Ward	Page
9/2015/0218	1.1	Kings Newton	Melbourne	23
9/2015/0723	1.2	Rosliston	Linton	45
9/2015/1030	1.3	Drakelow	Linton	68
9/2015/0986	1.4	Egginton	Etwall	94
9/2015/1111	1.5	Linton	Linton	107

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

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

09/02/2016

Item 1.1

Reg. No. 9/2015/0218/OS

Applicant:
Mr Sheagan Frawley
Shardlow Hall
London Road
Shardlow
DE72 2GP

Agent:
Mr Steve Lewis-Roberts
Pegasus Group
4 The Courtyard
Church Street
Lockington
Leicestershire
DE74 2SL

Proposal: **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF UP TO 8 DWELLINGS WITH PUBLIC OPEN SPACE, LANDSCAPING, DRAINAGE AND HIGHWAYS INFRASTRUCTURE ON LAND AT SK3826 8204 MAIN STREET KINGS NEWTON DERBY**

Ward: **MELBOURNE**

Valid Date: **25/03/2015**

Reason for committee determination

The item is presented to Committee as the application has attracted more than two objections and is not in accordance with the development plan.

Site Description

The site is located to the west of Smith Avenue and extends to approximately 0.6 hectares. It is located to the rear of detached properties with long rear gardens fronting Main Street. The Hardinge Arms Public House and a modern courtyard development are located to the north east of the site with open fields beyond. The western boundary of the site is adjoined by the rear gardens of semi-detached dwellings that front onto Nettleford Crescent and the side/rear garden of Smith Avenue. Melbourne Cemetery adjoins the remainder of the western boundary.

The map displays a large triangular plot of land, outlined by a thick black border and filled with diagonal hatching, which is identified as "THE SITE". This site is situated between North Avenue to its west and South Avenue to its east. To the north of the site, along Main Street, are several existing buildings, including "The Hall" and "The Hardage Lane (PH)". Further north, near the top edge of the map, are "Popl" and "Charley Barn". To the south of the site, across South Avenue, is a building labeled "Oratory". The map also shows various residential plots and roads, including "Rough Road" and "Hill Farm". An inset map in the bottom-left corner provides a broader geographical context, showing the site's location within a larger area that includes "King's Newton", "Newton's Corner", and "South". A compass rose in the bottom-right corner indicates the orientation, with North pointing towards the top right.



South Derbyshire District Council. LA 100019461. 2014

The topography of the site is generally even with a gradual. Mature hedgerows and trees are planted to the site boundary.

An existing public footpath 15 runs along the south eastern boundary and public footpath 14 runs along the eastern boundary of the site.

Part of the northern boundary of the site abuts the Kings Newton Conservation Area.

The application site is located outside of the village confine (as set out in the Local Plan (1998)).

Proposal

The application is in outline with access submitted for approval. Layout, scale, appearance and landscaping would be dealt with by way of reserved matters.

The application has been amended since the original submission. The site is now reduced to the field adjacent to Smith Avenue reducing the number of units indicated from 28 to 8.

A single access point onto Smiths Avenue is provided to the site. The indicative plan shows an area of open space adjacent to the cemetery to the south of the site with retained hedges and trees integrated with the dwellings.

Applicant's supporting information

The Design and Access Statement

This document outlines how the context has influenced the design in conceptual terms. The document confirms the applicant's commitment to the delivery of a high quality development that is sensitive to the local context. The proposals aim to make the most efficient use of land that is appropriate to the nature and setting of the site. The landscape design is responsive to the sensitive setting of the site. Hedgerows and trees have been maintained, where possible, and inform the structure and layout of residential envelope.

Planning Statement

The document sets out the policy context for the proposed development seeking to demonstrate how the proposal is consistent with the relevant saved policies in the Local Plan and with the emerging policies of the Local Plan Part 1 and that the development will deliver economic, social and environmental benefits.

Tree Survey/Arboricultural Assessment

A survey of existing trees has been carried out across the wider site area and includes an assessment of any impact arising. The report concludes that the small amount of material required for removal in order to facilitate the proposals would not be considered from an arboricultural perspective to significantly reduce the overall

amenity being provided by the surveyed tree cover. The majority of the trees will be retained and aid in the sites integration with the local landscape.

Ecological Assessment

It is considered generally unlikely that the site is used by great crested newts or reptile species and no constraints are presented.

No bat roosting habitats was present within the site at the time of the survey, as hedgerows and trees are to be retained no constraints are presented.

No evidence of badgers was recorded although records are present in the local area.

Recommendations are contained in the report in respect of badgers and breeding birds.

The report concludes that overall the site is of limited ecological value, dominated by habitats of little ecological interest with trees and hedgerows providing the greatest ecological value.

Flood Risk Assessment Drainage Strategy

The documents highlight that the whole of the site lies within Flood Zone, being the zone with risk of 1 in 1,000 year or less for flooding and the drainage feasibility study utilises sustainable drainage techniques where practically possible.

Archaeological Desk-Based and Heritage Assessment

The assessment provides a description of heritage assets potentially affected by the development of the site and addresses the information requirements of Government's National Planning Policy Framework (Para 128) and the saved Environment Policies 12-15 of the South Derbyshire Adopted Local Plan (1998). The assessment establishes that there are no designated or non-designated heritage assets within the site. The assessment has established that the study site is highly unlikely to contain any significant archaeological remains and that no further archaeological work will be required. The assessment has found that the impact of the proposed development on the settings of listed buildings within close vicinity of the study site and King's Newton Conservation Area is deemed to be 'less than substantial harm' under National Planning Policy Framework. Any impact will be mitigated through the careful allocation and placement of Public Open Space within the proposed development.

Landscape and Visual Appraisal

The report determines the likely effects of the proposed development on the existing landscape and visual receptors and includes a landscape strategy for mitigation which avoids or reduces potential impacts.

Highway Statement

The report concludes that the development would be well served with local facilities within Melbourne and via public transport to Derby, Swadlincote and beyond. The report considers that the proposed development has no detrimental impact on the highway network and therefore the development is acceptable in highway terms and that no further analysis is required.

Planning History

None relevant

Responses to Consultations

Responses on original plans:

Environmental Protection Team (Land Contamination) has no objections subject to conditions.

Severn Trent Water has no objection subject to condition.

County Highway Authority has no objections subject to conditions.

The Council's Strategic Housing Manager recommends a mix and types of affordable housing for 30% of the total number of houses on the site to be secured by a S106 agreement.

Peak and Northern Footpaths Team has no objections and suggests items for consideration at reserved matters stage.

The Police Crime Prevention Design Adviser has no objections and suggests detailing for consideration at reserved matter stage.

DCC Archaeology advises that the proposal has moderate archaeological potential for medieval remains and recommends conditions. It is likely that the development proposals would result in erosion of this sense of spatial distinctiveness, and thus harm to the significance of the conservation area. A request has been made for more detailed information to be submitted to understand the level of harm represented by the proposal.

DCC (Rights of Way) has no objection and suggests advisory notes.

Melbourne Civic Society objects on the following grounds:

- a. Combined effect of increased traffic flows across Swarkestone Causeway will lead to further delays, hazards to vehicles and cyclists and potential damage to the Ancient Monument itself;
- b. No provision for local housing market needs;
- c. Development encourages commuting by - public transport not viable;
- d. Planning permission should be refused on grounds that the development would adversely affect the setting of the Kings Newton Conservation Area, contrary to Section 12 of the NPPF;

- e. Contrary to saved policies in the adopted Local Plan;
- f. Reference to Planning Minister Brandon Lewis MP letter to Planning Inspectorate stating the harm to landscape character is an important consideration in determining planning appeals;
- g. Premature to Neighbourhood Plan;
- h. Development does not meet the need for public open space;
- i. Loss of good quality productive market garden land;
- j. Strategic housing land allocations are made elsewhere;
- k. Contrary to NPPF policy 112;
- l. Impacts on existing infrastructure;
- m. Seriously detract from the character and amenity of the community;
- n. S49 of NPPF not relevant because there are substantive reasons for refusal;
- o. Permission should be refused in line with government policy set out by the Secretary of State in the Rolleston on Dove appeal decision;
- p. Cemetery approaching capacity, sketch plan shows new homes and development on only available site for the expansion. Essential requirement should be determined in land allocations in the Neighbourhood Plan and permission refused in the meantime.

Response to amended plans

The Environmental Protection Team confirms that previous comments apply.

The Strategic Housing Manager notes the reduced number of dwellings from 28 to 8 and is below the threshold of 15 therefore not triggering the need for affordable housing.

The Environment Agency notes that the amended development is now less than 1ha and therefore has no comments to make on the application.

The Police Crime Prevention Design Adviser recommends a substantial planted buffer between the public right of way and private curtilage to provide sufficient setback for defensible space, a robust visually permeable boundary treatment extending beyond respective garage frontages to enclose private land, and elevational treatment to the side of plots 2 and 7 to allow overlooking of private space and the initial portion of footpath.

Natural England has no comment to make on the application.

DCC Archaeology advises that due to the reduction in scale the impacts on the Kings Newton Conservation Area would be much reduced, and recommend that the planning authority is guided by the advice of the conservation officer. The reduction in footprint would also result in lesser impact on below-ground archaeological remains, although there is still potential for archaeological impacts because of the location close to the medieval village and in the vicinity of a scatter of Roman and Anglo-Saxon finds. Conditions are recommended in line with NPPF para 141.

The Peak and Northern Footpath Team has no objections and welcomes the segregation of footpath 14 from vehicular traffic, advising that the full width of FP14

must at all times be unobstructed; the surface of this path both on and off-site should be improved to accommodate the increased use which would be made of it.

Derbyshire Wildlife Trust advises that the development is unlikely to impact upon any habitats and recommend conditions.

Melbourne Parish Council has no objection to the proposal.

Melbourne Civic Society refers to the previous objection and raises the following concerns:

- a. Contrary to the Development Plan;
- b. Premature to the Neighbourhood Plan;
- c. NPPF requires development to be plan-led this is not;
- d. House type mix makes no provision for retirement homes identified in the Parish Plan;
- e. Impact on residential amenity;
- f. Encroaches into green space;

Responses to Publicity

Responses on original plans

61 letters (3 from the same address) were received objecting on the following grounds:

- a. Adverse impact on character and special characteristics of Kings Newton;
- b. Impact on highway safety;
- c. Impact on existing infrastructure;
- d. Agree with the views of Civic Society;
- e. Impact on flora and fauna;
- f. Loss of view;
- g. English Heritage objections for Linden Homes relevant;
- h. Rolleston-on-Dove decision emphasises weight to be given to Neighbourhood Plan;
- i. Housing proposed not suitable for needs of local housing market;
- j. Intrusion into attractive countryside;
- k. Loss of agricultural/horticultural land;
- l. Damaging effect on designated landscape – Melbourne Parks;
- m. Insufficient play and open space;
- n. Increased traffic on Swarkestone Causeway;
- o. No affordable housing for local residents;
- p. Flooding;
- q. Contrary to development plan;
- r. Character important to walkers, development removes this aspect and will replace it with pavement and parked cars;
- s. Adverse impact on social amenity;
- t. Footpath closures during construction;
- u. Misuse of footpaths;
- v. Heritage Statement is misleading;

- w. Loss of identity;
- x. Development constitutes strategic housing;
- y. Impact on the setting of listed buildings;
- z. Discourage visitors to Melbourne;
- aa. Sewage and water drainage issues;
- bb. Missing published information;
- cc. Impact on residential amenity;
- dd. Impact on view of Breedon Church;
- ee. Dust and pollution;
- ff. Consideration should be given to appeal decisions: Barnwell, South Lakeland District Council (1992), r. (oao Forge Field Society) v Sevenoaks Council (2014);
- gg. Proliferation of small open spaces;
- hh. Brandon Lewis MP letter to Planning Inspectorate stating that harm to landscape character is an important consideration.
- ii. Security concerns;
- jj. Noise and disturbance;
- kk. Implications of transforming several historic villages into a Derby conurbation;
- ll. Unsustainable development;

Councillor Harrison has responded advising that schools, doctors and dentist surgeries are all under capacity to meet increasing demand. More funding is required to increase and modernise the sports facilities on the Cockshut Lane Recreation Ground.

Response on amended plans

Three letters of representation has been received supporting the application on the following grounds:

- a. the site is an eyesore development is welcomed;
- b. Development in keeping with the grain of the village and Smith Avenue;
- c. Land is overgrown and used to dispose of garden waste;
- d. Antisocial behaviour on land;
- e. Concrete bases remain on site;
- f. In accordance with the national planning policy;
- g. Will bring added income to the village and parish;

35 letters (2 from the same address) were received objecting on the following grounds:

- a. Impact on quality of life;
- b. Impact on health due to dust;
- c. Detrimental effect on conservation area;
- d. Encourages coalescence of Melbourne and Kings Newton;
- e. Outside of settlement boundary;
- f. Impact on infrastructure;
- g. Land is needed for cemetery;
- h. Housing proposed not suitable for needs of local housing market;
- i. Premature to Neighbourhood plan;

- j. Not allocated in Draft Local Plan or Derby SHMA;
- k. Numbers will not make much difference to housing numbers;
- l. Footpaths that cross from Melbourne to Kings Newton demonstrate the setting of the conservation area within the local landscape;
- m. Land used for market gardening;
- n. Noise;
- o. Highway safety;
- p. Impact on Swarkestone Bridge due to traffic congestion;
- q. Impact on fauna and flora;
- r. Impact on King's Newton Hall;
- s. Impact on setting of Listed Buildings;
- t. Development not Main Street, Kings Newton but Smiths Avenue Melbourne;
- u. Prevent misuse of footpath during construction and occupation;
- v. Destruction of good horticultural land;
- w. Impact on view of Breedon Church;
- x. Lack of affordable housing;
- y. Discourage visitors to Melbourne;
- z. Access to Main Street is via footpaths which are not appropriate for cyclists;
- aa. SD31 14/2 used historically for emergency vehicles and other vehicles to turn;
- bb. Developer should reconsider boundary to plans when reviewing land registry plans;
- cc. Consider two year delay to allow amenities to adjust to all new building;

Development Plan Policies

The relevant Saved Local Plan policies are:

Housing Policies H5, H8, H9 & H11, Environment Policy EV1, 9, 12, 13 and 14, Transport Policy 6 and Recreation and Tourism Policy R4 and 8.

Emerging Development Plan Policies

Submission Local Plan Part 1 relevant policies are:

- S1 - Sustainable Growth Strategy
- S2 - Presumption in favour of Sustainable Development
- S4 – Housing Strategy
- H1 – Settlement Hierarchy
- H19 – Housing Balance
- SD1 – Amenity and Environmental Quality
- SD2 – Flood Risk
- BNE1 – Design Excellence
- BNE2 – Heritage Assets
- BNE3 – Biodiversity
- BNE4 Landscape Character and Local Distinctiveness
- INF1 – Infrastructure and Developer Contributions
- INF2 – Sustainable Transport
- INF9 – Open Space, Sport and Recreation

National Guidance

- National Planning Policy Framework (NPPF) paras 6-10 (Achieving sustainable development), paras 11-14 (The presumption in favour of sustainable development), para 17 (Core principles), para 32-34 (Promoting sustainable transport), Chapter 6 (Delivering a wide choice of quality homes), Chapter 7 (Requiring good design), para 72 (Promoting healthy communities), para 109 and 118-123 (Natural environment), Chapter 12 (Historic environment), Para 186 (Decision taking), para 196 & 197 (Determining applications), para 203-206 (Conditions and obligations)
- National Planning Policy Guidance (NPPG) ID:2a, ID:3, ID:8, ID:21a, ID:23b, ID:26, ID:30, ID:37 and ID:25

Local Guidance

- Housing Layout and Design SPG
- Kings Newton Conservation Area Character Assessment 2011

Planning Considerations

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

- the principle of development
- impact on setting of Heritage assets
- landscape and visual impact
- Layout and amenity
- highway and pedestrian access
- biodiversity and ecology
- drainage and flood risk
- Section 106 contributions

Planning Assessment

The principle of development

The site lies outside of the village confines as defined within the saved Local Plan and thus the application is not in accordance with the development. Local Plan Housing Policy 8 restricts housing development outside settlements to that necessary for the operation of a rural based activity, where it can be demonstrated that a countryside location is necessary. The proposed development does not accord with this policy. However this must be considered in the context of paragraph 49 of the NPPF states:

“Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”

There are two arms to this paragraph: (1) that the application should be considered in the context of the presumption in favour of sustainable development, and (2) South Derbyshire Local Plan policies should not be considered up-to-date if a five-year housing supply cannot be demonstrated. In regard to point (2), paragraph 47 of the NPPF seeks “to boost significantly the supply of housing”. It is therefore clear that there is considerable emphasis on bringing forward significant housing provision as soon as possible. This is achieved through the rolling supply of deliverable sites sufficient to provide five-years of housing against projected requirements (a “five-year supply”). Where local planning authorities have failed to deliver a five-year supply, an additional buffer is required. There is currently a shortfall in the five-year supply. Whilst preferred strategic allocations in the emerging plan would provide increased supply, their overall deliverability has not yet been found sound by an inspector and so only limited weight can be afforded to the relevant emerging policies at this time. As such the relevant adopted South Derbyshire Local Plan Policies pertaining to new housing delivery cannot be considered up-to-date and the proposal must be considered in the context of the presumption in favour of sustainable development.

The site lies adjacent to the built settlements of Kings Newton and Melbourne. Kings Newton is classed as a Rural Settlement in the emerging Plan’s Settlement Hierarchy (Policy H1) where development of limited infill and conversion of existing buildings and local scale affordable and cross subsidy exception sites of up to 12 dwellings will be promoted on appropriate sites and according to specific circumstances. Melbourne is classed as a Key Service Village such settlements are envisaged to be capable of providing appropriate scale developments up to and including small scale developments. However, this hierarchy presently carries limited weight and whilst the proposed development is of the scale envisaged for a Key Service Village, the site is outside both village boundaries, as defined by the adopted Local Plan, Policy H5. The proposal therefore remains to be considered on first principles.

The connectivity of the settlement is considered to assist in demonstrating its sustainability. The closest bus stop to the site is approximately 200 metres away along Pack Horse Road. An hourly weekday bus service is provided via route 61 which connects Derby to Swadlincote. Two other bus services, Routes 205 and 208 connect to Chellaston Academy, operating two services during term time. Facilities within Melbourne include a post office, convenience store and other shops, petrol filling station, several public houses, GP practice, dentist, primary school, leisure centre, library, playing pitches. It is therefore accepted that the general location of this development is in a sustainable location in terms of its proximity to services, transport, amenities etc.

Since the Local Planning Authority is unable to demonstrate a five-year supply, the presumption in favour of sustainable development, as set out in paragraph 14 of the NPPF applies. This means:

‘...where the development plans is absent, silent or relevant policies are out-of-date, granting permission unless:

Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or

Specific policies in this Framework indicate development should be restricted.”

However, it is important to note that the NPPF provides a presumption in favour of sustainable development – not a presumption in favour of development. It must be made clear that this does not automatically mean that and every application would be permitted; each scheme must still be tested against the prevailing policies and if harm is found, it remains the case that, on balance, applications can be refused. It is necessary, as a preliminary issue, to determine whether the proposed development is sustainable. Paragraph 6 of the NPPF states that *“the policies in paragraphs 18 to 219, taken as a whole, constitute the Government’s view of what sustainable development...means in practice..”*. Paragraphs 7 and 8 go further to split sustainable development into three roles: economic, social and environmental, whilst highlighting that these dimensions are mutually dependant (i.e they should be sought jointly and simultaneously). It is thus reasonable to conclude that conflict with other parts of the Framework, and indeed Development Plan policies, could lead to the proposal being defined as unsustainable.

In terms of the benefits from an economic and social view, the development meets the economic dimension by providing direct and indirect employment opportunities; economic output as a result of the employment opportunities, value of the development to the construction industry, council tax revenue and New Homes Bonus, and the provision of open space.

The focus therefore is to first consider whether the proposal is sustainable, or can be made sustainable through planning obligations and conditions, before considering whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits arising. The assessment so far establishes an ‘in principle’ acceptance of sustainability. In order to reach a conclusion as to whether the presumption would prevail, consideration needs to be given as to whether there are significant and demonstrable adverse impacts arising. An assessment of the impacts is considered in the remainder of the report.

Impact on setting of Heritage Assets

The primary legislation relating to historic buildings and conservation areas is the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires councils to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses (Sections 16 and 66) and to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas (Section 72).

Chapter 12 of the NPPF ‘Conserving and enhancing the historic environment’, provides guidance for planning authorities on the conservation and investigation of heritage assets. Paragraph 128 of the NPPF states that Local Planning Authorities should require applicants to describe the significance of the heritage assets affected and the contribution made by their setting. Paragraph 132 emphasises that when a new development is proposed, great weight should be given to the asset’s

conservation and that the more important the asset, the greater this weight should be. It should be noted within this paragraph that significance can be harmed or lost through the alteration or destruction of the of the heritage asset or by development within its setting. Paragraph 134 advises that where a development will cause less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Environment Policies 12, 13, 14 and 15 of the saved Local Plan seek to ensure that in the determination of applications for development heritage assets are preserved or enhanced.

There are no designated or non-designated heritage assets within the application site. There are a number of heritage assets within the wider area which have been identified and an assessment of significance has been provided within the submitted Archaeological Desk-Based and Heritage Assessment.

The most relevant is the two listed chapels which sit within the churchyard to the south of the site. Melbourne Cemetery Chapels and the gates and walls to the west of the cemetery on Pack Horse Road are all Grade II listed. The significance of this ensemble lies in its communal and aesthetic values. The gates and walls relate directly to the cemetery and chapels, channelling views towards the chapels from Pack Horse Road. The cemetery itself provides the immediate setting for the chapels. Following the revisions to the scheme reducing the site area it is considered that the important views through from Pack Horse Road are now not impacted. Views of the proposed development from within the site, which are of importance to its significance, have been protected. The amended proposals are not considered to impact upon the setting of this heritage asset. The site would only be visible from the eastern boundary and as such it is considered that the harm to the setting would be less than substantial and within this would be at a negligible level. The indicative plans demonstrate that a layout can be achieved, with housing positioned further away from the churchyard than existing 20th century housing and thus not impacting upon views.

With regard to the impact on other listed buildings; the construction of Newton Wonder Court in the 21st Century and Smith Avenue/Nettleford Crescent has resulted in a situation where the proposal would not impact on the setting of the listed buildings on Main Street. The exception to this is the listed building known as Broadways to the north of the site. This house has been orientated to face onto Main Street. Beyond this is a sizeable garden which incorporates outbuildings. Beyond this formal garden space is a belt of planting. On this basis and together with the location of modern housing surrounding the rear of the conservation area at this point, it is not considered that the proposed development would result in a harmful impact on the setting of the listed building. The impact would be less than substantial.

The Kings Newton Conservation Area follows the boundary line of the rear of the properties to Main Street. An area of planting is located between this and the proposed site. The boundary curves to the south and therefore is adjacent to the proposed site as it enters the land at Newton Wonder Court. Given that this area

has been infilled to either side by 20th and 21st century housing it is considered that the small section of the conservation area impacted would cause a low level of harm. There would be a sense of enclosure created by the proposals but given that this area has modern housing to the east and west it is not considered that there would be harm beyond that noted above in that it would be less than substantial and at the low end of the scale.

Overall, it is considered that the amended proposals would not cause substantial harm to the character of the conservation area. There would be an impact on the heritage assets but that would be less than substantial harm and with regards to this it would be at the low end of the scale. *The Forge Fields Society vs Sevenoaks DC* judgement in 2014 clarified a finding of harm to the setting of a listed building or conservation areas and gave rise to a strong presumption against planning permission being granted. The judgement established that a local planning authority could strike the right balance only if it was conscious of that statutory presumption and if it demonstrably applied that presumption. The judge stressed that this harm, although limited, was not merely another material consideration to be weighed against others in the normal way.

Landscape and Visual Impact

The site is identified at national level as being National Character 70 (NCA): Melbourne Parklands. The key characteristic of this character area relevant to the application site is the undulating landform. The site is not located in the Trent Valley Washlands; however the character is relevant to the wider context. At a regional level the site falls within the Wooded Village Farmlands Regional Landscape Character Type, the key characteristics include varied topography, scattered farm woodlands, ancient woodlands on prominent hills and tree lined valleys, well maintained pattern of hedge fields with evidence of decline close to urban areas, traditional pattern of farms and small rural villages linked with quiet country lanes and a strong sense of landscape history.

The site is situated in an area of landscape enclosed on two sides by the built form and vegetation associated with the settlement edge. To the north of the site the articulated edge of King's Newton Conservation Area and to the west the more exposed and defined linear edge of the modern estates (Smith Avenue and Nettlefold Crescent). Given the hedgerows, trees on the southern and eastern edges, the site area itself (as amended) is discreet in the wider landscape.

Whilst the application is in outline with all matters except for access reserved, an indicative layout plan has been submitted. The indicative layout demonstrates that a scheme for residential development can be achieved that does not result in a negative visual impact on the local landscape. It would be difficult to put forward a case to demonstrate that the harm to the countryside cause by the development would significantly and demonstrably outweigh the benefits of the proposed development in terms of its contribution to housing supply.

Layout and amenity

Detailed design and layout matters would be reserved for consideration at a later stage. However, the indicative plan shows a layout which reflects the local vernacular and overlooking streets and public spaces. There is considered to be sufficient space within the confines of the site to provide adequate separation between units and to comply with minimum distances specified in the SPG.

Highway and pedestrian access

The point of access is proposed at the end of Smith Avenue. The Transport Assessment (TA) submitted with the application (albeit originally for 28 dwellings) demonstrates that access to appropriate design standards can be provided. The TA demonstrates that the site is accessible to village facilities, bus services and employment. As such the County Highway Authority has no objections to the proposal and recommends the imposition of conditions.

Melbourne Footpath 14 runs along the eastern boundary of the site connecting to Melbourne Footpath 15 in the south eastern corner of the site. The Rights of Way Section has no objection to the proposal and welcomes the segregation of the footpath from vehicular traffic, advising that the footpath must be unobstructed at all times and the surface of this path both on and off-site should be improved to accommodate the increased use which will be made of it.

Biodiversity and ecology

Following an assessment of the ecological surveys submitted with the application the Wildlife Trust has advised that the development is unlikely to impact upon any habitats of substantive nature conservation value. Conditions are proposed in respect of nesting birds and badgers during construction. The boundary trees and hedgerows provide the greatest ecological interest with the hedgerows along the southern and eastern boundaries qualifying as "important" under the Hedgerow Regulations. An Arboricultural Assessment has been submitted with the application together with an addendum to support the amended plans which indicates the retention of a large proportion of the trees and hedgerows. Conditions are proposed for their protection during construction. Natural England has raised no objection to the proposal.

Drainage and flood risk

Severn Trent Water has raised no objections to the proposal subject to the imposition of conditions. The development site lies within Flood Zone 1 and the risk of fluvial flooding is considered to be low. The drainage feasibility study utilises sustainable drainage techniques where practically possible. The Environment Agency has no comments to make on the application and the County Flood Team refers to standing advice.

Section 106 contributions

At the time of writing discussion were on-going as to precise contributions which would be for education, healthcare and open space/recreation. Further details will be reported at the meeting.

Conclusion

Since the Local Planning Authority is unable to demonstrate a five-year supply, the presumption in favour of sustainable development, as set out in paragraph 14 of the NPPF applies.

The assessment identifies that highway safety, ecology, drainage and amenity impacts would be acceptable subject to conditions. An assessment on the impact of the development on heritage assets has been carried out and concludes that the proposal would not cause substantial harm to the character of the conservation area. Whilst there would be an impact on identified heritage assets as identified in the report, the impact would be less than substantial harm and at the low end of the scale. In respect of landscape and visual impact, an assessment has been carried out and this together with the indicative layout demonstrates that a scheme for residential development would not result in a negative visual impact on the local landscape.

Overall it would be difficult to put forward a case to demonstrate that the harm caused by the development would significantly and demonstrably outweigh the benefits of the proposed development in terms of its contribution to housing supply.

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

Recommendation

- A. That the Committee authorise the Planning Services Manager to secure the appropriate level of contributions for mitigation of the impact of the development under Section 106 of the Town and Country Planning Act 1990;
- B. Subject to A., **GRANT** permission subject to the following conditions:
 - 1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
(b) The development hereby permitted shall be begun 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 Section 92(2) of the Town and Country Planning Act 1990.
 - 2. Approval of the details of the layout, scale, appearance and the landscaping shall be obtained from the Local Planning Authority in writing before any development is commenced.
Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

3. No development shall take place on the site until details of a scheme for the disposal of surface and foul water (incorporating Sustainable Urban Drainage principles), together with a drainage strategy for the site have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

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

4. Before any operations are commenced on site, a temporary access shall be formed into the site for construction purposes in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: The formation of the temporary access at the earliest opportunity is necessary in order to ensure highway safety along Smith Avenue.

5. No development shall commence until a construction management plan or construction management 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 the storage of plant and materials, site accommodation, loading, unloading of goods' vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto the highway, pedestrian and cyclist protection and any proposed temporary traffic restrictions.

Reason: In the interests of highway safety.

6. Wheel cleaning facilities for all construction vehicles shall be provided and retained within the site throughout the entire construction period. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.

Reason: In the interests of highway safety.

7. The reserved matters application shall include design of the internal layout of the site in accordance with the guidance contained in the 6C's Design Guide and Manual for Streets.

Reason: In the interests of highway safety.

8. No dwelling shall be occupied until the proposed new estate road, between each respective plot and the existing highway, has been laid out in accordance with the approved application drawings, constructed to base level, drained and lit in accordance with Derbyshire County Council's specifications for new estate streets.

Reason: In the interests of highway safety

9. The reserved matters application shall provide details showing parking of two vehicles per dwelling.

Reason: In the interests of highway safety.

10. Bin stores shall be provided within private land at the entrance to shared private accesses, in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority, to prevent refuse bins and collection vehicles standing on the new estate street for longer than necessary causing an obstruction or inconvenience for other road users. The facilities shall be provided prior to the first occupation of the dwellings to which they relate and shall be retained thereafter free from any impediment to its designated use.

Reason: In the interests of highway safety.

11. The reserved matter application shall be accompanied by a swept path analysis to demonstrate that service and emergency vehicles can successfully enter and manoeuvre within the site.

Reason: In the interests of highway safety.

12. No development shall take place until a suitable scheme for the prevention of ground gas ingress has been submitted to and approved in writing by the Local Planning Authority. Alternatively, the site shall be monitored for the presence of ground gas and a subsequent risk assessment completed in accordance with a scheme to be agreed in writing with the Local Planning Authority, which meets the requirements given in Box 4, section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Upon completion of either, verification of the correct installation of gas prevention measures (if any) shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development hereby approved.

Reason: To protect the health of the public and the environment from hazards arising from ground gas.

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

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

14. A) No development shall take place, until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the Local Planning Authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and

1. The programme and methodology of site investigation and recording.

2. The programme for post investigation assessment.
3. Provision to be made for analysis of the site investigation and recording.
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
5. Provision to be made for archive deposition of the analysis and records of the site investigation.
6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

B. No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under 'A' above.

C. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under 'A' above and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.

15. No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include:

a) creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and

b) open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.

Reason: In the interests of protecting notable species.

16. No removal of hedgerows, trees or bramble shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: In the interests of protecting notable species and their habitats.

17. The reserved matter application shall include a detailed scheme for biodiversity enhancement across the site. The scheme shall include a timetable for implementation relative to the completion of dwellings hereby approved. Thereafter the approved biodiversity enhancement scheme shall be implemented in full and be retained as such thereafter.

Reason: In the interests of wildlife conservation.

18. No development or other operations shall commence, including but not limited to site clearance and site preparation, until a Biodiversity Management Plan, that shall include provisions for ecological retention, enhancement and future maintenance and management, has been submitted to and approved in writing by the local planning authority. The approved Biodiversity Management Plan shall be implemented in full and subsequently maintained in accordance with the approved Biodiversity Management Plan.

Reason: In the interests of wildlife conservation.

19. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

20. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

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

21. Any reserved matters application shall include plans indicating the positions, design, materials and type of all boundary treatments to be erected, including those along the routes of the public footpath. The boundary treatments shall be completed in accordance with the approved details before the development is occupied.

Reason: To protect the character and appearance of the surrounding area.

Informatives:

The application site is affected by a Public Rights of Way (Footpath 14 in the Parish of Melbourne, as shown on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further information can be obtained from Rights of Way Duty Officer in the Economy, Transport and Environment Department at County Hall, Matlock (01629 533190).

- please note that the granting of planning permission is not consent to divert or obstruct a public right of way;
- if it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from County Council. Please contact 01629 533109 for further information and an application form.
- if a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order;
- any development insofar as it will permanently affect a public right of way must not

commence until a diversion order (obtainable from the Planning Authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council;

- to avoid delays, where there is reasonable expectations that planning permission will be forthcoming, the proposals for any permanent stopping up or diversion of a public right of way can be considered concurrently with the application for the proposed development rather than await the granting of permission.

For assistance in complying with planning conditions and other legal requirements applicants should consult 'Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated'. This document has been produced by local authorities in Derbyshire to assist developers, and is available from [http://www.south-](http://www.south-derbys.gov.uk/environmental/pollution/contaminated_land/default.asp)

[derbys.gov.uk/environmental/pollution/contaminated_land/default.asp](http://www.south-derbys.gov.uk/environmental/pollution/contaminated_land/default.asp). The administration of this application may be expedited if completed or verification evidence is also submitted to the Environmental Protection Officer (Contaminated Land) in the Environmental Health Department: thomas.gunton@south-derbys.gov.uk.

Further guidance can be obtained from the following:

- CIRIA C665: Assessing the risks posed by hazardous ground gases into buildings;
- CLR 11: Model Procedures for the Management of Contaminated Land;
- CLR guidance notes on Soil Guideline Values, DEFRA and EA;
- Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001;
- Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency;
- Guidance for the safe Development of Housing Land Affected by Contamination Environment Agency. ISBN 0113101775;
- BS 8576:2013 Guidance on investigations for ground gas. Permanent gases and Volatile Organic Compounds (VOCs).

The content of the LEMP should include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a twenty-five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development

still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

The County Flood Risk Team advises:

- Any alteration to existing impermeable surface area of the site may exacerbate surface water flood risk, so new impermeable surfaces should be limited where possible. Where an increase in impermeable area is unavoidable, Derbyshire County Council (DCC) strongly promote Sustainable Drainage Systems (SuDS) to be incorporated within the design of a drainage strategy for any proposed development, applying the SuDS management train with an appropriate number of treatment stages. Applicants should consult Table 3.3 of the CIRIA SuDS Manual (C697) to confirm the appropriate number of treatment stages, or contact the EA or the DCC Flood Risk Management Team directly. Surface water drainage should be designed in line with the non-statutory technical standards for SuDS (March 2015) where reasonably practicable, and ground infiltration to manage the surface water is preferred over discharging to a surface water body or public sewer system.
- Any SuDS should be designed to ensure that the maintenance and operation requirements are economically proportionate and that a maintenance plan is available to the persons/organisations that will be responsible for ongoing maintenance.
- The applicant is advised to contact the Environment Agency (EA) that hold modelling data for Main Rivers and some ordinary watercourses if fluvial flood risk is a concern.
- Due to the historic mining and mineral extraction operations in Derbyshire, adits may exist beneath the surface. The applicant is therefore advised to investigate the potential for hidden watercourses existing on the land prior to any works being undertaken.
- Development located in areas where the water table is at a shallow depth may be susceptible to groundwater flooding. Development site drainage should be considered carefully to avoid any increased risks associated with groundwater. DCC would not recommend infiltration as a means of development site surface water disposal in areas where geohazards or ground instability are deemed likely without appropriate analysis of the risks involved. Infiltration of surface water to the ground is also not advised in sensitive groundwater areas without an appropriate SuDS management train.

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

09/02/2016

Item 1.2

Reg. No. 9/2015/0723/OS

Applicant:
Mrs L Beddard & K Sammons
3 New Street
Rosliston
Swadlincote
DE12 8JE

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

Proposal: **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR RESIDENTIAL DEVELOPMENT OF UP TO 24 DWELLINGS ON LAND AT SK2416 7131 COTON LANE ROSLISTON SWADLINCOTE**

Ward: **LINTON**

Valid Date: **04/08/2015**

Reason for committee determination

The item is presented to Committee as it is a major application contrary to the Development Plan and subject to more than two objections.

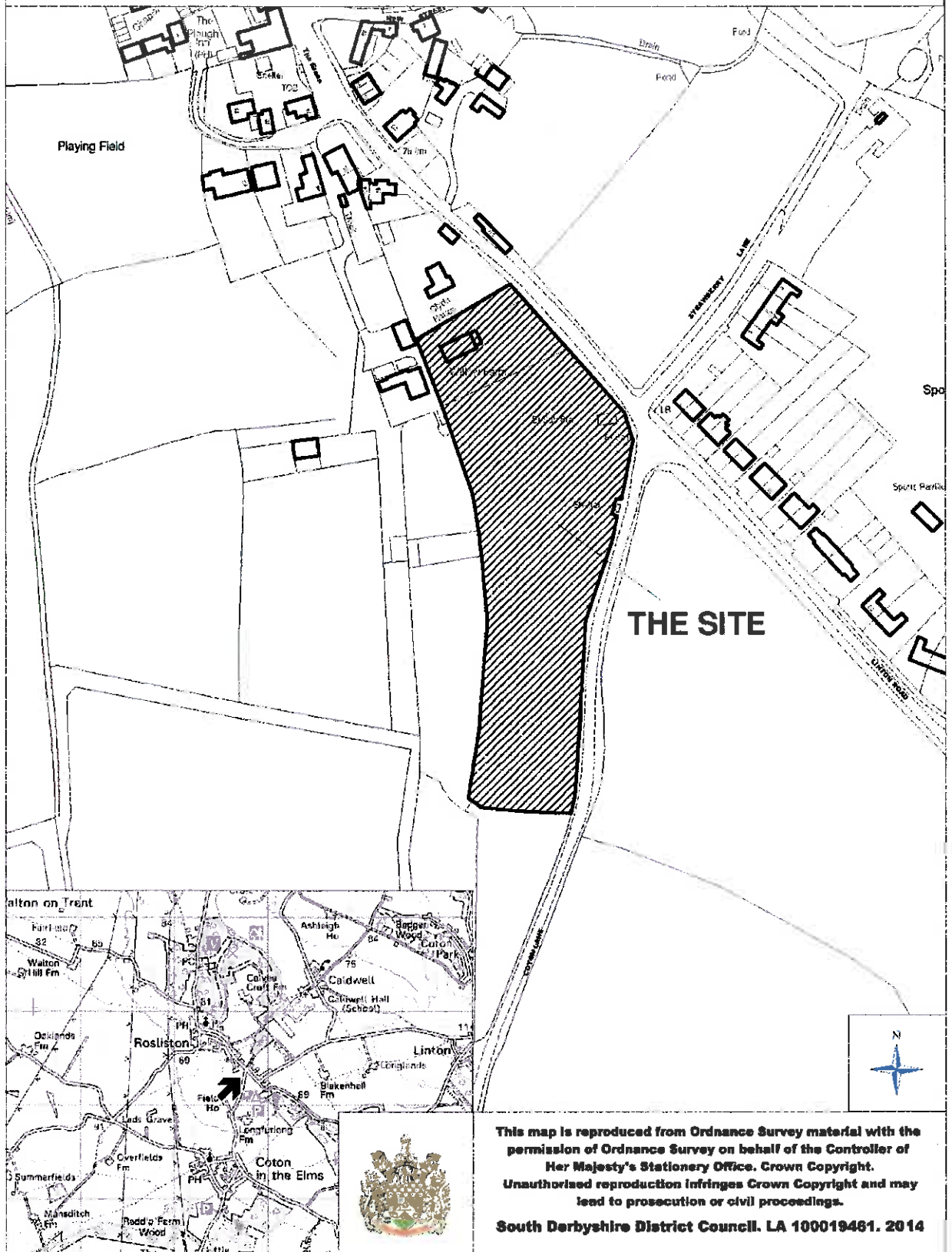
Site Description

The site comprises some 1.1 hectares of agricultural land to the west of Main Street and Coton Lane, Rosliston. It is presently put to pasture and carries mature hedgerows and trees to the boundaries, particularly the eastern boundary where the trees are subject to a Tree Preservation Order (TPO). There is an access gate to the north-east corner and a further one onto Coton Lane. A substation sits within the site with overhead cables running west across it, whilst in the north-west corner is an open-sided barn/stables. Residential properties lie adjacent to the northern boundary whilst further residential properties line the end of Main Street and Linton Road away from the Main Street/Coton Lane mini-roundabout.

Proposal

The proposal is made in outline with all matters except for access reserved, with up to 24 dwellings to be provided in a mix of types and tenures, along with sustainable drainage systems (SuDS), a new access road and landscaping. The indicative

**9/2015/0723 - Land at SK2416 7131 Coton Lane, Rosliston, Swadlincote
DE12 8JL**



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorized reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.
South Derbyshire District Council. LA 100019481. 2014

housing mix is for 5 two-bed dwellings, 13 three-bed dwellings and 6 four or five-bed dwellings.

Applicant's supporting information

A Design & Access Statement (DAS) outlines that pre-application advice has been sought following refusal of the previous scheme on the site, whilst further supporting work has been undertaken in respect of the indicative layout and ecology matters. The indicative layout demonstrates how a mix of dwellings could be provided to the quantum sought, whilst sufficient access and parking options would be available to residents. In principle it is proposed that dwellings would be two-storey at approximately 5.2 metres to eaves and 8.5 metres to ridge due to the character of the surrounding area and in order to ensure the creation of an appropriate development edge. The properties would be designed to create an attractive and safe environment with well-defined public and private areas for households. It is envisaged that the facing materials would be conditioned for latter approval or submitted within the reserved matters. The DAS also rehearses the policy context for the application noting the impact of a lack of a 5-year supply as well as the emerging Plan and its strategic approach to the scale of development in this village. The site is considered to be situated in close proximity to employment, service and social facilities, with day to day facilities available within close proximity to the site whilst other needs can be reached by bus or cycle reducing the need for use of private cars.

The Transport Statement refers to the original submission with the intention to serve the development by a fourth leg on to the existing mini-roundabout and placing the entire roundabout onto a raised table. That access option has now changed since the Statement was written. The access road has been designed with a 5.0m wide carriageway and 6.0m junction radii. It is noted there have been no recorded road traffic accidents in the past 5 years in the general vicinity of the mini-roundabout, whilst Rosliston has a regular bus service between Swadlincote to Burton, and two school services to Pingle School and John Taylor School. The indicative site layout would be conducive to non-vehicular modes of travel, by encouraging slow vehicular speeds and utilising shared space principles. The layout would allow for safe and efficient manoeuvrability for refuse vehicles. Overall predicted vehicle trip generation rates during the AM (08:00 to 09:00) and PM (17:00 to 18:00) peak hours are taken as 0.8 per dwelling, giving 19 trips and representing a marginal increase on existing conditions.

An Ecological Appraisal notes that while there are no statutory designated sites within 2 km of the site, the site is close to the River Mease SSSI, approximately 4.5km south. A number of protected and notable species are recorded within 2km of the site boundary. The majority of the site is semi-improved grassland, well-tended and grazed. At the southern end of site is a patch of dense scrub. The building and trees on the site are considered to have negligible potential for roosting bats. However any loss or major severance of hedgerows (or a significant increase in light spill) points towards the need to undertake transect surveys to check whether any important commuting routes are present. The site contains habitat suitable for Great Crested Newt (GCN) in the terrestrial phase of their life cycle and the probability of their presence or absence is determined by whether or not they are present in ponds

within 500m of site; of which there are three. Further surveys are recommended. Further surveys are recommended for reptiles along with mitigation if necessary, as well as the same for harvest mouse around hedgerows.

A Flood Risk & Runoff Assessment concludes that the site is located within Flood Zone 1 and is free from flood risk from all other sources. It recommends the site should be developed with a suitable surface water management system to collect, convey and control runoff from the new impermeable areas of the site. At this stage two outfall options are viable, an infiltration based system (subject to site testing) and/or a gravity connection to the adopted sewer in Main Street, subject to Severn Trent Water approval. The site requires no specific flood mitigation measures, however it should be developed to accommodate a site drainage system that safely collects, conveys and attenuates flow for all events up to and including the 1 in 100 year plus climate change event without impacting on adjacent land or property. It is currently anticipated that such a system would require in the region of 160m³ of attenuation for a positive discharge system and 260m³ for an infiltration based system. This approach would not only control runoff from the development site but also reduce flood risk downstream by providing a reduction in the peak runoff from the site and provide water quality improvements within system.

The Archaeological Report notes the site lies in a relatively rich agricultural landscape which has attracted settlement from most periods, in the vicinity there is considerable survival of the medieval landscape. Map evidence shows that the subject area was once part of a slightly larger enclosure containing no buildings or structures of interest and during the 19th century buildings were erected at the northern end of the enclosure but not within the site. No heritage assets are recorded in the subject area, nor in its immediate vicinity. The general character of the historic landscape in the vicinity reflects a medieval pattern of enclosure, together with enclosed common land during the post-Medieval. The site was also under differential cultivation in 1948 which appears to have included a substantial arable element. Linear features are identified which appear to comprise relict field division boundary earthworks. No earthworks or features of archaeological interest were noted on the site.

Planning History

9/2014/0372: Outline application (all matters except for access to be reserved) for residential development – Refused August 2014.

Responses to Consultations

Derbyshire Wildlife Trust (DWT) comment that whilst the ecological survey has identified the presence of ponds within 500m of the proposed development that have the potential to support GCN; the key ponds in question are actually >500m from the development and as such the likelihood of adverse impact is much reduced. There is a possibility that commuting and foraging bats (along hedgerows) and foraging and nesting birds (in hedgerows and scrub) could be adversely affected. With regard to reptiles, current records indicate that populations do not extend into the site. The likelihood of common lizard being present is very low. The development is thus considered likely to have a minor adverse impact in the short term due to loss of part

of two hedgerows and general disturbance. The impact on hedgerows can be addressed through mitigation/compensation within the site, and the loss of arable and/or species poor grassland is considered to be a minor impact. The open space/green infrastructure should include compensatory habitats to offset the losses elsewhere within the site and provide some overall biodiversity gain. The woodland planting should help to provide some additional habitat for wildlife in the long term. DWT therefore recommend conditions to protect breeding birds, retention and enhancement of hedgerows as far as possible, a walkover survey for any signs of badger prior to the commencement of the development and to require that lighting on the site is sympathetic to the needs of bats and other nocturnal wildlife especially in relation to the hedgerows found on the site. Further conditions are recommended to require bat mitigation measures, a construction environmental management plan (CEMP); a Landscaping and Biodiversity Enhancement Plan (LBEP) and controls over when hedgerow can be removed.

The National Forest Company (NFC) considers 20% of the site area should be put to woodland planting and landscaping, equating to 0.22ha, and notes the indicative layout shows an area of woodland within the site of approximately 0.3ha meeting these requirements. It is requested that further details on the design, species mix and planting density are required by a condition, as is replacement hedgerow for that lost to facilitate access. They also ask that the layout front onto the woodland and facilitate access through it, and reserved matters submissions should explore the potential for a connection to be made to Thomson's Wood which adjoins the south-western corner of the application site.

The Tree Officer notes that the protected Oak affecting the proposed access/footway appears to be growing at sufficient distance so as not to be of concern regarding the Root Protection Area (RPA). However a method statement for provision of the footway works would be wise.

The County Planning Policy Officer seeks financial contributions towards education provision – £22,798 (2 pupil places) towards the adaptation of space to create additional support spaces at Rosliston Primary School, and £68,704.68 (4 pupil places) towards the provision of additional classroom space at the William Allit School.

The Strategic Housing Manager requests that 30% of the units (7 of 24) be for affordable housing purposes, with a 68%/32% split towards rented properties in a mix of 2 and 3-bed properties – the balance of shared ownership also being 2 and 3-bed properties.

The NHS CCG seeks a financial contribution of £ 9,130 towards improved facilities and greater capacity at the Gresleydale Surgery.

The County Archaeologist notes the information clarifies that there are no clear earthworks visible on site from ground level, but it has not been possible to interpret features shown on aerial photography. It is noted that the applicant suggests that these might relate to differential cultivation on the side during and after WW2. Although this is possible, there is no corroborating information and it is also possible that the earthworks are archaeological in nature, and medieval/early post-medieval

in date. There is consequently a requirement for some archaeological investigation to characterise and understand the significance of the earthwork features and a condition is requested to secure a scheme of investigation and reporting.

The County Highway Authority initially raised objection to the mini-roundabout access solution as such measures are provided to address existing problems, not to facilitate development; and that results of speed surveys were necessary to demonstrate acceptable visibility splays. The proposal now includes a 2m footway on Coton Road extended from that existing to the proposed site access, with the exception of a short length where it is reduced to 1m at the pinch point past the tree. The drawing also shows a 10m radius on the northern side of the new street junction which is also provided with visibility sightlines of 2.4m x 82m in the southerly direction and 2.4m x 43m to the north. The Highway Authority considers the access arrangement acceptable in principle subject to conditions to secure a construction management plan and wheel wash facilities, temporary access arrangements, surface water drainage, internal roads being designed in accordance with Manual for Streets, phasing of the provision of the estate road prior to occupation, sufficient parking spaces, and specifics regarding gradients, visibility splays and surface water disposal.

The Contaminated Land Officer considers there are no historical land uses or contaminative sources which would likely impact the site, and raises no objection.

The Environmental Protection Officer raises no objection but seeks conditions to control dust, noise and vibration, as well as hours of working, during the course of construction. Furthermore control over the use of generators and burning of materials on site is sought.

The County Flood Team advises the applicant should undertake an appropriate ground investigation to support and inform the runoff destination hierarchy. They also strongly promote SuDS to be incorporated within the design, applying the SuDS management train with an appropriate number of treatment stages. A full drainage strategy should include evidence of the greenfield run off rate and peak flow calculations, as well as overland flow exceedance routes to show there is no flood risk up to the 1 in 100 year return period. The County Flood Team thus has no objection subject to conditions to secure appropriate surface water drainage through use of infiltration or SuDS as a priority.

Severn Trent Water Ltd raises no objection subject to a condition in respect of foul and surface water drainage.

The Police Crime Prevention Design Adviser raises no objection subject to careful consideration of layout and density at reserved matters stage, specifically the manner of parking provision, rear garden access for mid-terrace plots, and outwards facing elevations with views of parking space from at least one habitable room.

Responses to Publicity

Rosliston Parish Council object on the grounds that:

- i) the proposed access is inadequate and dangerous as it is near to a busy junction;
- ii) the additional vehicular activity during construction would only increase the danger;
- iii) stopping buses would restrict visibility from the access; and
- iv) inadequate provision of footways in the vicinity.

Representations have been received from 9 neighbours, raising the following concerns:

- a) the proposed development is unsustainable;
- b) the application site is not within the village confines;
- c) the proposal offends the emerging policy as it is not within the village, it is not for affordable homes and it would exceed the limit of 15 dwellings;
- d) Local Service Villages cannot sustainably accommodate the scale of growth envisaged for Key Service Villages;
- e) it would be an un-planned expansion of Rosliston;
- f) coupled with consented sites, the proposal constitutes an increase of the village by 10%;
- g) the bus service is poor with the first weekday bus to Swadlincote leaving mid-morning, whilst the frequency of the service makes it less attractive for commuting use; and there is reduced or no service at weekends;
- h) Rosliston does not have employment provision for occupants;
- i) primary school is fully subscribed and there is no realistic prospect of it expanding;
- j) capacity of doctors;
- k) there are limited facilities for teenagers;
- l) congestion from increased use of shop in village;
- m) the roads in the village are very busy;
- n) increase in the flow of traffic;
- o) safety concerns over the use of the mini-roundabout for access [now resolved following amended plans];
- p) the road is not particularly wide and it winds, is unlit, uneven and with no pedestrian facility;
- q) cars speed along this road with little appreciation of other road users;
- r) installing an entrance would be an accident waiting to happen;
- s) the area is used by cyclists on a daily basis;
- t) pedestrian safety concerns and the pavement is not wide enough;
- u) emerging visibility affected by established hedgerow and trees;
- v) more than 2 vehicles likely to arise per dwelling;
- w) construction vehicles would have to gain access through country lanes;
- x) the site provides a component of the village landscape;
- y) detrimental to tourist activity in the District;
- z) it would not have a material impact on the five year housing land supply; and
- aa) it is unrealistic to assert that the proposal would attract inward investment.

Development Plan Policies

The relevant policies are:

- Saved Local Plan 1998: Housing Policies 5, 8, 9 and 11 (H5, H8, H9 and H11); Transport Policies 6 and 7 (T6 and T7), Environment Policies 1, 9, 10, 11 and 14 (EV1, EV9, EV10, EV11 and EV14), Recreation & Tourism Policies 4 and 8 (RT4 and RT8) and Community Facilities Policy 1 (C1).

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Need), S6 (Sustainable Access), H1 (Settlement Hierarchy), H19 (Housing Balance), H20 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Delivering Sustainable Water Supply, Drainage and Sewerage), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF8 (The National Forest) and INF9 (Open Space, Sport and Recreation).

National Guidance

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

Local Guidance

- Housing Design and Layout SPG
- S106 Agreements – Guidance for Developers

Planning Considerations

This proposal is largely similar to that recently refused under delegated powers given that the site contributes towards the rural approach to the village and provides a transition between open countryside and the built form of the village, and the means of access would have impacted on this character by commanding the loss of a substantial amount of hedgerow and two trees protected by the TPO. Members should be particularly aware that the previous refusal was based solely on the environmental harm arising outweighing the social and economic benefits the proposal would bring about. In seeking to address the imbalance, this proposal now proposes an access where no trees are lost and just some 20 metres of hedgerow (net) would be lost along the site frontage.

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

- Principle of development and weight afforded to policy
- Local infrastructure capacity and affordable housing
- Highway safety
- Biodiversity and ecological impacts
- Drainage and flood risk

- Design and amenity
- Landscape and visual impacts
- Financial considerations

Planning Assessment

Principle of development and weight afforded to policy

The site lies outside the settlement confines for Rosliston, not catered for by way of saved policy H5. H5 however can be afforded little weight as it is no longer playing a part in significantly boosting the supply of housing. The principle of development therefore falls to be considered under saved policy EV1. Whilst EV1 was not intended as a housing policy, it has the effect of restraining delivery being a policy for the supply of housing in the eyes of the NPPF (paragraph 49).

Notwithstanding this the policy does allow for development in the countryside which is unavoidable, allowing overriding need to outweigh the primacy of the Development Plan. In the context of housing needs for the emerging Plan period and the need to maintain a rolling 5 year supply of housing land which the District cannot currently demonstrate, it is considered that this proposal benefits from this allowance in EV1. This approach has been ratified at appeal recently and it must also be remembered that the Part 2 emerging Plan still needs to find smaller sites around the District to sustain the 5 year housing supply. With the principle test of the policy satisfied, consideration turns to the latter qualitative parts of it which seek to safeguard character and landscape quality, as well as ensuring all development in the countryside is designed so to limit its impact on the countryside. Again Inspectors have ratified that these parts of the policy are consistent with the core principles and sections 6 (design) and 11 (natural environment) of the NPPF.

Hence the decision rests on a 'sustainable balance' when considering the above policies and the merits of the proposal, with it important to strike the right balance between releasing land for housing delivery and ensuring the environmental, social and economic dimensions, including meeting the needs of occupants and the existing community, are achieved in a mutual fashion. For the presumption in favour to apply, sustainability must be viewed in the round, considering infrastructure, landscape, ecology, heritage, design and so forth, whilst noting that sustainability and sustainable development is subjective – there is no minimum or consistent level beyond which a particular development can be said to be sustainable. It is a concept, and one that is determined differently from one site to another. The remaining parts of the report give consideration to whether any other adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposals, noting that conditions or obligations may be used to mitigate or address an otherwise unacceptable impact.

Local infrastructure capacity and affordable housing

Rosliston is a Local Service Village (LSV) within the emerging settlement hierarchy, with a range of facilities in its own right such as a shop, primary school, church, a public house and a village hall. There is also a bus service through the village. Relatively speaking the village has the ability to support development of this scale,

subject to mitigation of the increased pressure on services and facilities where necessary. The emerging Plan aligns with this view in that allocations to be found in Part 2 could provide this amount.

Objections as to the increase in traffic are noted but the response of the Highway Authority indicates a lack of evidence to substantiate such a view. Movements associated with up to 24 dwellings would be absorbed into existing flows given that occupants would come and go across a number of hours each day. There is not considered to be a significant adverse effect on the capacity or safety of the local road network as a result.

The provision of up to 24 dwellings would place pressure on existing schools, healthcare, sports and built facilities. With regard to the consultation responses above, the education and healthcare impacts can be satisfactorily accommodated subject to financial contributions. These contributions are considered to be legally compliant. Based on the indicative mix of housing, some 0.18 hectares of public open space (POS) is required, including an equipped play area. This appears achievable within the site confines and carries wider social benefits for existing residents. Identified outdoor sport and built facility projects, presently unfunded in whole or in part, can be supported by off-site contributions which are again CIL compliant.

30% of the dwellings provided are to be for affordable housing purposes. With the strategic needs demonstrating a shortage of affordable housing in the District, this provision carries significant weight. Up to 5 dwellings for social/affordable rent and 2 for shared ownership purposes would be delivered.

Highway safety

The initial proposal to connect the access with the existing mini-roundabout was met with objection from the Highway Authority. With the previous proposal placing access onto Main Street, but leading to significant loss of trees and hedgerows; an alternative needed to be found which provided both safe access and retained as much of the boundary vegetation as possible. The proposed vehicular access is now on Coton Lane, just beyond the existing bus stop and footway heading out of the village. A second pedestrian access would be provided into and through the site in the north-east corner.

Speed readings have been undertaken to justify the proposed visibility splays and the Highway Authority agree that they can be achieved. Furthermore a bellmouth can be provided to ensure domestic and service vehicles can enter and leave the site in a safe fashion. The existing footway on Coton Lane would be extended into the site, although a more preferable wider route would be provided through it. With parking provision to be no less than 2 spaces per dwelling, although detailed at a later stage; there is no objection from the Highway Authority with the access considered to be safe and suitable in terms of local and national policy.

Biodiversity and ecological impacts

The site does not influence protected sites of interest, such as the River Mease SAC and SSSI. Surface water drainage from this site would go to the Pessall Brook, which drains to the north, and foul water would go to the Coton Waste Water Treatment Works (WWTW) rather than any of the WWTW which discharge to the SAC. Protected species have not been identified on site although there are signs that they may use the site for foraging or commuting. However further surveys and mitigation controlled by condition can address these residual concerns.

National Forest planting could be achieved within the site, indicatively shown to the south of the access. This would provide a logical extension to existing adjacent woodland and also maintain the existing character of Coton Lane south of the access. The wider biodiversity benefits of this planting are realised and reserved matters can ensure the street scene and public facing boundaries are appropriately 'greened'. Furthermore the net loss of existing hedgerow has been considerably reduced from the previous scheme, and no protected trees would need to be removed to facilitate access. Subject to compensatory planting this matter is no longer considered to significantly weigh against the proposal.

Drainage and flood risk

It is acknowledged that the proposed dwellings would not be at risk of flooding whilst existing property would not be subjected to increased risk, subject to appropriate sustainable drainage on site. Again there is scope to attenuate flows on site to ensure appropriate discharge to ground or sewer, although the indicative layout would require greater consideration at reserved matters to achieve water quality and design objectives. Foul drainage can be handled by condition.

Design and amenity

Whilst detailed design matters would be reserved for consideration under a later application, the scheme has the potential to achieve the required standard under Building for Life with input from officers at that stage. The proposed scale and likely appearance from the application documents does not cause fundamental concern, whilst POS and SuDS can be sited to achieve a largely outward facing development.

Landscape and visual impacts

The indicative layout provides for built development contiguous with the existing village confines, ensuring its intrusion into the countryside is reduced. The first glimpses of the site on the approach from the south would be viewed in a panorama with the ribbon of houses along Linton Road, whilst closer to the site the National Forest planting would provide containment as it matures. Strategic planting around the access could further reduce the change from rural to urban on this approach. Views from Public Footpath 12, which crosses the field between Coton Lane and Linton Road away from the south-eastern corner of the site would be altered but it is not considered the enjoyment of this route would suffer significant detriment given the existing urban influence of development on Linton Road and Main Street. Moving south of the village, there would still be a sense of leaving the village in broadly the same area on Coton Lane, due to again the existing influence of Linton Road. The containment of the western hedgerow to Linton Road would continue to ensure the

perception of entering the village properly is held until reaching the mini-roundabout, although it is acknowledged that at this point the change would then be quite noticeable.

Overall the degree of change is considered to be moderate in visual and landscape terms, and this weighs modestly against the proposal. However it must be recognised that much of the existing containment provided by the trees and hedgerows would remain and could be strengthened further. In this vein it is not considered the contribution made by this site on the rural approach to the village would be completely lost.

Financial considerations

Section 70(2) of the 1990 Act states that any local financial considerations are a matter to which local planning authorities must have regard to in determining planning applications; as far as they are material for the application. The weight to be attached is a matter for the decision maker. None of the aforementioned contributions are considered to constitute benefits of the proposed development given they are necessary to mitigate impacts. However the increase in Council tax and New Homes Bonus is a material consideration which must be considered amongst the economic benefits of the development.

Summary

The release of greenfield sites around LSVs is as necessary as around other villages and towns in the District in order to meet housing needs and sustain rural communities. The saved and emerging Plan makes allowance for such development on the edge of Rosliston and the addition of up to 24 dwellings must be afforded considerable weight in the absence of a 5 year supply. This weight recognises the degree of support given by Inspectors to lesser schemes in recent months. The provision of 30% of these dwellings as affordable housing also adds further weight in its own right, whilst the economic benefits of the construction stage as well as subsequent occupants must be recognised. The social and environmental gains of POS and National Forest planting are also acknowledged.

The above assessment identifies that highway safety, infrastructure, ecological, drainage and other technical impacts would be acceptable, subject to conditions or obligations where necessary; and a detailed design could provide for an outward facing development and appropriate layout.

It is solely the landscape and visual impacts which are balanced against the benefits. The overall value of the site cannot be any greater than local, and even then there is little evidence to suggest the site carries a particular feature or association which might elevate its status. The revised proposals have sought to positively respond to concerns raised under the previous proposal, ensuring retention of much of the biodiversity and visual merit the site offers on the approach to the village. Hence the degree of environmental harm arising is not considered sufficient to significantly and demonstrably outweigh the benefits of the development, and with regard to the three dimensions of sustainable development and whether there is a mutual balance

reached under the proposals; it is considered the development represents a balanced approach to sustainable development.

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

Recommendation

- A.** That the Committee delegates authority to the Planning Services Manager to complete a legal agreement under Section 106 of the 1990 Planning Act to secure affordable housing and the financial contributions as set out above towards education and healthcare provision, as well as off-site recreational and community facilities; and
- B.** Subject to A, **GRANT** permission subject to the following conditions:
1. 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 the further approval of the Local Planning Authority is required before any development is commenced with respect to the following reserved matters:
 - a) appearance;
 - b) landscaping;
 - c) layout; and
 - d) scale.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. (a) Application for approval of the reserved matters listed at condition 1 shall be made to the Local Planning Authority before the expiration of three years from the date of this permission; and
(b) The development hereby permitted shall be begun before the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

3. The details submitted pursuant to the reserved matters listed at condition 1 shall specifically accord with and/or include the following:
 - a) at least 0.22 hectares of woodland planting broadly in the location as shown on plan ref: 782-01 Rev E;

- b) at least 25.4m² of public open space per person/bedroom generated by the development and an equipped area for play in line with the Council's Section 106 Agreements – A Guide for Developers (2010) document;
- c) sustainable drainage systems (SuDS) where at least one attenuation pond (if forming part of the drainage strategy) is designed to permanently hold water;
- d) the internal layout shall accord with the guidance contained in the "Manual for Streets" document issued by the Departments for Transport and Communities and Local Government and Derbyshire County Council's 6Cs Design Guide (or equivalent guidance which may replace these documents);
- e) a swept path analysis to demonstrate that service and emergency vehicles can successfully enter and manoeuvre within the site;
- f) a pedestrian link of 2 metres width into the site at the north-eastern corner connecting with an estate road provided within the site;
- g) means for off-road parking and access from a new estate road for the substation located on the site; and
- h) an enhanced landscape buffer within the eastern boundary with Coton Lane/Main Street;

Reason: For the avoidance of doubt and in order to secure biodiversity gains and an appropriate detailed design which accords with best design principles under Building for Life criteria and Secured by Design, the existing indicative layout noted to be unsuitable in respect of the latter.

4. No removal of hedgerows, shrubs or scrub shall take place between 1st March and 31st August inclusive, unless prior to its removal details of a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and measures to protect the nesting bird interest on the site have first been submitted to and approved in writing by the Local Planning Authority. The approved protection measures shall then be implemented as approved.

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

5. The landscaping details required pursuant to Condition 2 above shall include a Habitat Management Plan (HMP) that identifies all hedgerows to be retained and managed outside of private gardens. The content of the HMP shall include the following:-
 - a) Description and evaluation of features to be managed/enhanced (e.g. hedgerows, woodland planting, etc.);
 - b) Aims and objectives of management.
 - c) Appropriate management options for achieving aims and objectives;
 - d) Prescriptions for management actions;
 - e) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);

- f) where monitoring shows that conservation aims and objectives of the HMP are not being met, how contingencies and/or remedial action will be identified, agreed and implemented;
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The approved HMP shall be implemented in full prior to the occupation of any dwelling and thereafter operated as such.

Reason: In the interests of retaining and enhancing the biodiversity value of the site.

6. The gradient of the new estate street accesses shall not exceed 1:30 for the first 10m into the site from the highway boundary and 1:20 thereafter.

Reason: In the interests of highway safety.

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

Reason: In order to protect the amenities of adjoining residential occupiers.

8. There shall be no burning of materials on site during the construction phase of the development. For the avoidance of doubt this includes any preliminary works to clear vegetation on site.

Reason: In order to protect the amenities of adjoining residential occupiers.

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

Reason: In the interests of highway safety.

Pre-commencement

10. No generators shall be used on site during the construction phase of the development unless specifications of the generator(s) to be used, along with noise and fume mitigation measures where necessary, have been first submitted to and approved in writing by the Local Planning Authority. Any necessary mitigation shall be retained in situ throughout the construction phase of the development.

Reason: In order to protect the amenities of adjoining residential occupiers.

11. No development or other operations on the site (including ground works and vegetation clearance) shall commence until a scheme which provides for the protection of all hedgerows and trees identified for retention growing on or adjacent to the site has been submitted to and approved in writing by the Local Planning Authority. The approved protection measures shall then be implemented prior to any development or operations commencing and thereafter retained until a time where vehicles or mechanical equipment cannot interfere with such hedgerow or trees, or completion of the development, whichever occurs first.

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

12. No development or other operations on the site (including ground works and vegetation clearance) shall commence until a site walkover survey for any signs of badger on the site has been completed with the results first submitted to and approved in writing with the Local Planning Authority. If badger is found to be present, details of mitigation measures shall accompany the results of the site walkover survey for approval in writing with the Local Planning Authority. Any approved mitigation measures shall then be implemented prior to any development or operations commencing thereafter retained until a time where there is no risk to badger from construction activities.

Reason: In the interests of protecting species which may use the site, recognising the potential for injury or worse to such species at the outset of any works on site.

13. No development shall take place until a Construction Management Plan (CMP) has been submitted to and been approved in writing by the Local Planning Authority. The approved CMP shall be adhered to throughout the construction period and shall provide for the storage of plant and materials, site accommodation, loading, unloading of goods' vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway, pedestrian and cyclist protection and any proposed temporary traffic restrictions.

Reason: In the interests of highway safety, recognising that even initial stages of development could cause unacceptable impacts on the public highway.

14. Before any other operations commence, a temporary access for construction purposes shall be provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The access shall have a minimum width of 5.5m, be constructed to base level and be provided with visibility sightlines of 2.4m x 82m in the southerly direction and 2.4m x 43m to the north; the area forward of the sightlines shall be cleared and maintained throughout the construction period clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge.

Reason: In the interests of highway safety, recognising that even initial stages of development could cause unacceptable impacts on the public highway.

15. (a) No development or other operations shall take place until a Written Scheme of Investigation (WSI) for archaeological work has been submitted to and approved in writing by the Local Planning Authority, and until any pre-start element of the approved WSI has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and
- (i) the programme and methodology of site investigation and recording;
 - (ii) the programme for post investigation assessment;
 - (iii) provision to be made for analysis of the site investigation and recording;
 - (iv) provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - (v) provision to be made for archive deposition of the analysis and records of the site investigation; and
 - (vi) nomination of a competent person or persons/organisation to undertake the works set out within the WSI.
- (b) No development shall take place other than in accordance with the archaeological WSI approved under (a).
- (c) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological WSI approved under (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible, noting that initial ground works could lead to the permanent loss of such items.

16. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with DEFRA Non-statutory technical standards for sustainable drainage systems (March 2015), specifically including pollution prevention measures and demonstrating sufficient capacity to accommodate flows from the development (including from highway surface water drainage); has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the first occupation of any dwellings.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, recognising that initial stages of development to remodel ground levels and create access infrastructure could alter the existing drainage characteristics of the site.

17. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority to demonstrate that the proposed destination for surface water accords with the hierarchy in Approved Document Part H of the Building Regulations 2000.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, recognising that initial stages of development to remodel ground levels and create access infrastructure could alter the existing drainage characteristics of the site.

18. The development hereby permitted shall not be commenced until such time as a scheme to dispose of foul drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved.

Reason: To safeguard against pollution of the natural environment, recognising that initial stages of development must secure appropriate levels and falls for the drainage system to properly function.

19. No development shall commence until a construction phase dust mitigation scheme has been submitted to and approved in writing with the Local Planning Authority. The approved mitigation shall be implemented prior to works commencing and thereafter retained throughout the construction phase.

Reason: To ensure an appropriate standard of amenity for existing occupiers, recognising the potential for works to cause unacceptable impacts on existing occupiers from the outset.

20. No development involving construction of dwellings shall take place until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the NPPF or any future guidance that replaces it. The scheme shall include:
- i. no less than 30% of housing shall be Affordable Housing.
 - ii. the type, tenure and location of the Affordable Housing.
 - iii. no more than 80% of Market Housing units shall be occupied before completion and transfer of the Affordable Housing Units to an Affordable Housing Provider;
 - iv. the arrangements for the transfer of the Affordable Housing Units to an Affordable Housing Provider;
 - v. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing to those households on the District Housing Waiting List; and
 - vi. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing by means of the District Choice Based Lettings allocation scheme or in such other form as may be proposed by the Local Authority and agreed with the Affordable Housing Provider.

Reason: To ensure the provision of affordable housing within the planned design of the development, so as to ensure that the scheme is not in conflict with the reserved matters submission and recognising that the number, type and position of dwellings could affect the position of initial ground works on site.

21. No development involving construction of dwellings shall take place until details of the finished floor levels of the dwellings and other buildings hereby approved, and of the ground levels of the site relative to adjoining land levels, along with details of any retaining features necessary have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the agreed levels and any approved retaining features.

Reason: To ensure that the visual impact of the development is minimised as far as possible, recognising that site levels across the site as a whole are crucial to establishing infrastructure routing/positions and their efficient operation thereafter.

22. Prior to works commencing on the extended footway along Coton Road to the new estate road junction, a Tree Protection Method Statement (TPMS) for working within the Root Protection Area (RPA) and canopy of protected trees shall be submitted to and approved in writing by the Local Planning Authority. The TPMS shall include:

- a) a Tree Protection Plan (TPP), informed by descriptive text where necessary, based upon the finalised proposals and showing trees for retention and illustrating tree and landscape protection measures;
- b) details of how operations during construction work are to be carried out without risk of damage to tree roots within the RPA or branches in the canopy; and
- c) details of what actions are to be taken if encountering substantial roots (>50mm) outside the RPA.

The approved TPMS shall thereafter be implemented in full throughout the duration of works and prior notice of no less than 10 working days shall be given to the Council prior to undertaking relevant works within the RPA.

Reason: To ensure that the impacts of the protected tree(s) are minimised and so to allow for appropriate monitoring of the works as they take place.

23. Prior to installation of any lighting on the site, details of the height, means of support, cabling, luminance and spill/spread of any lighting shall be submitted to and approved in writing by the Local Planning Authority. The approved lighting scheme shall thereafter be implemented in accordance with the approved details and thereafter retained as such.

Reason: To ensure that the impacts on protected species which may use the site are minimised.

Prior to occupation

24. No dwelling shall be occupied until the proposed new estate street(s) between each respective plot and the existing public highway has been laid out in accordance with the approved drawings pursuant to a reserved matters and/or discharge of conditions application, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads

Reason: In the interests of highway safety for prospective occupants during the course of construction works on site.

25. Prior to the first occupation of any dwelling, the new estate junction shall be formed to Coton Lane. The junction shall have a minimum width of 5.5m, be constructed to base level, be provided with 2 x 2m footways, a 6m radius on the southern side and a 10m radius on the northern side, visibility sightlines of 2.4m x 82m to the south and 2.4m x 43m to the north. The area forward of the sightlines shall be taken into the highway and constructed as footway or verge and contain no obstruction exceeding 600mm in height relative to the nearside carriageway edge. Notwithstanding the submitted drawings, the sightline in the southern direction shall be taken not only to the extent of the 82m but tangentially to the carriageway edge.

Reason: In the interests of highway safety.

26. Prior to the first occupation of any dwelling, a new footway shall be provided on Coton Lane. The footway shall have a width of 2m and extend from that existing in the vicinity of the bus stop to join the new footway into the housing development with the exception of a pinch point by the existing tree where the width shall be reduced to no less than 1m. The footway shall be laid out and constructed, drained and lit in accordance with Derbyshire County Council's specifications for adoptable roads.

Reason: In the interests of highway safety.

27. Prior to the first occupation of any dwelling, space shall be provided within each plot curtilage for the parking of two vehicles and maintained throughout the life of the development free of any impediment to its designated use. For the avoidance of doubt, where a garage is counted as a parking space, the internal dimensions should not be less than 3m x 6m

Reason: In the interests of highway safety.

28. No dwelling shall be occupied until such time as the area(s) of land for woodland planting have been planted in accordance with a detailed scheme which shall have previously been submitted to and approved in writing by the Local Planning Authority.

Reason: To deliver National Forest objectives and assimilate the development into the National Forest.

29. The pedestrian link required pursuant to Condition 3(f) above shall be provided prior to first occupation of a dwelling or in accordance with timetable previously submitted to and approved in writing by the Local Planning Authority. This link shall thereafter be retained open and free from obstruction to its use.

Reason: In the interests of facilitating convenient and suitable access to the site by all users.

Other

30. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the dwellings or the completion of the development, whichever is the sooner; and any plants which within a period of five years from the completion of the development die (ten years in the case of trees), are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The publically landscaped areas shall be maintained as such until these areas are transferred to the Local Authority or nominated maintenance company.

Reason: In the interests of visual amenity and to secure appropriate open space provision for occupiers of the dwellings hereby approved.

Informatives

- a. This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.
- b. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and issues and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
- c. In the event that great crested newt is found on site work should cease immediately and advice should be sought from a professional ecologist.
- d. If any reptiles are found on site, works should cease and advice should be taken from a professional ecologist.
- e. To discharge surface water drainage conditions the applicant should ensure all of the below parameters have been satisfied:
 - i) The production and submission of a scheme design demonstrating full compliance with DEFRA non-statutory technical standards for sustainable drainage systems:
 - Limiting the discharge rate and storing the excess surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical duration rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site to comply with S2 & S3.
 - Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm to comply with S7 & S8.
 - Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.
 - Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.
 - Production of a plan showing above ground flood pathways where relevant for events in excess of 1 in 100 year rainfall event to comply with S9.
 - ii) The submission of an appropriate ground investigation with percolation/soakaway results inclusive by a recognised method (i.e. BRE Digest 365) to confirm the suitability of infiltration as a primary method of disposing of surface water.

- f. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com.
- g. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the County Council via email - es.devconprocess@derbyshire.gov.uk. The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.
- h. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 12 weeks prior notification should be given to the Environmental Services Department of Derbyshire County Council before any works commence on the vehicular access within highway limits; please contact 01629 538537 for further information.
- i. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- j. The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.

09/02/2016

Item **1.3**

Reg. No. **9/2015/1030/BME**

Applicant:
Drakelow Developments Ltd
& E.ON UK PLC
c/o Agent

Agent:
Mr David Smith
Turley
9 Colmore Row
Birmingham
B3 2BJ

Proposal: **THE VARIATION OF CONDITION 47 OF PLANNING PERMISSION REF: 9/2009/0341 (RELATING TO A HYBRID PLANNING APPLICATION WITH ALL MATTERS RESERVED FOR UP TO 2,239 DWELLINGS INCLUDING A RETIREMENT VILLAGE; AN EMPLOYMENT PARK; TWO LOCAL CENTRES COMPRISING RETAIL, SERVICES, LEISURE, EMPLOYMENT AND COMMUNITY USES; PUBLIC OPEN SPACES; A NEW PRIMARY SCHOOL; ASSOCIATED LANDSCAPE AND INFRASTRUCTURE, INCLUDING CAR PARKING, ROAD AND DRAINAGE MEASURES; AND THE REFURBISHMENT OF THE LISTED STABLES AND COTTAGES (WITH FULL DETAILS- COMPRISING CHANGE OF USE AND REPAIR OF THE BUILDING) ON LAND AT SK2420 2230 DRAKELOW PARK WALTON ROAD DRAKELOW SWADLINCOTE**

Ward: **LINTON**

Valid Date: **02/11/2015**

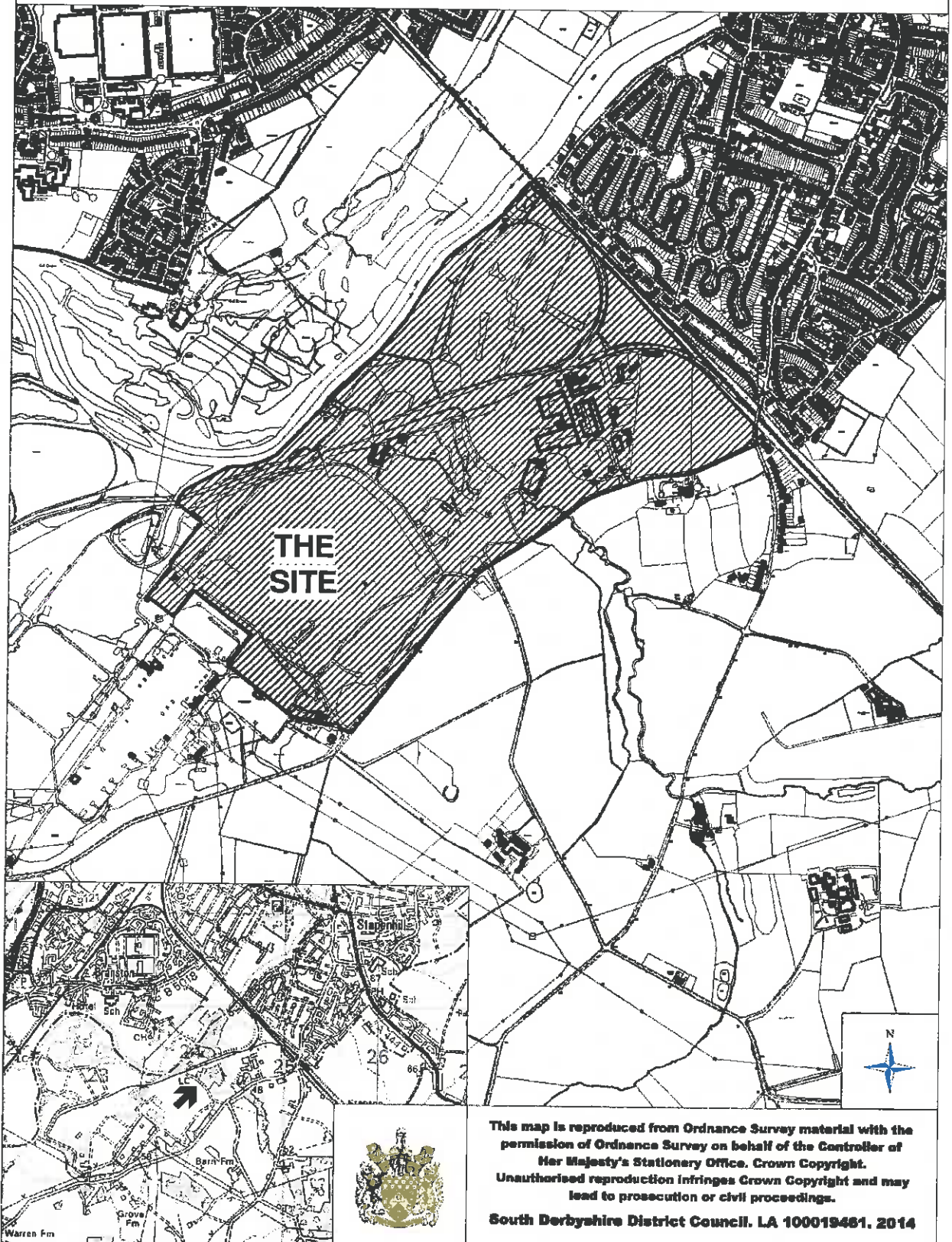
Reason for committee determination

The item is presented to Committee as it is a major application contrary to the Development Plan and subject to more than 2 objections; and at the discretion of the Planning Services Manager, given the Committee's determination of the original application and the associated update to the Section 106 Agreement.

Site Description

The site measures over 100 hectares in size, comprising a mix of uses including brownfield land formerly occupied by the Drakelow Power Station and more recently

9/2015/1030 - Land at SK2420 2230 Drakelow Park, Walton Road,
Drakelow, Burton on Trent DE15 9UA



by Roger Bullivant Limited for a variety of industrial and storage activities. The site is located immediately south west of Burton and is bounded by the River Trent to the north, beyond which lies Branston Golf and Country Club. To the south the site is bounded by the southern edge of Walton Road and open countryside. The National Forest railway line adjoins the east and to the west is a National Grid substation. There are two existing vehicular access points into the site from Walton Road with additionally there are two pedestrian connection points linking the site to Stapenhill, across the National Forest Line – an underpass next to the River Trent and a footbridge joining with Cumberland Road.

For the avoidance of doubt, the area subject to this application is identical to that of the previous submission in 2009. Part of the site is presently being developed pursuant to that permission to provide 99 dwellings.

Proposal

It is proposed to vary condition 47 of the 2009 permission under Section 73 of the 1990 Act. Condition 47 relates to the number of dwellings that can be occupied prior to the widening of the Walton Road and provision of the bridge across the River Trent towards the A38 junction near Walton ('the bypass'). It reads as follows:

"No more than 100 dwellings shall be occupied on the site until the widening of the Walton on Trent Bypass has been implemented generally in accordance with drawing no 07-0297 100 but more specifically in accordance with detailed designs first submitted to an approved in writing by the Local Planning Authority in consultation with the Local Highway Authority. For the avoidance of doubt the developer will be required to enter into a S278 Agreement with the Highway Authority in order to comply with the requirement of this condition".

It is proposed to vary the opening limb of the condition to:

"No more than 400 dwellings shall be occupied on the site..."

Applicant's supporting information

A Planning Statement confirms that the overall quantum of development and the proposed mix of uses remain unchanged from that granted outline permission in 2012 and that pre-application discussions have been pursued with both County Highway Authorities to agree the scope of further highways assessments. The Statement carries an overview of relevant extant and emerging planning policy, and notes that Drakelow Park has a committed level of development to come forward over the new Local Plan period. It is advanced that the consideration of this application therefore needs to balance the benefits of further development coming forward before the implementation of the Walton bypass, with any negative impacts arising from this scenario in terms of additional traffic movements. There is an immediate need to deliver more housing on the site and assessment reveals that the increase of 300 units has little impact in terms of additional flows through Walton-on-Trent in the context of the existing flows in the peak hour. In particular, approval of the application would enable the delivery of further housing and investment on the

site in the short term without being constrained by the securing of necessary funding to enable the Walton bypass scheme to proceed.

The Transport Statement notes that the original 100 unit threshold was not derived from detailed modelling or impact assessment at the time of the original application, and therefore there was no quantitative justification for the limit other than the fact that assessments were based on the bypass being in place. Monitoring requirements and the Travel Plan would remain unaltered such that assessment should focus on whether allowing an additional 300 houses to be constructed in advance of the bypass being completed would have any effect or impact on the overall existing agreed position. Peak flows through Walton are likely to rise by around 25 to 30 vehicles, but this in the context of some 1,400 peak hour movements across the existing bailey bridge. Changes on routes to north would also be modest, with a very minor increase of around 12 vehicles in the afternoon peak. There would be no significant change in flows in the built up area of Burton on Trent. A review of the accident records has also been undertaken and within the study period only two accidents have occurred along Walton Road – one slight in severity, the other serious but involving only a single vehicle and linked to speed and losing control on a bend. The Statement concludes there would be no harm in changing the trigger and the development would still accord with Transport Policy 6. The development would also comply with paragraph 32 of the NPPF in that it would meet all three tests for appropriate development.

As the application falls under Schedule 2, categories 10a and 10b of the Environmental Impact Assessment (EIA) Regulations 2011 (as amended) an EIA has been carried out and an Environmental Statement (ES) provided. This ES remains the same as that submitted in 2009 save for updates to the Planning and Transport Statements as outlined above following a Screening Opinion that concluded that matters covered by the ES would not have materially altered since its preparation. The ES includes the remaining relevant documents:

- A Design and Access Statement setting out the design and layout concept for the site and how the development would connect with the wider area;
- A Statement of Community Engagement outlining the stages of public consultation prior to the submission of the application;
- A Sustainability Statement including the approach, policy objectives and framework;
- A Flood Risk Assessment;
- A Viability Overview Report (from 2009) updated with letters, the last being July 2010 examining the viability of the project taking into account all the costs associated with the development, the income generated, profits and the residual sum that would be available to provide for affordable housing and other infrastructure contributions;
- The original Transport Assessment and Addendum;
- A Travel Plan;
- An Ecological Appraisal and detailed Phase 2 Ecology Survey and Assessment;
- An Arboricultural Appraisal;
- A Culvert Survey and Report;

- An Interaction Statement describing the combined potential impact and interaction between the proposed development and the forthcoming power station on the adjoining site;
- An Agricultural Assessment; and
- Illustrative master plan and drawings.

These documents can be viewed online as part of the current submission.

Planning History

- 9/2014/1105: Variation of condition 10 of planning permission 9/2014/0363 (phase 1) to allow a safe access and egress from site while the access road is constructed – Approved January 2015
- 9/2014/0363: Approval of reserved matters for phase 1 (99 dwellings) of previously approved outline permission 9/2009/0341 – Approved June 2014
- 9/2009/0350: The construction of a pedestrian and cycle bridge across the River Trent – Withdrawn August 2009
- 9/2009/0342: Repair and refurbishment of the Grade II listed stable block – Approved July 2009
- 9/2009/0341: Hybrid scheme with all matters reserved for up to 2,239 dwellings including a retirement village; an employment park; two local centres comprising retail, services, leisure, employment and community uses; public open spaces; a new primary school; associated landscape and infrastructure including car parking, roads and drainage measures; and the refurbishment of the Listed stables and cottages – Approved February 2012
- 9/2003/1525: The formation of the Walton Bypass including a bridge over the River Trent – Approved May 2005 and subsequently varied in May 2007 (9/2006/0973) to allow for the works to commence prior to the stopping up of the access to Barr Hall.

Responses to Consultations

As the original application was accompanied by an Environmental Statement, the consultees as required by the EIA Regulations both then and now have been approached under this application alongside additional consultees now relevant.

The Highways Agency raises no objection.

The County Highway Authority notes that the Walton-on-Trent Bridge and Bypass was not itself proposed as part of the Drakelow Park proposal but had been consented some years previously, and the original Transport Assessment for Drakelow Park was predicated on the Bypass already being in place prior to commencement of the Drakelow Park development. However, this has proved not to be the case. Irrespective of the reasons for the delay, the new Transport Statement

is noted. For the avoidance of doubt, the County Highway Authority makes it clear that the content of the Transport Assessment is not specifically 'agreed', but providing that the conclusions are regarded as sound it is considered to be unreasonable to require an applicant to devote resources to amending the fine detail of a submission which would not affect the conclusion. In this case it is concluded that, in the context of paragraph 32 of the NPPF, there would be no material harm in changing the trigger for construction of the Walton on Trent Bypass. Further it considers that there is no evidential basis to contradict the conclusion or to justify refusing permission for reasons of impact of highway safety or operation of the highway network. Accordingly there is no objection to the granting of permission.

Staffordshire County Council Highway Authority raises no objection.

The National Planning Casework Unit acknowledges the application and wishes to make no further comment.

East Staffordshire Borough Council raises no objection.

Historic England raises no objection.

The Environment Agency raises no objection.

The County Council Flood Risk Team raises no objection.

Severn Trent Water Ltd confirms it wishes to see a condition attached as before.

Natural England wishes to make no comment.

Derbyshire Wildlife Trust raises no objection.

The Canal & River Trust wishes to make no comment.

Sport England wishes to make no comment.

The Environmental Health Officer raises no objection.

The Strategic Housing Manager has no comments to make.

Peak and Northern Footpaths raises no objection.

The Police Crime Prevention Design Advisor raises no objection.

Network Rail has no observations to make.

Responses to Publicity

Walton on Trent Parish Council raises concern at the level of traffic which would arise from the building of extra houses before the new bypass, with the original survey indicating that traffic through Walton would be a problem if more than 100 houses were built before the new road was made available; traffic now is very heavy

from as early as 7am. The bailey bridge is noted to presently struggle with capacity, so more houses would make the situation worse.

Drakelow Parish Meeting has no objection.

Three representations have been received raising the following concerns:

- a. the proposal would completely change existing communities and merge the village of Walton-on-Trent to Burton;
- b. promised infrastructure provision has not been delivered;
- c. Walton is serviced by a single track bridge which already sees the village at a standstill during morning and evening busy periods;
- d. the claim that quadrupling the houses allowed under the existing condition would only result in circa 40 additional traffic movements appears wildly optimistic;
- e. gravel pits and open mines, industrial estate development along the A38 and constantly stalling road development plans would inevitably bring more traffic to the village;
- f. concern for children walking the roads with increased traffic;
- g. concerned how this would impact the A38 with no room to build a third lane to service traffic;
- h. confused by the offer of employment parks as cannot imagine the unemployed would buy these houses;
- i. the village has been supportive of the solar farm application and would likely be supportive of any gas fired power station;
- j. impact on tourism and the environment;
- k. issues with existing works being left unattended to; and
- l. there has been no change in circumstances to warrant an amendment.

Development Plan Policies

The relevant policies are:

- Saved Local Plan 1998: Housing Policies 8, 11 and 14; Employment Policies 7 and 8; Environment Policies 1, 9, 10, 11, 13 and 14; Transport Policies 6, 7 and 8; Shopping Policies 2 and 3; Recreation and Tourism Policies 4 and 8; and Community Facilities Policy 1.

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S4 (Housing Need), S5 (Employment Land Need); S6 (Sustainable Access), H1 (Settlement Hierarchy), H6 (Drakelow Park), H19 (Housing Balance), H20 (Affordable Housing), E1 (Strategic Employment Land Allocation), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Delivering Sustainable Water Supply, Drainage and Sewerage), SD4 (Contaminated Land and Mining Legacy Issues), SD5 (Minerals

Safeguarding), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF6 (Community Facilities), INF7 (Green Infrastructure), INF8 (The National Forest) and INF9 (Open Space, Sport and Recreation).

National Guidance

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

Local Guidance

- Housing Design and Layout SPG
- Better Design for South Derbyshire 2010
- Section 106 Agreements – A Guide for Developers 2010
- Industrial & Office Design and Layout SPG
- Trees and Development SPG
- Historic South Derbyshire SPG

Environmental Impact Assessment (EIA)

The PPG advises that a Section 73 application is considered to be a new application for planning permission under the 2011 Regulations. Where the development satisfies the criteria or thresholds set, the Council must carry out a new screening exercise and issue a Screening Opinion whether a fresh EIA is necessary. Where an EIA was carried out on the original application, it is necessary to consider if further information needs to be added to the original Environmental Statement (ES) to satisfy the requirements of the Regulations.

A fresh Screening Opinion was issued in October 2015 confirming that no further update to the previous ES was required as a consequence of the proposed variation, given it was considered that the change in itself would not bring about significant adverse effects on the environment in the context of the Regulations.

Planning Considerations

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

- The Principle of Development;
- Highway Impacts; and
- Section 106 Agreement and Conditions

Planning Assessment

The Principle of Development

The site is not allocated in the saved Local Plan although it forms a strategic allocation in the emerging Plan. There has been no material change in these

circumstances since the 2012 approval other than the advancement of the Part 1 Plan and the changes to regional and national planning policy (the NPPF). The NPPF sets out a presumption in favour of sustainable development, in particular affording weight to significantly boosting housing delivery and economic development. The emerging Plan relies on the housing and employment provision arising from this site and has already been considered as sustainable in the round given the provision of facilities and services on site to support these provisions.

As a Section 73 application, Members should not reconsider the principle of development – instead focus on the effects of the proposed variation of condition. With all other matters remaining materially consistent with the decision made in 2012, such as ecology, flood risk, heritage impacts and so forth, those matters are not discussed further and determination turns on whether the resulting impacts on the highway network would constitute a severe cumulative impact in line with paragraph 32 of the NPPF and contravene saved and emerging Development Plan policies.

Members should also be aware that the site has the potential to supporting the funding of the off-site highway works, bearing in mind that project pre-dates the Drakelow Park development by a number of years and has progressed independently of the development both financially and in the context of mitigation required. Whilst funding has now been secured to bring forward the completion of the off-site works in the next year or so, the economic benefits of the proposal cannot be ignored – helping to advance and secure the off-site works in a timely fashion, assist in securing investment in other forms of development on site (such as the employment provision), as well as sustain wider economic benefits associated with continued delivery of housing beyond 99 dwellings. It should also be further considered that the emerging Plan relies on continued delivery from this site as part of the 5 year housing supply, whilst at the same time the balance of the 400 dwellings limit now proposed, and yet to be delivered, would be take some 4 years to construct.

Highway impacts

Preliminary earthworks have been undertaken on the bypass such that the completion of the bypass in a relatively short timeframe is feasible. Members will be aware that the previous approval was predicated on the basis that additional traffic generated by the development as a whole, both domestic and commercial, could be catered for by provision of this new river crossing. The impact of the proposed variation would be to sustain additional domestic traffic in the main until the crossing is completed, given it is not anticipated much of, if any, of the employment phase would come forward prior to 400 dwellings being provided. It is also noted that the original 100 unit threshold was set as an outcome of discussions and negotiations at the time of the consent being granted. It was not derived from detailed modelling or impact assessment, and therefore there was no quantitative justification at the time for the limit other than the fact that assessments assumed that the bypass would be place.

The modelling outlined in the Transport Assessment above indicates the bypass has very little impact on the peak hour flows of traffic from the site. To the north there is a

minimal increase (circa 12 during peak hour) and this must be measured in the context of daily flows through Burton. An additional 25 to 30 vehicles are expected through the village in peak hours, but this should be put in the context of a base flow of around 1,400 peak hour movements across the existing Walton Bridge. This level of increase is just 2% and, in itself, not considered to be demonstrable in terms of capacity or amenity impact on routes through the village.

A review of accident records (where personal injury was caused) on Walton Road between the Rosliston Road South junction and Walton itself has been conducted. Only 2 reported accidents have occurred in the last 3 years – one was classified as slight in severity and one classified as serious, this involving a single vehicle travelling too fast and losing control on a bend. On this basis there is no grounds for withholding permission on safety grounds, given there are no pre-existing safety issues which could be exacerbated by the proposal.

The responses of the Highway Authorities support the above discussion and in this light the cumulative impact is not a severe one and the variation can be supported under paragraph 32 of the NPPF and saved policy T6.

Section 106 agreement and conditions

None of the wider transport mitigation package and financial contributions secured through the current agreement and/or planning conditions would be changed save for updating conditions to respond to current the current policy context and development having commenced in part. The monitoring requirements and Travel Plan would remain unaltered.

The Section 106 agreement signed in February 2012 contained a myriad of provisions extending to 11 separate schedules, as might be expected on a scheme of this magnitude. This application does not propose to change those provisions in principle ensuring that the essential public benefits and effects are the same. The current application does however offer an opportunity to update the agreement brought about by the current proposal and replace it to:

- Ensure that the provisions are compliant with the latest CIL Regulations
- Take account of the fact that the first phase has commenced which changes some of the provisions which were predicated on the commencement of development and/or progress through the development. To this end it is proposed to exclude the phase one site in the new agreement. Separate liabilities for the phase one development have been calculated and agreed by the parties and the site would only be excluded and the triggers reduced by 99 in the new agreement, on the basis that that liability is met in full by the current developers. All of the current liabilities relate to County Council services in Derbyshire and Staffordshire and both have been consulted.
- 'Tidy up' the agreement and make limited changes to methodologies to secure collection of various provisions and contributions more appropriate to current practice.

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

Recommendation

A. That the Committee authorise the Planning Services Manager to complete a replacement agreement under Section 106 of the 1990 Act in line with that described above;

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

Valid period of permission & submission of reserved matters

1. The next phase of the development hereby permitted within the land edged red on Plan ref. RBL001-101 shall be begun either on or before 28 February 2017, or before the expiration of 3 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

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

2. Application for approval of the reserved matters for all remaining phases, namely access, layout, scale, appearance and landscaping, shall be made to the Local Planning Authority on or before the 29 February 2032.

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

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

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

Phasing

4. Unless otherwise required by conditions on this permission, the development shall be carried out in accordance with the phasing arrangements shown on drawings A-L015 Rev A, A-L-010 Rev A, A-L-021 Rev A, A-L-022 Rev, A-L-023 Rev A, A-L-024 Rev A, A-L-025, Rev A, A-L-026 Rev A, A-L-027 Rev A, A-L-028 Rev A, approved on 9 July 2014 (pursuant to condition 4 of planning permission ref. 9/2009/0341) (or such other replacement phasing arrangements which may be submitted to and approved in writing by the Local Planning Authority as a non-material amendment to this planning permission, or as updated phasing arrangements accompanying an application for a reserved matters approval).

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

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

Reason: For the avoidance of doubt.

6. Each reserved matters submission shall be accompanied by a statement demonstrating how the phase relates to the Design & Access Statement submitted alongside application ref: 9/2009/0341. Development of each phase shall be carried out in accordance with the approved plans and details.

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

Landscaping/Public Open Space

7. No development shall commence in a phase until an Open Space Strategy for that phase of the development has been submitted to and approved in writing by the Local Planning Authority. The Open Space Strategy for each phase shall broadly accord with the phasing masterplan and public open space drawing as detailed in Condition 4 above (A-L-015 Rev A or as subsequently amended) and shall set out the proposals for the location, provision, programme of phasing, timing of submission of specifications, arrangements to secure public access and arrangements for short and long term management and maintenance (including funding arrangements) of all areas of open space within that phase including the following where applicable to each particular phase:
 - a) The Woodland as shown indicatively on the Illustrative Masterplan (Plan ref: RBL001-018 Rev N (April 2009);
 - b) The proposed sports pitch and associated changing facilities (as shown indicatively on the Green Infrastructure Plan Ref: RBL001-106-J;
 - c) The Sunken Gardens (as shown indicatively on the Green Infrastructure Plan Ref: RBL001-106-J);
 - d) Children's Play Areas (having regard to the fact that such areas will be the subject of detailed design pursuant to Conditions 6, 8, 9, 10 and 11); and
 - e) Any remaining areas of open space within the site.

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

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

8. The hard and soft landscape details submitted pursuant to condition 2 shall include trees to be retained showing their species, spread and maturity; proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing

materials; street furniture; play equipment; refuse or other storage units; and retained historic landscape features and proposals for restoration.

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

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

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

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

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

11. For each phase a landscape management plan, including phasing and implementation strategy, long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority as part of the reserved matters submission in accordance with conditions 2 and 6. The landscape management plan shall broadly accord with the Open Space Strategy approved pursuant to Condition 7 for the phase under consideration and shall be implemented as approved.

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

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

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

13. None of the existing trees or hedgerows indicated as existing on the master plan drawing number E6484-103-GR-PPW-Existing March 2010 (as referred to in the more detailed ES plans 2155/11a (June 2008) and 2155/10b (June 2008)) shall be cut down, uprooted or destroyed, nor shall be topped or lopped without the prior written approval of the Local Planning Authority upon an application pursuant to discharging the requirements of condition 8. If any of the existing

trees or hedgerows to be retained are removed or, uprooted or destroyed or dies, a replacement shall be planted in the same place and that tree or hedge shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority and thereafter be subject to the same period of protection as afforded under condition 12.

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

14. No site clearance works or development of a phase shall take place until the boundary with the trees and hedgerow to be retained have been fenced off with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed.

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

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

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

Boundary Treatments

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

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

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

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

Materials

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

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

Sustainability

19. Any application for approval of reserved matters relating to provision of dwellings shall be accompanied by a statement which assesses the phase(s) against the outgoing Code for Sustainable Homes demonstrating what measures are being implemented to carry forward the requirements of Code Level 3 as far as is practicable. The development of phase(s) shall be carried out in accordance with the approved statement.

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

Disturbance (noise, vibration, odour, light – during construction & when occupied)

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

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

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

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

22. Before use of the non-residential uses hereby permitted commence, a scheme designed to protect the living conditions of occupants of nearby buildings from

noise, vibration and odours from the air ventilation and extraction system, including the methods of treatment of the emissions and the external ducting, shall be submitted to and approved in writing by the Local Planning Authority. Before the non-residential uses commence, the measures approved under the scheme shall be installed and brought into use. Thereafter the approved measures shall be retained, operated and maintained in accordance with the manufacturer's specifications.

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

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

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

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

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

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

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

26. As part of the submission of reserved matters details required under Condition 6 for each phase, the applicant shall submit for written approval an assessment of noise likely to affect the future occupiers of the phase. This assessment should follow relevant guidelines for assessing the noise from the surrounding road network and any other local noise sources that the evidence deems significant to the site. The assessment shall identify all noise attenuation measures that may be determined appropriate to reduce the impact of noise on the residential

properties on the site and achieve the requirements of BS:8233 (or any Standard which replaces it) for internal noise levels. Consideration shall also be given to achieving adequate summer cooling and, if deemed necessary, alternative ventilation measures shall be identified and incorporated into the noise assessment report. Details of any necessary mitigation measures shall be submitted with the reserved matters. Once agreed, all identified noise control measures shall be implemented and thereafter retained within the phase in accordance with the approved document(s).

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

Flood Risk & Drainage

27. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Revision D dated 9 November 2009 received under planning permission ref. 9/2009/0341, undertaken by THDA, and the following mitigation measures detailed within the FRA:

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

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

28. Development of each phase shall not begin until a surface water drainage scheme for that phase of the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, including roof drainage and sealed at ground level, has been submitted to and approved in writing by the Local Planning Authority. Each phase of development shall subsequently be implemented in accordance with the approved details before the development is completed unless an alternative timetable is approved as part of the drainage scheme submitted. The scheme shall also include:

- a) Limiting the surface water run-off generated by all events up to the 100

year plus 20 % commercial (for climate change), 30% residential (for climate change) critical rain storm in accordance with paragraph 7.4 and tables 7.4, 7.7 and 7.9 of the approved FRA.

- b) Provision of a minimum of surface water run-off attenuation storage on the site in accordance with paragraphs 7.8 and 7.9 and tables 7.7 and 7.9 of the approved FRA.
- c) Details of how the scheme shall be maintained and managed after completion

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

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

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

30. Prior to the commencement of development within the Leased/Hatched area shown on Drawing No. 06/0297/114 received under planning permission ref. 9/2009/0341, a working method statement to cover all works involved in the construction of the Culvert 1 Replacement Scheme shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved designs and method statement for the Culvert 1 Replacement Scheme. The working method statement shall include details on the following:

- a) Time programme for the works;
- b) Methods used for all channel and bank-side/water margin works;
- c) Machinery to be used;
- d) Location and storage of plant, materials and fuel;
- e) Access routes to the works, access to the banks of the watercourses;
- f) Method of protection of areas of ecological sensitivity and importance;
- g) Site supervision; and
- h) Location of site office, compounds and welfare facilities.

Reason: In the interests of flood protection.

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

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

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

Reason: In the interests of pollution control.

Archaeology

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

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

Crime Prevention

34. Prior to the first occupation of the each phase of the development hereby permitted, measures to minimise the risk of crime to meet the specific security

needs of the phase shall be implemented in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

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

Contamination

35. a) No phase of development shall be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters within that phase has been submitted to, and approved in writing by, the Local Planning Authority; and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the Local Planning Authority dispenses with any such requirement specifically and in writing.
- b) Prior to occupation of the phase (or, if agreed with the Local Planning Authority, parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- c) In the event that it is proposed to import soil onto site in connection with the phase, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- d) Unless otherwise agreed with the Local Planning Authority, no development shall take place within a phase until monitoring at the site for the presence of ground/landfill gas within the phase and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3, 1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

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

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

Ecology

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

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

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

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

39. Notwithstanding the submitted details, a scheme for the retention or the translocation of the onsite railway ballast habitat, as shown on the Green Infrastructure Plan submitted with application ref: 9/2009/0341, shall be submitted to and approved in writing by the Local Planning Authority. Alternatively any such habitat lost shall be compensated through the creation of brown roofs and/or wildlife garden (as described in the Ecological Management Plan submitted with application ref: 9/2009/0341) in accordance with details first submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved details.

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

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

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

Highways

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

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

42. Before any other operations are commenced within a phase, excluding demolition and site clearance, the access and on-site facilities the subject of condition 41 above shall be laid out and constructed in accordance with the approved scheme and retained throughout the construction period free from any impediment to their designated use.

Reason: In the interests of highway safety.

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

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

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

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

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

Reason: In the interests of highway safety.

46. No development or combination of development shall be occupied that would result in trip generation exceeding 426 vehicle trips in the AM peak or 380 vehicle trips in the PM peak (based on the trip rates set out below) unless and until road schemes broadly in accordance with Infrastructure Planning and Design Limited layout drawings IPaD-09-104-P-110 Rev D, IPaD-09-104-P-111 Rev D, and IPaD-09-104-P-112 Rev D (submitted under application ref: 9/2009/0341) have been submitted to and approved in writing by the Local Planning Authority, implemented in full and opened to traffic. The vehicular trip rates to be applied are as follows:
- Residential (per dwelling): AM Peak 0.37, PM Peak 0.335
 - Employment (per 100sqm): AM Peak 0.87, PM Peak 0.76

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

Informatives:

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

location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Detail of any external lighting should be provided as a condition if not already indicated on the application.

- e. Under the terms of the Water Resources Act 1991, and the Land Drainage Byelaws, the prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 8 metres of the top of the bank, or the flood plain of the River Trent, and the Darklands Brook, both designated a 'main river'.
- f. The Environment Agency recommends that developers should:
 - i) Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.
 - ii) Refer to the Environment Agency Guidance on Requirements for Land Contamination Reports for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, e.g. human health.
 - iii) Refer to their website at www.gov.uk/environment-agency for more information.
- g. The Environment Agency actively encourages the use of SUDs at new developments. However it should be noted that the preliminary risk assessment indicates the potential for contamination to be present on the site. Drainage of surface or roof water through any contamination could act to mobilise it therefore posing a risk to 'Controlled Waters' receptors. Consequently proposals for the drainage of surface or roof water into the ground will need to be taken into account if contamination is found during the site investigation as the subsequent risk assessment will need to consider the additional infiltration from the surface and roof water system(s).
- h. The Environment Agency notes that there may be a requirement for water to be used for dust/dirt control measures such as damping down, water sprays and wheel washes. If water is abstracted from a watercourse or well or borehole for these purposes and more than 20 cubic metres per day is abstracted, an abstraction licence will be required.
- i. The Environment Agency has a river flow gauging station at SK 2391 2039. This site is an important part of their flood-forecasting network and vehicular access is required 24 hours a day 7 days a week.
- j. The proposal shows high density housing adjacent to the employment area (which includes B2 usage). The potential for noise disturbance to future residents is high and the applicant should contact the Environmental Protection Section to discuss this issue prior to submission of any reserved matters application.
- k. All archaeological work should be undertaken by a suitably qualified and experienced archaeological contractor. The Development Control Archaeologist at Derbyshire County Council should be contacted in the first instance for a

written brief from which the WSI may be developed.

- l. Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of Derbyshire County Council. Prior to any Agreement being entered into the Council will require engineering designs of all proposed highway works, which will be subject to a construction approval process. Advice regarding the technical, legal, financial and administrative processes connected with Section 278 Agreements may be obtained from the Strategic Director of Environmental Services at County Hall, Matlock (tel: 01629 538582). The applicant is advised to allow at least 12 weeks in any programme of works to obtain Section 278 approval.
- m. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 6 weeks prior notification should be given to the Strategic Director of Environmental Services at County Hall, Matlock (tel: 01629 538582) before works commence on the temporary construction access.
- n. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must ensure that mud or other extraneous material is not carried from the site and deposited on the highway. If this does occur the applicant must take all reasonable steps to ensure that the surrounding streets are cleaned. The Highway Authority reserves the right to undertake street cleansing on the applicant's behalf should this be deemed necessary and recharge the applicant for the work.
- o. The applicant is advised that where development related highway works engender the re-routing or other changes to bus services, the developer will be expected to meet all of the costs involved in modifying the public transport routes/services for the duration of the works.
- p. The supporting documents submitted with the planning application identify Derbyshire County Council's Landscape Character Types in the baseline information but fails to make the link to the use of landscape character type key characteristics to landscape mitigation proposals. This should be addressed fully in the landscape scheme and in particular species selected should reflect local landscape character, especially the new woodland planting. The landscape scheme should recognise the local landscape character of the surrounding countryside and identify how the development will be incorporated into it. Further advice can be obtained from www.derbyshire.gov.uk/environment/conservation/landscape.
- q. Derbyshire County Council's Greenways Officer from time to time should as far as possible be consulted on the design, creation and construction of the greenway/bridleways that will serve and cross the application site. Contact Derbyshire County Council on 01629 539653 or at: countrysideservice@derbyshire.gov.uk.
- r. The proposed development lies within a coal mining area which may contain

unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com.

- s. This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.
- t. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, meetings and negotiations and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

09/02/2016

Item **1.4**

Reg. No. **9/2015/0986/MAF**

Applicant:
Mrs Kate Wagg
Lark Energy
Spitfire Business Park
Northfield Road
Market Deeping
Peterborough
PE6 8GY

Agent:
Mrs Kate Wagg
Lark Energy
Spitfire Business Park
Northfield Road
Market Deeping
Peterborough
PE6 8GY

Proposal: **PROPOSED 3.8 MWp INSTALLATION OF PHOTO-VOLTAIC PANELS, INVERTERS AND TRANSFORMERS TO PRODUCE RENEWABLE ELECTRICITY LAND AT SK2828 6687 BURTON ROAD EGGINTON DERBY**

Ward: **ETWALL**

Valid Date: **19/10/2015**

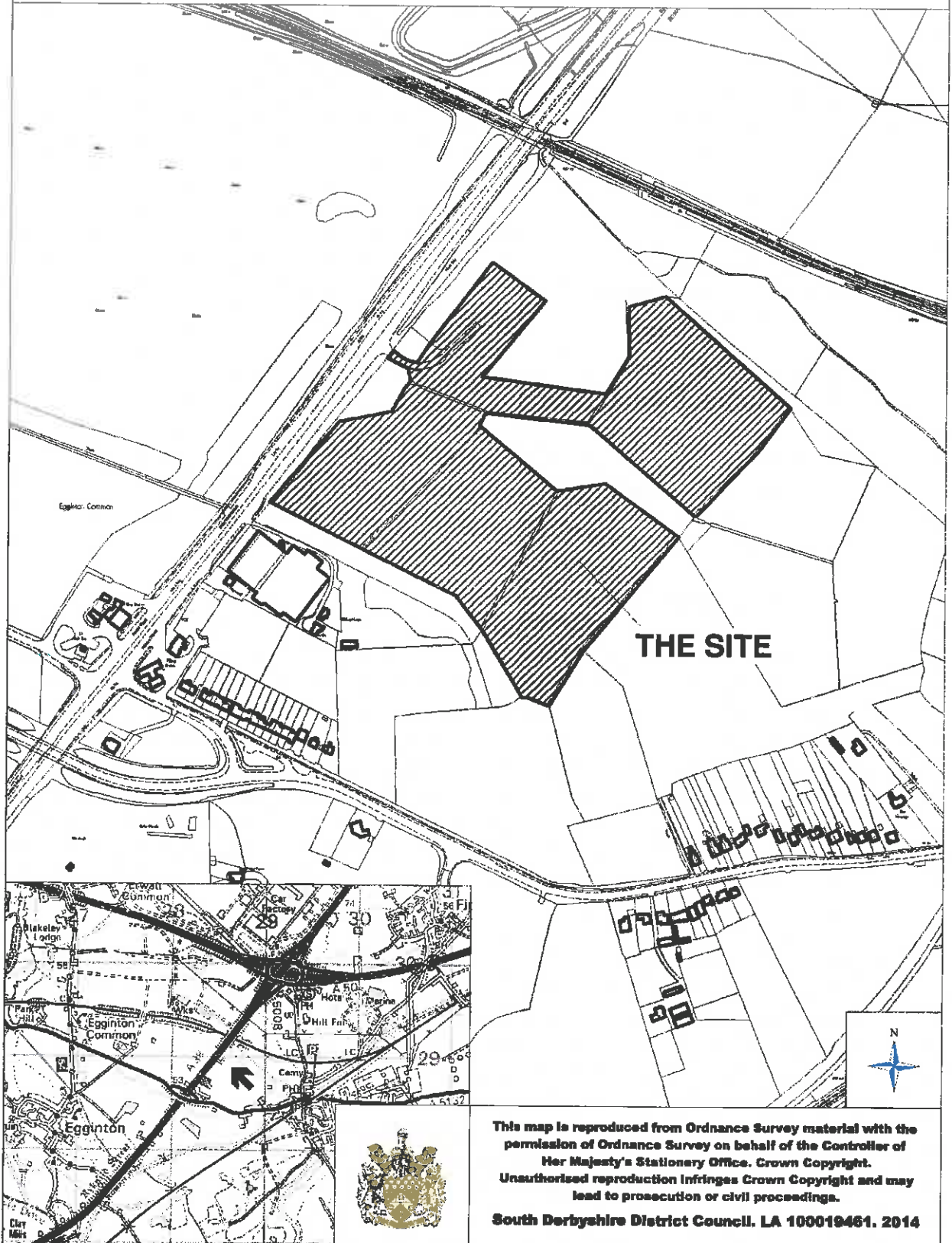
Reason for committee determination

This major application is brought before the Committee as it is a major application where more than two objections have been received.

Site Description

The site is 10.83 hectares with 0.5 Ha (4%) agricultural Grade 3B land, 8.7 Ha (80%) Grade 4 and with the remaining 1.63 Ha being non-agricultural previously used by Hanson as an aggregate works. The land is currently used for arable and livestock farming. It is located to the north west of Willington with the nearest field (field 3) being visible from the entrance to Betty's Farm on The Castle Way. The site is sloped with a gradual rise in the centre of fields 1 and 2 by 3m and field 4 has a 6m difference in levels where it slopes steeply adjacent to the north eastern boundary. The four fields are irregular in shape and have a mixture of woodland / hedging on their boundaries. An existing woodland in the centre of the site would be retained. Footpath Willington FP 9 runs in a north westerly direction, 325m north east of the site boundary and Willington FP 8 runs along the Trent and Mersey Canal 475m to the south east. The four fields are to the south west and south east of a former industrial site which has direct access from the A38.

**9/2015/0986 - Land at SK2828 6687 Burton Road, Egginton, Derby
(DE65 6GY)**



There is a plant nursery to the south west with three detached residential properties to the rear of this nursery. Residential properties to the south east follow a linear pattern of development along The Castle Way with the nearest property 200m south east of the application boundary.

Proposal

The proposal would generate up to 3.8 MWp of renewable electricity and would involve 14,696 photovoltaic panels, 6 inverter/transformer units and two substation units, 30 pole-mounted infrared CCTV cameras at a height of 3m enclosed by 2.2m high security mesh fencing. The top of the panels would sit approximately 3m above ground level.

The inverter and transformer equipment would be housed in 2.8m high buildings and would be within fields 1,2 and 4 and the substation buildings would be 2.6m high, located in the north eastern corner of field 1 adjacent to the areas of hardstanding. The site will be maintained as grassland and is expected to be grazed by sheep.

The proposal would utilise an existing access directly from the A38 that serves the former aggregate works.

During the construction period approximately 68 deliveries would access the application site utilising the existing access track. Planning permission is sought for a limited period of 25 years and after such time the land would be restored to its previous use.

Applicants' supporting information

The Design and Access Statement describes the site and context, the proposal and its layout and design. It outlines the international and national energy policies and planning policy context. It also identifies the Solar Trade Association 10 commitments for best practice. Each submitted report is summarised. The report concludes that the site was previously used for gravel extraction and is moderate / poor agricultural land. The existing hedge and woodland areas provide natural screening and the proposed mitigation measures would enhance and supplement these areas to reduce the landscape and visual impact. Visual impacts are contained within existing landforms, woodlands and hedgerows. The proposal would contribute to the target of 15% of energy from renewables by 2020.

The Landscape Visual Impact Assessment (LVIA) identified the landscape and visual characteristics of the site and context and then the scope and effects of the development and its wider Zone of Visual Influence (ZVI). The ZVI is the area from which the proposals could be seen and the receptors of those views are assessed for sensitivity based on activity, timescale etc. The report concludes that the proposed PV installation and associated landscape mitigation can be accommodated with limited landscape or visual change during its operational life. Following PV decommissioning, the site will return to current site uses to maintain the overall visual and landscape qualities of the site and immediate setting.

The Agricultural Land Classification (ALC) was carried out on 19.3 ha of land at Willington. The land was classified in accordance with the grades outlined in the 1988 guidelines and the 1996 guidelines. The ALC identified that the soil within the application site boundary falls within Grade 3b (moderate) and Grade 4 (poor). The proposed development would therefore not result in the loss of best and most versatile agricultural land for the temporary duration of the operational phase of the development.

Flood Risk Assessment (FRA) concludes that overall with the recommended mitigation in place, the residual risk of flooding both to and resulting from the development is considered to be negligible given the design of the site layout and incorporated mitigation measures.

The Archaeological Report concludes that due to the fact that most of the site was extensively quarried for gravel there is considered to be very low potential for archaeological remains of any period to survive at the site. However there may be some potential for archaeological remains in the unexcavated northernmost and southernmost fields of the site.

An Extended Phase 1 Habitat Survey was undertaken on the whole of the proposed development site as well as public land immediately surrounding the site. The report concludes that the proposed development has the potential to enhance the biodiversity value of the site and, with appropriate management, provide a species-rich habitat for a variety of protected and notable species.

The Transport Statement provides a description of the local and strategic highway network in the vicinity of the site and appraisal of the site access options (and resulting construction routes) available. It also details transport requirements for construction and post construction. The Access to the site would be from an existing junction on the A38.

Planning History

None

Responses to Consultations

The Environment Agency has no objections subject to a contaminated land condition.

Derbyshire Wildlife Trust has no objections and recommends conditions in respect of measures to protect birds' nests, Badgers/ other mammals during construction, management of retained hedgerow and submission of a Landscape and Ecological Management Plan.

Willington Parish Council supports the application.

The County Highways Authority has no objections as the access is solely from the A38 trunk road.

Highways England has no objection subject to a condition requiring the submission of a Construction Traffic Management Plan.

The County Archaeologist has no objections as the site has been subject to gravel extraction and restoration there would be no archaeological potential.

The County Council's Flood Risk Management Team has no objections.

Environmental Health has no objections.

The County Minerals Section has no objections.

The Police Crime Prevention Design Advisor has no objection subject to sufficient fencing and CCTV monitoring.

Responses to Publicity

Three letters of objection have been received which are summarised below:-

- a. Willow House requested a Hawthorn hedge along the boundary for screening from their property and a sound barrier from inverter noise.
- b. Existing hedgerows should be retained
- c. Glare from panels
- d. Wildlife impacts on bats and owls.
- e. There are existing solar developments just south of The Castle Way near the Cemex Quarry
- f. There would be a loss of grazing land.
- g. Would panels affect the internet or mobile phone signal or TV reception?
- h. The visual impact assessment has only been made from major roads and a footpath at ground level and no assessment made from 1st floors of nearby houses where screening would be insufficient.
- i. The LVIA does not recognise the impact from properties higher up the 'crown' of the surrounding landscape e.g. The Rectory in photo 3. Higher hedgerow / tree screening is required.

Development Plan Policies

- Saved Local Plan: Environment Policies 1 (Development in the Countryside), 9 (Protection of Trees and Woodland); Recreation and Tourism Policy 8 (Public Footpaths and Bridleways), and Transport Policy 6 (New Development).

The emerging Local Plan Part 1 policies include:

- S2 - Presumption in Favour of Sustainable Development, SD1 - Amenity and Environmental Quality, SD2 - Flood Risk, SD6 - Sustainable Energy and Power Generation, BNE1 - Design Excellence, BNE3 – Biodiversity, BNE4 - Landscape Character and Local Distinctiveness, INF2 - Sustainable Transport,

National Guidance

National Planning Policy Framework (NPPF) – relevant paragraphs/chapters include:

- Paras 6-10 (Achieving sustainable development)
- Paras 11-14 (The presumption in favour of sustainable development)
- Para 17 (Core principles)
- Chapter 10 (Climate Change)
- Chapter 11 (Natural Environment)
- Para 196 & 197 (Determining applications)

National Planning Practice Guidance (NPPG) – relevant chapters include: ID:21a, ID:5, ID:6, ID:9, ID:8 and ID:37.

Planning Considerations

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

- Principle of development
- Landscape impact and footpaths
- Benefits of renewable energy
- Loss of Agricultural Land
- Flooding
- Ecology and trees
- Highways issues
- Residential amenity

Environmental Impact Assessment (EIA)

The development has been screened under the EIA Regulations. The proposal is considered to fall within paragraph 3a of Schedule 2 to those Regulations, being an installation for the production of energy. However having taken into account the criteria of Schedule 3 to the Regulations, the proposal is not considered to provide any fundamental alterations of the conclusion previously reached that significant environmental effects would not arise in the context and purpose of EIA. Accordingly the application is not accompanied by an Environmental Statement.

Planning Assessment

Principle of development

The application site is located in the countryside and thus Local Plan Policy Environment 1 applies. This policy restricts new development to that essential to a rural based activity, unavoidable in the countryside and provided that the character of the countryside, landscape quality, wildlife and historic features are safeguarded and protected. Section B of the policy states that if development is permitted it must be sufficiently mitigated.

‘Solar farms’ are a relatively recent phenomenon and there is no reference in the Local Plan to where they are best located. A development of this scale (10.83 hectares) is considered to be unavoidable in the countryside and thus the impacts on

character, landscape and ecology in this case require assessment in order to inform whether the proposal complies with this policy and if so is sufficient mitigation proposed.

Landscape impact and footpaths

The Derbyshire Landscape Assessment identifies the site as within the 'Trent Valley Washlands Character Area 69' and, 'Lowland Village Farmlands' character type.

Fields 1, 2 and 3 are screened by existing hedgerow and tree planting on land falling very gently to the south east. Field 4 is separated by an existing woodland block and slopes down to the north-east. At the site's access there is groups of trees and shrub and intermittent hedgerow/tree screening to the western boundary with the A38. Therefore there would be some filtered views from the A38 to Field 1 and further tree blocks adjoin 'Toons Nurseries', but would allow filtered views of Fields 1 and 2. New hedge planting along the north west (A38 boundary) and the south western boundary with the nursery and nearest dwellings is proposed to provide a more substantial screen.

At the south of the site, pasture land adjoining Field 3 slopes gently slopes down to The Castle Way. The south eastern boundary of this field has a 2m high hedgerow and views of the site would only visible through gaps in the hedging. New hedge planting is proposed in the gaps.

In respect of field 4 its convex slope creates a broader context to the east and north-east towards Etwall Road and the footpath ('Willington Footpath 9'). Whilst there is existing screening, glimpsed views may be available from this footpath. The footpath extends into open pasture north of the railway, with glimpsed or more open long views back to the Field 4 site. However, the context of the site includes the active A38 corridor, the railway, existing built development and views from Etwall Road are limited by screening and topography.

The assessment is based on an overall effective average height of 1.75m for existing hedges although the proposal is to allow these to grow to 3m on the outer site boundary. New hedging will be planted using native hedging stock planted in a triple staggered row to provide a dense hedgerow pattern. The hedging would be maintained with annual trimming to an 'A' shaped section to encourage height and promote twiggy side growth to provide greater summer and winter screening.

The LVIA concludes that the landscape effects would be minor to minor-moderate negative in year 1 and negligible to minor negative after 5 years. Visual effects would be negligible/minor negative in year 1 and neutral to low negligible in year 5. Thus the landscape and visual impact of the proposal would be minor and the mitigation proposed would limit impacts further in accordance with guidance within the NPPF regarding landscapes in paragraphs 17 and 109.

Benefits of renewable energy

The proposal would generate 3.5 GWh of electricity per year, equivalent to about 1000 homes annual electricity usage.

One of the core principles of the NPPF is to support the transition to a low carbon future in a changing climate and encourage the use of renewable resources (for example, by the development of renewable energy). Paragraph 93 of the NPPF states local planning authorities should support the delivery of renewable and low carbon energy and associated infrastructure and that this is central to the economic, social and environmental dimensions of sustainable development.

The NPPF in relation to renewable energy states in paragraph 96 that *"In determining planning applications, local planning authorities should expect new development to:*

- comply with adopted Local Plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and*
- take account of landform, layout, building orientation,*

NPPF paragraph 98 states that when determining planning applications, local planning authorities should:

- not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and*
- approve the application if its impacts are (or can be made) acceptable.*

The PPG on this aspect states that LPAs should consider "the energy generating potential, which can vary for a number of reasons, including latitude and aspect". The proposal would generate power for approximately 1000 homes which would contribute to cutting greenhouse gas emissions and help to achieve local and national targets for renewable energy. These are important environmental benefits which carry substantial weight.

Loss of Agricultural Land

The site is made up of 0.5Ha (4%) agricultural Grade 3B land, 8.7Ha (80%) Grade 4 and 1.63 Ha non-agricultural previously used by Hanson as an aggregate works.

Soil analysis was undertaken and the Agricultural Land Classification report concludes that the soil within the application site boundary falls within Grade 3b (moderate) and Grade 4 (poor). The proposed development would therefore not result in the loss of best and most versatile agricultural land in accordance with guidance within Planning Practice Guidance (PPG) 'Renewables and Low Carbon Energy' and Ministerial Statements on the subject.

Flooding

The site is located entirely within *Flood Zone 1 – Low Probability of Flooding*.

The closest area of indicative fluvial floodplain is associated with Willington Brook, which flows adjacent to the northern site boundary, approximately 50m from any proposed development activity.

Swales are proposed around each of the inverter units and substations to locally control any minor increase in runoff from these infrastructure features. The FRA concludes that the residual risk of flooding both to and resulting from the development is considered to be negligible given the design of the site layout and incorporated mitigation measures. Both the EA and County Flood Risk team have no objections.

Ecology and trees

Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by: *...Minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity...*; The Ecology Survey states that no evidence of protected species was found on site.

Derbyshire Wildlife Trust advises that the hedgerows with mature trees that form the field boundaries provide the most ecologically valuable habitats on the site. All the hedgerows meet the definition of a Habitat of Principal Importance (UK BAP priority habitat). All existing hedgerows would be retained as part of the development and managed in an appropriate way. All trees within hedgerows or on boundaries and the woodland copse in the centre of the site would be retained. The proposal is therefore considered to accord with NPPF advice.

Highways issues

The proposal would utilise an existing access directly from the A38 that serves the former aggregate works. During the construction period approximately 68 deliveries would access the application site utilising the existing access track.

A temporary site construction compound and parking area would be provided on an area of existing hard standing on land in-between the two fields for the duration of the construction period. The vehicles bringing the components to the site from Felixstowe would predominately use the A14, M1, A50 and A38. The total construction period is likely to be 12 weeks and after commissioning, the site will only experience very infrequent visits for maintenance or cleaning etc. by van/4x4 type vehicles. Highways England has no objection to the use of the access directly off the A38.

Residential amenity

The nearest dwellings are to the rear of Toon's nursery 80-90 metres from the south western boundary of the site. Tree screening does exist between the application site and the dwelling. New hedgerow planting is proposed along the length of the south western boundary to exclude any filtered views into the site. Properties on The Castle Way to the south east of the site are approximately 200m from the site boundary separated by a field and the rear boundaries of the majority of dwellings

have tree and hedge screening. The south eastern boundary of field 3 has a substantial hedge screen in place and gaps within it would be filled with new planting. Impacts such as noise and glint and glare are not considered significant due to the existing vegetation and distances involved. On this basis the impact on the amenity of these dwellings is not considered significant and the proposal accords with NPPF paragraph 17.

Conclusion

The proposal should be afforded significant weight in favour given the meaningful contribution it would make towards the provision of renewable energy on both a local and national basis. Highway safety and biodiversity matters can be satisfactorily addressed by way of condition. The landscape impacts are not considered to be significant in the context of the landscape character affected, leaving just the visual impacts weighing against the proposal. The main visual impact would be of field 4 from the Willington Footpath 9 due to the slope on the north eastern part of the field. Existing screening does exist and impacts are considered to be negligible/minor negative. The majority of views in and out of the site are limited by topography and/or screened by hedgerows and woodland; the overall visual impact is considered to be limited in scale. When balanced against the environmental and economic gains of the proposal it is considered the proposal represents sustainable development and should be supported.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with drawing No. WIL-P.DWG001, WIL-P.DWG002, WIL-P.DWG003, WIL-P.DWG005, WIL-P.DWG006, WIL-P.DWG007, WIL-P.DWG008, WIL-P.DWG009, WIL-P.DWG0011, WIL-P.DWG0012, WIL-P.DWG0015 and site boundary plan received on 10 November 2015; drawing No.0590.1.2A, received on 25 January 2016; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt.
3. No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers (and other mammals

such as otters and rabbits) from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures shall be implemented in accordance with the approved details and may include:

- a) creation of sloping escape ramps (mammal ladders) for badgers (and other mammals potentially using the site), which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and
- b) open pipework greater than 150 mm outside diameter being blanked (capped) off at the end of each working day.

Reason: In the interests of protected species and in order to address wildlife legislation and well as the wider biodiversity sensitives of the site.

4. Prior to the installation of any solar panel modules on the site, a Japanese knotweed mitigation plan (including a watching brief) shall be submitted to and approved in writing by the local planning authority. The mitigation plan should be implemented in full.

Reason: In order to address wildlife legislation and well as the wider biodiversity sensitives of the site.

5. Prior to the operation of any solar panel modules on the site a landscape and ecological management plan (LEMP) for all retained and created habitats shall be submitted to, and be approved in writing by, the local planning authority. The content of the LEMP shall include the following.
 - a) Description and evaluation of features to be managed / created.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
 - g) Details of the body or organization responsible for implementation of the plan.
 - h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details.

Reason: To ensure that ecological interests are protected and enhanced in accordance with paragraph 118 of the National Planning Policy Framework.

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

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

7. Prior to the commencement of the development, a Construction Traffic Management Plan shall be prepared and agreed by the Local Planning Authority in consultation with Highways England. The approved Construction Traffic Management Plan shall be adhered to at all times during the construction period, unless first agreed in writing by the Local Planning Authority in consultation with Highways England.

Reason: To ensure that the A38 trunk road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 by minimising disruption on the trunk road resulting from traffic entering and emerging from the application site and in the interests of road safety.

8. Following the decommissioning of the solar array hereby permitted and unless it is to be replaced with an updated array within the same supporting structures, the array, the supporting structures and any electrical equipment shall be removed from the land and the land shall be restored within 3 months of the solar array being decommissioned in accordance with a scheme that has previously been approved in writing by the Local Planning Authority.

Reason: Government advice is that such installations should be removed in the event that they are no longer required, in the interests of site restoration and to prevent any detrimental impact on the countryside.

9. All new hedging detailed on the proposed planting plan No. 0590.1.2A shall be carried out in the first planting season following the completion of the development; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through suggesting amendments to

improve the quality of the proposal and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

That the hedgerows, trees or shrubs on the application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to July inclusive. If you are in doubt as to requirements of the law in this regard you should contact English Nature, Peak District and Derbyshire Team, Manor Barn, Over Haddon, Bakewell, Derbyshire, DE4 1JE.

Derbyshire Police advise that the installation and offsite monitoring should be in accordance with British Standard 8418 and appendix R of the current National Police Chief Councils intruder alarm policy.

09/02/2016

Item 1.5

Reg. No. 9/2015/1111/FH

Applicant:
Mr P Robinson
Robinson's House,
Colliery Lane
Linton
Swadlincote
DE12 6PB

Agent:
Mrs Aida McManus
AM Planning Consultants Limited
17 Derwent Road
Stapenhill
Burton upon Trent
DE15 9FR

Proposal: THE ERECTION OF A BUNGALOW WITH TRIPLE
GARAGE AT LAND ADJACENT TO ROBINSONS HOUSE
COLLIERY LANE LINTON SWADLINCOTE

Ward: LINTON

Valid Date: 07/12/2015

Reason for committee determination

The application is considered contrary to policies within the development plan and therefore requires determination by the Planning Committee.

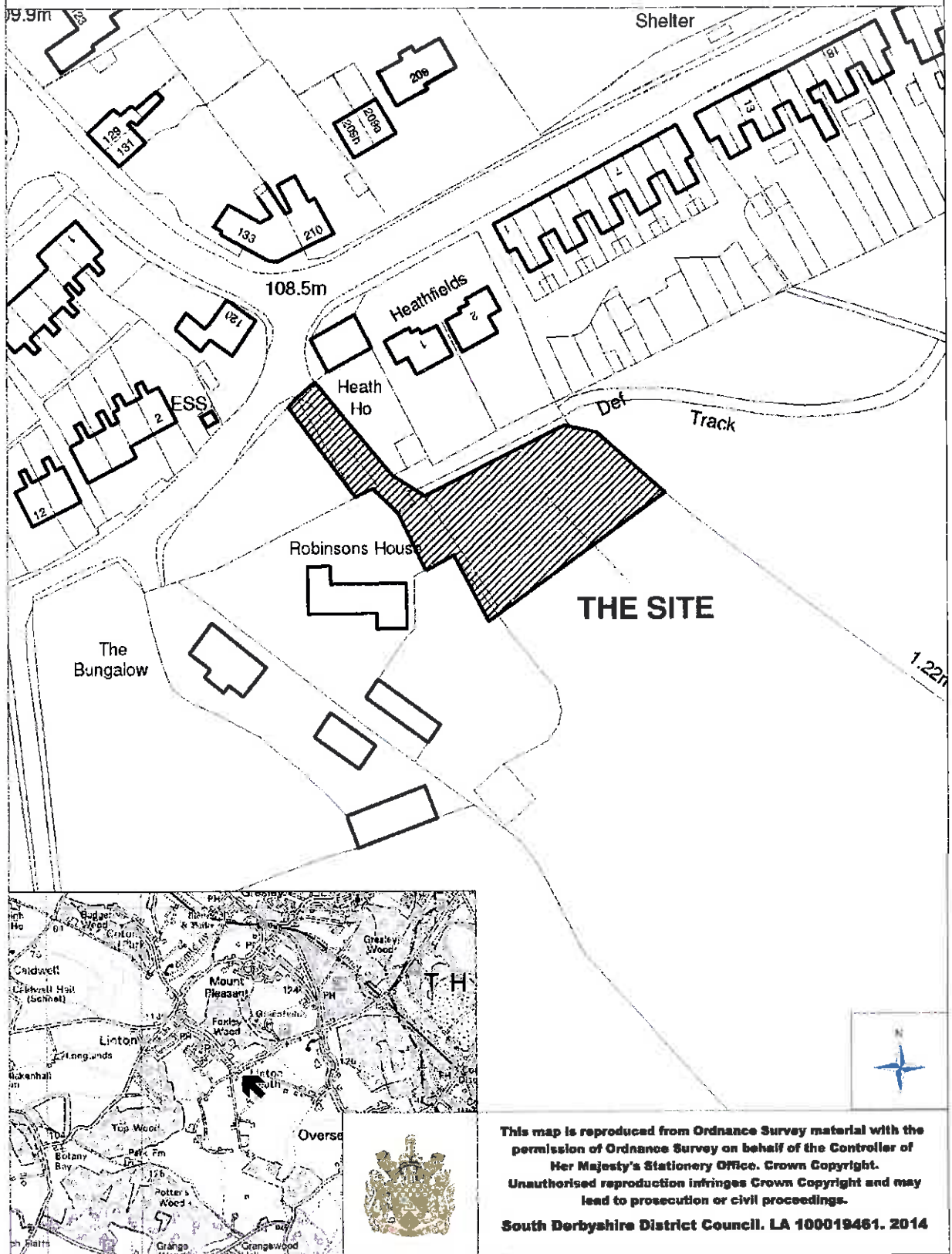
Site Description

The application site comprises approximately 1132m² of land currently used as a paddock, located off Colliery Lane via a private access drive. It is a flat site which has established hedgerow to the north east boundary and post and rail fencing to the remainder. It is located outside the village confine of Linton as defined by the Local Plan. There are various styles of properties adjacent to the site: Robinson House is a large modern, detached two storey dwelling accessed off the private access drive; Heath House is a two storey dwelling located on the road frontage to Linton Heath and Colliery Road and 1 and 2 Heathfields are modern two storey properties set back from the Linton Heath road frontage. To the front of the proposed site entrance is an area of open space/village green maintained by the Parish Council. To the rear of the site is a pond, residential caravan and holiday cabins.

Proposal

The application submitted is for the erection of a 3 bedroomed bungalow with garage and swimming pool. The proposal involves the demolition of two buildings currently sited on the land: a large steel framed open fronted storage building located along

**9/2015/1111 - Land adjacent to Robinsons House, Colliery Lane, Linton,
Swadlincote DE12 6PB**



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

South Derbyshire District Council. LA 100019461. 2014

the western boundary and an open fronted horse shelter located along the south western boundary. The buildings are the subject of a current enforcement investigation. No alterations to the access are proposed.

Applicant's supporting information

Applicants' supporting information

In support of the application are the following related documents:

- A Design and Access Statement
- A planning statement
- An ecology statement

The Design and Access Statement concludes that the proposal has considered fully the location of the site and the landscape area surrounding the property to ensure that the proposal reflects the rural character of the area and the landscaping is significantly retained and enhanced to prevent any adverse impact from the proposal.

The Planning Statement states that the scheme accords with the provisions of National and Local Planning Policy, and will help to deliver the authority's identified housing requirements in a sustainable location without resulting in any adverse impact which would significantly and demonstrably outweigh the benefits of granting planning permission.

The Ecology Statement includes a Phase 1 Habitat Survey and reports the following:

Floral diversity within the site is minimal and flora species are not considered to pose a constraint to the proposed development;

There were no features suitable for bats within the site, and bats are not considered to pose a constraint to the proposed development;

No evidence of badger was found and badgers are not considered to pose a constraint to the proposed development;

There was no suitable terrestrial habitat within the site for great crested newt. This combined with the lack of terrestrial habitat and connectivity to other ponds in the wider area suggests that great crested newt do not pose a constraint to the proposed development;

A single relict pigeon nest was found in a hawthorn bush in a hedgerow within the site and it is considered that this feature could be used by nesting birds in subsequent seasons. Due to this, work on the hedgerow should ideally avoid the nesting season for birds (February to September inclusive). If this is not possible, then the hedgerow should be checked by an appropriately experienced ecologist immediately prior to work commencing to determine whether nesting birds are present. If nesting birds are found to be present at this time, all work likely to cause disturbance should cease until the young have fledged and the nest is no longer in use.

Planning History

Several planning applications have been submitted many relating to the wider site, the most relevant to this application being:

9/2008/1096 - Change of use for the siting of a gypsy caravan - appeal dismissed 28 July 2009

Wider site area:

9/2008/1172 - The erection of stabling and an implement shed to replace existing structures - refused 02 February 2009.

9/2009/0163 - The reconstruction of implement shed, feed store and stabling - refused 20 April 2009. Appeal APP/F1040/A/09/2114418/WF Dismissed 22 January 2010

9/2008/0940 - The retention of an existing caravan for security purposes - refused on 22 December 2008. Appeal APP/F1040/A/09/2103650/NWF dismissed on 28 July 2009. The Inspector concluded that the temporary and unkempt appearance was unsightly and failed to contribute in any positive way to the intrinsic rural character and attractiveness of the countryside and there was no special justification to support the application. For these reasons the Inspector concluded that the proposal was contrary to Housing Policies 8 and 12 which seek to protect the countryside.

9/2007/0773 - change of use from redundant agricultural site to base for storage and habitation of residential touring caravans - refused 24 August 2007.

9/2008/0940 - the retention of a caravan - appeal dismissed 28 July 2009

9/2010/1047 - The erection of a dwelling (Robinsons House) and demolition of existing and unauthorised outbuildings and revocation of planning consent (9/2008/1096) for gypsy accommodation – granted December 2010

Responses to Consultations

The Environmental Health Officer (Contaminated Land) has no objection subject to the usual safeguarding condition.

Derbyshire Wildlife Trust considers that the survey work that has been undertaken to date is sufficient in support of this planning application. Conditions and advisory notes are suggested.

The County Highway Authority has no objection subject to right of access and conditions.

The Environment Agency has no comments.

Linton Parish Council has no objections.

Responses to Publicity

None

Development Plan Policies

The relevant policies are:

Saved Local Plan 1998: Environment Policies 1 and 8; Transport Policy 6; Housing Policies 5 and 11.

Emerging Development Plan Policies

The relevant policies are:

Submission Local Plan Part 1: S2, S6, H1, H19, SD1, SD4, BNE1, BNE3, BNE4, INF2

National Guidance

- National Planning Policy Framework (NPPF) Para 11-14 (The Presumption in favour of sustainable development), Para 17 (Core Principles), Chapter 6 (Housing), Chapter 7 (Requiring good design), Paras 186 & 187 (Decision-taking), Para 196 & 197 (Determining applications), Paras 203-206 (Planning conditions and obligations).
- National Planning Policy Guidance (NPPG)

Local Guidance

- SPG Housing, Design and Layout

Planning Considerations

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

- The principle
- Design, Layout and Impact
- Highways

Planning Assessment

The principle

Saved Housing Policy 5 advises that new housing development will be accommodated within the village confines. The site is situated within the open countryside where Local Plan Housing Policy 8 seeks to restrict the erection of dwellings except in certain specific circumstances. The proposed development does not accord with any of these circumstances. There are a range of services and facilities in Linton. Whilst the development would only create one additional dwelling,

it would help to maintain the vitality of these local services. A greater range of services and facilities are found in the nearby villages and towns. A regular bus service operates in the area which means that these can be accessed by public transport as well as by private car. Although only modest, the development would therefore contribute to the social dimension of sustainable development.

The Council acknowledges that it cannot demonstrate a 5-year supply of deliverable housing sites. The NPPF is clear that where there is a shortfall the relevant Local Plan policies should not be considered to be up-to-date and that due weight should be given to the relevant policies according to their degree of consistency with the NPPF's policies. On this basis, Policies H5 and H8 of the local plan are not entirely consistent with the NPPF's presumption in favour of sustainable development. Paragraph 55 of the NPPF refers to new isolated homes being avoided in the countryside unless there are special circumstances. In this instance, by reason of the sites relationship to the group of residential and other buildings it is considered that the proposed development would not amount to an isolated dwelling in the countryside in accordance with the up-to-date policy of the NPPF.

The benefits of the development from an economic and social view include: the creation of construction jobs; economic output as a result of the employment opportunities; expenditure from future occupiers; Council tax revenue and New Homes Bonus.

Character, Layout and Design

The site is accessed off a private drive which leads to Robinsons House, a large detached two storey dwelling, and a gated access to holiday cabins beyond. Nos. 1 and 2 Linton Heath and Heath House are detached dwellings located to the north west of the site fronting Linton Heath. A 1.8m high close boarded fence/brick wall is located along the rear boundary of those properties. Garden buildings are also erected within the gardens adjacent to the boundaries which extend above the boundary treatment. An unmade farm track leading to fields to the east provides additional separation between the proposed development and the properties. To the west of Robinsons House, set back from the Colliery Lane frontage is The Bungalow another property which is sited within land defined as open countryside.

Amended plans have been received since the original submission which reduce the footprint of the development and provide separation between the dwelling and garage reducing the overall mass. Whilst the proposal would add a new dwelling to the rear of the row of houses fronting Colliery Lane/Linton Heath, it would be seen as part of the existing cluster of dwellings consisting of varied type/styles. It would not be an isolated or a sporadic dwelling in the countryside and would not result in an unacceptable impact on the character and appearance of the surrounding area.

The proposed scheme is generally in accordance with the design guidance and therefore would comply with saved Housing Policy 11 of the adopted plan.

Highways

The site takes access from Colliery Lane, which although does not form part of the

adopted highway network, the agent has confirmed that the applicant has a right of access from the site to the adopted highway. The County Highway Authority has no objections to the proposal, subject to conditions.

Conclusion

Although the proposal is contrary to the development plan, given the location of the site adjacent to the village confine, utilisation of the existing vehicular access and receipt of amended plans reducing the overall scale and mass of development, it is considered that the proposed dwelling would not have an unacceptable impact on the character and appearance of the surrounding area and would respect the core planning principle set out in paragraph 17 of the NPPF of recognising the intrinsic character and beauty of the countryside. As such the proposal would accord with the environmental dimension of sustainable development.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended plan/drawing ref. 1516/10 Revision A, 1516/12, 1516/11 Revision A, and location plan 1516/01; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. Notwithstanding the submitted information, no part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.
Reason: To safeguard the appearance of the existing building and the locality generally.
4. Prior to the first occupation of the dwelling hereby approved the boundary treatment/landscaping indicated on the approved plans shall be fully implemented.

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

5. Prior to the first use of the development hereby permitted, the parking and manoeuvring space within the site curtilage as indicated on the approved plan 1516/10 Revision A shall be laid out, made available for use and maintained thereafter.

Reason: To ensure that adequate parking/garaging provision is available.

6. No site clearance including works to hedgerows that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the site for active birds' nests immediately before the site/vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: To afford suitable protection to wild nesting birds.

7. No external lighting shall be installed unless an external lighting scheme indicating any areas to be lit is submitted to and approved by the Local Planning Authority. The details should include:

(a) identify those areas/features on site that are particularly sensitive for bats used to access key areas of their territory, for example, for foraging; so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: In order to protect and enhance biodiversity on the site.

Informatives:

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

That the hedgerows on the application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to July inclusive. If you are in doubt as to requirements of the law in this regard you should contact English Nature, Peak District and Derbyshire Team, Manor Barn, Over Haddon, Bakewell, Derbyshire, DE4 1JE.

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

No evidence or signs of badgers was identified during the survey. As a precautionary approach you are advised that any works which include the creation of trenches or culverts or the presence of pipes you should incorporate measures to protect badgers (and other mammals) from being trapped in open excavations and/or pipe and culverts. The measures advised include:

- a) creation of sloping escape ramps (mammal ladders) for badgers (and other mammals potentially using the site), which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and
- b) open pipework greater than 150 mm outside diameter being blanked (capped) off at the end of each working day.

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result	Cttee/Delegated	Page
9/2014/0090	Overseal	Seales	Dismissed	Committee	117
9/2015/0050	Overseal	Seales	Dismissed	Delegated	123
9/2015/0110	Sutton	Hilton	Dismissed	Delegated	127
9/2015/0215	Etwall	Etwal	Dismissed	Committee	129
9/2015/0651	Stanton	Newhall	Dismissed	Delegated	137

Appeal Decision

Site visit made on 14 December 2015

by Richard Schofield BA(Hons) MA MRTPI

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

Decision date: 22 January 2016

Appeal Ref: APP/F1040/W/15/3132021

Land to the rear of Overseal Manor stables, Hallcroft Avenue, Overseal, Swadlincote, Derbyshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Pinehouse Limited against the decision of South Derbyshire District Council.
 - The application Ref 9/2014/0090, dated 29 January 2015, was refused by notice dated 11 February 2015.
 - The development proposed is erection of 4 no. two storey dwellings and 2 no. single storey dwellings.
-

Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Pinehouse Limited against South Derbyshire District Council. This application will be the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposed development on the setting of Overseal Manor.

Reasons

4. Overseal Manor (the Manor) is an imposing, early nineteenth century country house with a range of attached outbuildings. Its original lodge house remains, accessed from Moira Road, and what appears to be the original estate boundary along this road is defined by an extensive stone wall (with a modern addition to its eastern arm).
5. The appellant asserts that the principal views to and from the Manor are over the gardens to the south. However, the house is barely visible from Moira Road and views from its southern elevation do not appear to be particularly extensive. It is, however, prominent in views from Hallcroft Avenue and is clearly visible, through the gappy deciduous hedges, from the public rights of way that run along the northern and western boundaries of the appeal site. Even if this were not the case, the windows in the extensive western elevation have clear views out over the appeal site and the wider area of land adjoining it.

6. Although now reasonably sympathetically subdivided into individual dwellings, with the outbuildings converted, the Manor retains the appearance and character of a high status country house set within extensive grounds. The 'formal' grounds feature specimen trees in a reasonably well defined garden area, which would have formed the original approach to the dwelling.
7. Beyond this, even with more recent planting, the grounds appear to bleed out into the wider undeveloped landscape, with the pastoral appearance of the appeal site and other land around the house serving to set it apart from the historic village and more modern residential development. Indeed, it is evident from historic mapping provided by the appellant that the appeal site has formed part of the immediate undeveloped setting to the Manor since it was originally constructed.
8. The listing description focuses on the Manor's architectural features, from which much of its significance derives. Nonetheless, the sense of space, detachment and repose is a defining characteristic of country houses. The long standing association between the Manor and its landscape setting contributes to our understanding of its significance in this regard.
9. The appeal scheme would introduce six new dwellings with gardens, a roadway with a turning head, and an extensive parking area into the otherwise undeveloped land to the northwest of the Manor. This would appear as an incongruous and uncharacteristic domestic intervention into the space, significantly reducing the sense and appearance of detachment between the Manor and the wider village. It would appear significantly at odds with, and to the detriment of, this area's historic character, role and function. The spatial and visual relationship between the Manor and the land around it, as its setting, would be compromised and, in my judgment, the significance of the Manor would be harmed.
10. The development of The Stables, to the north of the Manor, notwithstanding its sympathetic design as an extension to the set of outbuildings, has had an impact upon the Manor's setting. Nonetheless, the appeal site, with the land that adjoins it to the south, still constitutes an expansive area of undeveloped land integral to the Manor's setting. I do not consider that the presence of The Stables or the subdivision of the Manor are so harmful that the significance of the appeal site to the Manor's setting has been negated or that these factors justify the further harm that would arise from the appeal scheme.
11. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is clear that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
12. For the reasons set out above, I consider that the appeal proposal would harm the setting of the listed building, in terms of its impact upon the undeveloped, pastoral land of which the appeal site is an integral part. This would, in turn, harm the significance of the building. Although this harm would be less than substantial, it would still be both real and serious and I give it very significant weight. There would, therefore, be conflict with Environmental Policy 13 of the

South Derbyshire Local Plan (the Local Plan), which states, among other things, that regard will be had to the need to preserve the setting of listed buildings.

13. Nonetheless, paragraph 134 of the National Planning Policy Framework (the Framework) is clear that where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
14. It is not disputed that the Council is unable to demonstrate a five-year supply of deliverable housing sites. The appeal proposal would make a modest contribution towards increasing supply and this is a matter to which I afford substantial weight.
15. The appellant notes that the appeal site is within the settlement limits of Overseal and so accords with the objectives of Local Plan Housing Policy 5. However, this policy also requires development to be in keeping with the character of the settlement, which, for the reasons set out above, the appeal proposal would not be. As such, I give this matter little weight.
16. The appellant also contends that due consideration has been given to the character and appearance of the area, such that the appeal scheme accords with the objectives of Local Plan Housing Policy 11, and paragraph 56 of the Framework, which recognise that good design is a key aspect of sustainable development. However, again for the reasons set out above in relation to my consideration of the scheme in relation to the listed building, I do not agree with this assertion. The appeal scheme would conflict with both of these policies and I give this suggested benefit little weight.

Conclusion

17. The suggested benefits outlined above are not, in my judgement, sufficient to outweigh the harm that I have identified to the specified heritage asset. Placing these factors and all of the relevant material considerations in the balance, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits. In the circumstances I conclude that the proposal would not represent a sustainable form of development. Thus, for the reasons given above, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Richard Schofield

INSPECTOR

Costs Decision

Site visit made on 14 December 2015

by Richard Schofield BA(Hons) MA MRTPI

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

Decision date: 22 January 2016

**Costs application in relation to Appeal Ref: APP/F1040/W/15/3132021
Land to the rear of Overseal Manor stables, Hallcroft Avenue, Overseal,
Swadlincote, Derbyshire**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Pinehouse Ltd for a full award of costs against South Derbyshire District Council.
 - The appeal was against the refusal of planning permission for erection of 4 no. two storey dwellings and 2 no. single storey dwellings.
-

Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (the Guidance) advises that costs may be awarded against a party who has behaved unreasonably and where this behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process
 3. The application for an award of costs alleges that the Council's Planning Committee, in determining the application, failed to accept the recommendations of its Officers and, as a result of this, failed to provide reasonable planning grounds for refusing planning permission.
 4. Considerations of planning applications necessarily involve matters of judgment and Local Planning Authorities are not bound to accept the recommendations of their Officers. Although they reached a different conclusion to that of Officers, it is evident that Members reached their decision against the background of a site visit, a detailed Officer's report and consultation responses.
 5. The Council did not provide a Statement of Case to expand upon its reason for refusal. This is not, however, uncommon. The reason for refusal is complete, precise, specific and relevant to the application. It has been substantiated with reference to the development plan. This being so, the applicant can have been left in no doubt as to the Council's case. Indeed, the Statement provided by the applicant as Grounds of Appeal focuses specifically on the matter of the setting of Overseal Manor and there is no evidence to suggest that the applicant was unclear about the Council's reason for refusal when choosing to appeal. This being so, it is not evident what unnecessary expense has been incurred by the appellant in the appeal process.
-

6. The applicant alleges that the Council made inaccurate assertions about the proposal's impact upon the setting of the listed building and, thus, made 'unnecessary objections'. I disagree and have reached the same conclusion as the Council in my Decision. The applicant may disagree with the judgment of Members, but this is not of itself grounds for an award of costs or evidence of wasted expense.

Conclusion

7. Thus, I do not consider that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has been demonstrated.

Richard Schofield

INSPECTOR

Appeal Decision

Site visit made on 1 December 2015

by Elaine Worthington BA (Hons) MTP MUED MRTPI

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

Decision date: 12th January 2016

Appeal Ref: APP/F1040/W/15/3135773

Former Telephone Exchange, Burton Road, Overseal, Derbyshire, DE12 6JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ian Perrett, Perrett Property Ltd, against the decision of South Derbyshire District Council.
 - The application Ref 9/2015/0050, dated 17 December 2014, was refused by notice dated 2 April 2015.
 - The development proposed is the change of use of a former telephone exchange (Sui Generis) to office use (Class B1) on Burton Road, Overseal, Swadlincote, Derbyshire, DE12 6JJ (see statement for further detail).
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the proposal on highway safety in Burton Road.

Reasons

3. The appeal property is a single storey brick former telephone exchange building. It has some planning history. Permission to use the building as a dwelling with vehicular access and parking was refused and subsequently dismissed at appeal¹. Permission to use the building as a dwelling, but without vehicular access or parking, was also refused and dismissed at appeal².
4. The proposed use of the building as an office subject to this appeal would not provide any parking or manoeuvring space for vehicles within the site. Although there is a gravel area to the front of the building at the back edge of the pavement, there is no dropped kerb here and this frontage would not be utilised by vehicles.
5. Burton Road (the A444) is a principal route that provides connections to the M42 and the A5. It is busy with traffic. A 2013 traffic count indicates that 10,472 two way vehicle movements were recorded in a 12 hour period. A speed survey undertaken in 2008 found that actual speeds along Burton Road exceed the 30 mph speed limit in both directions.

¹ APP/F1040/A/00/1036211

² APP/F1040/A/09/2101938

6. The proposed office would be within the settlement and on a bus route with regular services linking Overseal with nearby Burton and Swadlincote. There is a bus stop directly opposite the site and opportunities for walking and cycling exist. As such, the proposal would support the core planning principle of the National Planning Policy Framework (the Framework) to make the fullest possible use of public transport, walking and cycling. It would also align with one of the aims of paragraph 35 to locate and design development where it can have access to high quality public transport facilities. Furthermore, paragraph 39 of the Framework requires local authorities to be flexible in assessing parking provision, and to take into account the accessibility of the development and the availability and opportunities for public transport.
7. I accept that possibilities to access the site by public transport, walking and cycling exist. Consequently the occupier of the appeal building, and other visitors to it, would not necessarily be reliant on the private car. Nevertheless, that they may choose to travel to the premises by car cannot be discounted.
8. If this were to be the case, the appellant estimates that given its small scale, the office would only ever give rise to very minor levels of traffic, with a maximum of 4 vehicle trips generated per day. The proposed office is intended to be used in association with a local firm of accountants as a satellite office for a single employee. No visitors are expected to visit the building as part of the day to day operation of the business. The appellant indicates that the employee would utilise local parking in Coronation Street where on street parking is available, particularly during the day.
9. Burton Road is relatively wide and has no parking restrictions. At my visit I saw a number of parked cars here. There is a bus stop and access to the Co-op and a fish and chip shop opposite the site, along with a traffic island (with associated chevrons to prevent over taking) in close proximity. Whilst on street parking in Coronation Street would be possible, its use by the occupier of the appeal building and visitors could not be controlled or ensured. Furthermore, Coronation Street is some distance from the site. This being so, and since there are no parking restrictions in Burton Road, it seems to me that those seeking to access the appeal property may consider parking in Burton Road a more convenient alternative.
10. The appellant indicates that the nearby traffic island, access to the shops and the bus stop, coupled with the level of traffic on the road, would discourage parking on the street outside the site. However, in my view such parking cannot be ruled out and in the context of these physical constraints, any increase in the number of vehicles parking on Burton Road (and their associated movements within the highway) in the vicinity of the appeal site would disrupt the free flow of traffic in Burton Road (where the volume of traffic is high and vehicles are travelling at speeds which exceed the 30 mph limit). As such, even given the small numbers of vehicle movements that are estimated, the appeal proposal would unacceptably increase the potential for conflict between vehicles to the detriment of highway safety.
11. The appellant has provided a unilateral undertaking which is intended to ensure that the office use would only be enjoyed by businesses or individuals only prepared to access and service the site by means other than motor vehicle. This would be backed up by a tenancy agreement. With regard to the tests set out at paragraph 204 of the Framework, the appellant considers that such an

undertaking is necessary to make the development acceptable in planning terms, directly related to the development proposal and fairly and reasonably related in scale and kind to the development. I also note the appellant's view that the content and objective of the agreement is similar to planning obligations that prevent on site parking and restriction of access to parking permits in connection with car-free development, particularly in areas with a high degree of locational sustainability.

12. However, the wording of the undertaking is not compliant with section 106 (1) of the Town and Country Planning Act 1990 (as amended) (the Act) since it does not restrict the development or use of land as required by sub-paragraph (a). Rather it indicates that the appellant would only let the premises to businesses which would not access or service the site by motor vehicles. As such, it is a personal undertaking and would not bind the land for successors in title. Moreover, even if the wording of the obligation were to be compliant with the Act, although it aims to prevent access and servicing to the appeal site by vehicles, it does not seek to prevent parking associated with the premises on Burton Road. As such, the obligation would not be effective or able to achieve its intended purpose and in practical terms would be unenforceable.
13. I therefore conclude on this issue that the proposal would be harmful to highway safety in Burton Road. This would be contrary to Transport Policy 6 of the South Derbyshire Local Plan (Local Plan) which advises that all proposals for development should incorporate adequate provision for access, parking, manoeuvring and off street servicing. It would also be at odds with Local Plan Employment Policy 5 which is permissive of business use, provided the proposal is compatible with the scale and character of the settlement and is acceptable on environmental and traffic grounds. Furthermore it would fail to support paragraph 35 of the Framework which advises that developments should be located to create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians.

Other matters

14. The proposal would support the core planning principle of the Framework to encourage the use of existing resources, including the conversion of existing buildings. Similarly it would encourage the effective use of land by re-using land that has been previously developed. It would also be consistent with the Framework's support for a prosperous rural economy including through the conversion of existing buildings set out at paragraph 28 of the Framework. In terms of the economic role of sustainable development it would provide local employment and help to support existing services in Overseal.
15. It has not been put to me how the proposal would meet the other dimensions of sustainable development. Since it would be harmful to highway safety, I am not convinced that the proposal would create a high quality built environment that would support the community's health, or that it would contribute to protecting the built environment. Thus it would not meet the social or environmental role of sustainable development as set out at paragraph 7 of the Framework. As such, and since the scheme would be at odds with the development plan, I do not regard the proposal to be the sustainable development that the Framework indicates should be approved without delay.

16. I am aware that a residential use of the building has been found to be unacceptable and note the appellant's view that the proposed small scale business use would generate less traffic and parking demand compared to an alternative community or retail use. I also appreciate that the appellant was previously advised by the Council in 2009 that the appeal building could be used as an office (Class B1), or for storage/distribution (Class B8), without the need for planning permission. However, the need for planning permission for the appeal proposal and the acceptability or not of such alternative schemes, are not matters before me for consideration. I confirm that I have determined the appeal proposal on its own merits and made my own assessment as to its potential impacts.
17. The appellant suggests that should the appeal proposal be unsuccessful, the property would remain unused and empty and that this is unrealistic. He also considers that the building would fall into disrepair and as an unkempt derelict site would be a focus for crime and anti-social behaviour. However, I have been presented with no evidence to demonstrate that this would necessarily be the case and note the appellant's intention to discuss alternative schemes with the Council incorporating possible measures to overcome on site parking issues. Nor have I seen anything to suggest that the empty building has had a particularly adverse impact on the street scene, or that it has been a focus for anti-social or criminal activity in the past.
18. Drawing matters together, the proposal's re-use of an existing building and role in economic development are benefits of the scheme. However, given its relatively small scale as a satellite office for an existing business, its contribution to building a strong, responsive and competitive economy would not be great. Bringing the building back into use would also make a limited positive contribution to the character and appearance of the street scene. However, even taken together, the benefits of the scheme would not be substantial and therefore add only a limited amount of weight in its favour. Thus they are insufficient to outweigh the harm I have identified in relation to the main issue in this case.
19. The Council raises no objections to the scheme in relation to the living conditions of nearby residents. The absence of harm in this regard counts neither for, nor against the proposal.

Conclusion

20. For the reasons set out above, I conclude that the appeal should be dismissed.

Elaine Worthington

INSPECTOR

Appeal Decision

Site visit made on 14 December 2015

by R Schofield BA(Hons) MA MRTPI

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

Decision date: 19/01/2016

Appeal Ref: APP/F1040/W/15/3135617

Agricultural building adjacent 3 Field Gate Farm, Sutton on the Hill DE6 5JA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr M Hall against the decision of South Derbyshire District Council.
 - The application Ref 9/2015/0110/NCO, dated 10 February 2015, was refused by notice dated 10 April 2015.
 - The development proposed is conversion of redundant agricultural building to class C3 dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application that constitutes the appeal was made under the provisions of the Town and Country Planning (General Permitted Development) Order (as amended) 1995. This Order has now been superseded by the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). Class MB of Part 3 of Schedule 2 of the previous GPDO has been replaced by Class Q of Part 3 of Schedule 2 of the GPDO. For the purposes of this appeal there is little material difference in the paragraphs and I have, therefore, dealt with the appeal on this basis.

Main Issue

3. Class Q of the GPDO permits firstly a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) and, secondly, building operations reasonably necessary to convert the building to such use. It is not disputed that the building in question is an agricultural building for the purposes of Class Q. Based on all that I have read and seen I have no reason to disagree with this view.
4. Turning to Paragraph Q.1, the Council refused the application for prior approval solely on the grounds that the works proposed would fall outwith those permitted under Q.1(i). Thus, the main issue is whether the proposed development would accord with the requirements for permitted development for the change of use from a building in agricultural use to a dwelling house under paragraph Q.1(i) of the GPDO.

Reasons

5. The GPDO sets out that the building operations to achieve the change of use may only include the installation or replacement of windows, doors, roofs, or exterior walls; or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and partial demolition to the extent reasonably necessary to carry out these building operations.
6. At face value, the works proposed do not appear to breach the limits set by the GPDO, being suggested as the replacement or installation of doors, windows, roofs and exterior walls and the installation of services. However, the appeal building is a lightweight utilitarian structure and it was apparent from my site visit that the structural element of the building, consisting of a largely, if not completely, timber frame, appeared to be far from sound. There were large areas of rotten wood at the base of the wooden poles supporting the roof, as well as evidence of degradation in the wooden trusses.
7. The Planning Practice Guidance (the Guidance), which is a significant material consideration, states¹ that, *'It is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right'*. Even if this was not the case, it is reasonable to consider on a reading of the GPDO that conversion could only be achieved as permitted development if the building in question was structurally capable of supporting the conversion without the need for further works beyond those specifically permitted.
8. Bearing the poor condition of some of the building's structural elements in mind, and noting the advice in the Guidance, I am not persuaded that there can be any certainty that the building is structurally sound or that the proposed works could be achieved without a degree of structural work such that, arguably, the result would constitute rebuilding rather than conversion.
9. The appellant states that the walls could be replaced and upgraded without planning permission, which would reduce the extent of the works required. This may be so, but it would not address my concerns in relation to the building's structural condition.

Conclusion

10. Thus, I conclude that the proposed development would not accord with the requirements for permitted development for the change of use from a building in agricultural use to a dwelling house under paragraph Q.1(i) of the GPDO, there being no certainty that the works proposed would reasonably constitute conversion. This being so it is not necessary, or appropriate, for me to comment on the planning merits of the proposed change of use and conversion. For the reasons given above, and taking all other relevant matters into consideration, I conclude that the appeal should be dismissed.

R Schofield INSPECTOR

¹ Reference ID: 13-105-20150305

Appeal Decision

Site visit made on 1 December 2015

By Elaine Worthington BA (Hons) MTP MUED MRTPI

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

Decision date: 13th January 2016

Appeal Ref: APP/F1040/W/15/3136939

Land at Main Street, Etwall, Derby, Derbyshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Ms Hannah Ellis, Gainsborough Developments, against the decision of South Derbyshire District Council.
 - The application Ref 9/2015/0215, dated 11 March 2015, was refused by notice dated 26 August 2015.
 - The development proposed is a development of over-55s housing, community hub, self-build housing, residential care home, formation of access road and provision of open space.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application was submitted in outline with all matters reserved for future consideration and I have dealt with the appeal on this basis. However an illustrative layout and general context plan has also been submitted, to which I have had regard.

Main Issue

3. The main issue in this case is whether the proposal is a sustainable form of development and would provide a suitable site for development having regard to policies which seek to protect the open countryside, including its effect on the character and appearance of the area and the setting of the Etwall Conservation Area.

Reasons

4. The appeal site is an open field on the north side of Main Street. It is outside the defined boundary for Etwall as set out in the South Derbyshire Local Plan (Local Plan) and is therefore in the countryside in policy terms.
5. The Council accepts that it is unable to demonstrate a five year supply of housing land. Paragraph 49 of the National Planning Policy Framework (the Framework) indicates that where local planning authorities are unable to demonstrate a five year supply of deliverable housing sites, relevant housing supply policies should be considered out of date. In this instance these include Local Plan Policies H5 and H8.

6. As such, in itself, the appeal site's location outside the Etwall settlement boundary does not necessarily exclude its development for housing in policy terms. The presumption in favour of sustainable development is set out at paragraph 14 of the Framework and indicates that where relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. Paragraph 7 of the Framework establishes the three dimensions to sustainable development; economic, social and environmental.
7. The proposal would provide a development of housing for people aged over 55 along with some self build housing, a residential care home for elderly people and a community hub. The illustrative plan submitted shows 27 self build houses, 13 over 55s bungalows, 12 over 55s apartments, and a 60 bedroom residential care home. The community hub would be a building with space for such things as a site office, coffee shop and communal space and could provide a base for a live at home scheme to support elderly people to remain independent at home. Low maintenance gardens, a bowling green, formal gardens to the care home, a pond and outdoor gym equipment on the surrounding open space are also proposed.
8. In terms of the economic and social role of sustainability, although outside the settlement boundary, the site is adjacent to it and accessible to the village on foot. Etwall has a convenience store, post office, secondary school, primary school and other village services including a library, community hall and leisure centre. Bus stops are also nearby with frequent services to Derby, Hilton and Burton upon Trent. Main Street has cycle lanes and connects to the National Cycling Network which provides dedicated cycle routes to nearby settlements. Consequently the future occupiers of the proposal would not be unduly reliant on the use of a car to meet their day to day needs.
9. This would support the core planning principle of the Framework to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling. It would also align with Paragraph 55 of the Framework which advises that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
10. The appellant considers that the Council's Strategic Housing Market Assessment Update 2015 identifies an ageing population as a particular issue in South Derbyshire. The 2011 Census indicates that Etwall is an attractive place for older people to live since a high percentage of the adult population is over 55 (compared to South Derbyshire overall). The appellant also refers to national research on retirement housing which shows that over a quarter of people over 55 would consider moving to some sort of retirement housing.
11. Recently approved schemes in Etwall make no specific provision for housing for older people and Council is not proposing to allocate land in its emerging Local Plan specifically for such accommodation. As such, the appellant predicts a shortfall in meeting the housing needs of older people in Etwall. Additionally the appellant cites the government's support for self build projects and mentions the absence of allocated sites for this purpose. The Council does not dispute these findings.

12. Paragraph 50 of the Framework aims to deliver a wide choice of high quality homes and requires local planning authorities to plan for a mix of housing based on current and future demographic trends and the needs of different groups in the community such as older people and people wishing to build their own homes. The proposal would provide up to 52 homes that would make good use of public transport, walking and cycling in an area of housing supply shortfall. It would contribute to meeting the identified needs of an ageing population, including the construction of a care home. Thus it would offer a choice of retirement housing and care facilities along with support for independent living. This in turn would free up larger family homes in the village. Opportunities for self build would be increased and additionally contributions towards affordable housing would be made. This being so, the proposal would support this aim of the Framework.
13. Furthermore, the scheme would be of value to the construction industry and result in direct and indirect employment generation with associated positive impacts on economic output. This would include short term construction jobs (estimated by the appellant to be over 150 jobs over the 3 to 5 years the project would take to construct). The self build houses would involve local traders and materials sourced from local suppliers. The future occupiers of the accommodation would support local services and facilities through expenditure. Jobs would be created in the care home, community hub and in supporting residents. The Council also acknowledges the benefits of the scheme in relation to the New Homes Bonus and Council Tax revenue.
14. New public open space and recreational facilities would be provided on a site which is not currently publically accessible and the recreational value of the site would be increased. Contributions for the enhancement of off site public open space would also be forthcoming. New community facilities centred around the hub building would be created and contributions towards improved health care and education facilities would be made.
15. The appellant has submitted a signed Section 106 agreement to secure these matters. Thus the proposal would meet the economic and social dimensions to sustainability. Additionally, these factors are benefits of the scheme and cumulatively add some considerable weight in favour of the proposal.
16. Turning to the environmental role of sustainability, the site is a field on the edge of the village. It is bounded by hedgerows and a wall along part of its frontage to Main Street. The site is contained to the north by a tree belt and is separated from the wider landscape to the north by this and the A516. The existing built edge to Etwall at Primrose Bank adjoins the site to the west and is a clear and rather abrupt boundary to the edge of the settlement. On approach from the north/east the site is seen against the backdrop of existing development in Etwall. As such, the site relates to some extent to the built up area and is contained by roads and significant planting. The appellant also refers to other urban features nearby including a wind turbine and a communications mast along with traffic noise on the A516.
17. Even so, despite these factors the site relates closely to the wider rural landscape to the north, east and south and is characteristic of the pastoral landscape of rolling countryside found within the Needwood and South Derbyshire Claylands landscape character area within which the site is located. The site's hedgerow structure has been intensively managed and includes gaps

with an absence of trees and field margins that are absent or narrow. Whilst not a rare or unspoilt example, the field is nevertheless representative of the wider area of the settled farmlands character area identified in the Council's Landscape Character of Derbyshire document.

18. The site is not subject to a formal landscape designation, or within an Area of Outstanding Natural Beauty or a National Park. The site is identified in the Council's Strategic Housing Land Availability Assessment (SHLAA) as potentially suitable for development without mention of any landscape issues. I also note the appellant's view that it was not initially identified by the Council as being a valued rural landscape and I understand that it was agreed that a full Landscape and Visual Impact Assessment was not required to support the planning application. There are no public rights of way across the site and it is not used for recreation.
19. However, as a relatively large area of undeveloped agricultural land in a gateway location, the site plays an important role at the approach to the village from the north. Although Main Street lies below the site and there is an existing wall and hedgerow, views of the open nature of the site are readily evident travelling in both directions along Main Street. In conjunction with the adjoining fields and with those on the south side of Main Street, the appeal site is part of a rural landscape which contributes to the character and appearance of the area.
20. The Etwall Conservation Area covers the historic core of the village and is around 60 metres south of the appeal site beyond Burnaston Lane. The Conservation Area Character Statement (CA Statement) considers the approach to the village from the roundabout on the A516. It advises that the road follows a rural landscape of arable fields lined by hedgerows until the ground rises up in a continuous gradual slope to the village. This northern approach best illustrates the topography as the settlement can be seen perched on a hill with a backdrop of trees, which distinguishes the village from the surrounding countryside.
21. Although it is not adjacent to the Conservation Area's boundary and is separated from it by Primrose Bank, the appeal site plays a key role in this rural landscape and helps to define the rural character of the village. Thus in my opinion the countryside nature of the appeal site is a characteristic of the setting of Etwall and its Conservation Area. That the site is not identified as lying within any identified principal views or open spaces in the CA Statement does not alter my view. Paragraph 132 of the Framework indicates that the significance of a designated heritage asset can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
22. The buildings would be arranged to provide an attractive development with a strong sense of place to respond to the site constraints. The indicative layout avoids a continuous built form along Main Street and provides a more feathered frontage inspired by the village character with a limited number of buildings some of which are single storey. A landscape buffer to screen the development from the road is also proposed. Substantial planting and soft landscaping (including new trees and hedgerows) is intended along the site's boundaries and could be secured through the Council's consideration of the reserved matters. As a result the proposal would increase tree cover and enhance field boundaries, whilst maintaining the field pattern and topography.

23. This planting would to some extent soften the appearance of the proposed development and provide a more gradual visual transition (or flow of development) between urban and rural than currently exists. The CA Statement recognises that whilst its boundary has been drawn tightly to exclude properties on the northern edge of the village, the cluster of 20th Century houses seen on the Derby approach road is built on raised land and still has an impact on the setting and northern approach to the Conservation Area.
24. Nevertheless, the introduction of development on to this prominent site would expand the extent of Etwall significantly northwards from the current built up limit of the village (which is clearly demarked by the edge of Primrose Bank). This would represent a substantial encroachment of development into currently open land that is defined as countryside and would result in the loss of what is an important area of countryside on the main approach to the village. Given the scale of the development proposed I am not convinced that the existing planting or proposed landscaping would disguise the consequent loss of openness or screen the proposal to the extent that it would lessen its visual impact to any significant degree. Despite the changes in levels, the resultant considerable intrusion of built development would be appreciated in views from Main Street where the development would be likely to be seen in an elevated position.
25. Thus, even against the backdrop of the houses in Primrose Bank and the village, the proposal would unduly detract from the rural character of the adjoining land and the appearance of the surrounding countryside. It would appear intrusive in this context, at odds with the surrounding rural landscape of arable fields and would unacceptably undermine the attractive open character of the approach to the village. For these reasons I consider that the proposal would harm the overall character and appearance of the area.
26. The historic core of Etwall is surrounded by more modern development, including by twentieth century housing on the approach from the south and west. Similarly the houses at Primrose Bank provide a buffer between the Conservation Area and the countryside on the approach from the north. The proposal would not affect key views into or out of the Conservation Area including of the historic core or the trees there. Nor would it obscure views of the elevated village on approach from the north. Be that as it may, as an unacceptable intrusion into the rural surround to the village, it would in my view have a negative impact on the countryside setting of the village and thus on the setting of the Conservation Area as well.
27. The retention and enhancement of the hedgerows on the site, along with tree planting and the creation of a pond, meadow, wetland and orchard as part of the proposed open space would result in gains to biodiversity. A sustainable urban drainage strategy would be employed. Additionally the buildings would be built to a high standard of sustainable construction to meet building regulations. However, for the reasons set out above, the proposal would have an adverse visual impact on the character and appearance of the surrounding area including the setting of the Conservation Area and so overall would fail to protect or enhance the natural environment. Consequently, it would not accord with the environmental dimension of sustainable development.

28. Bringing matters together, paragraph 8 of the Framework is clear that to achieve sustainable development economic, social and environmental gains should be sought jointly and simultaneously. The proposal would result in the considerable economic and social gains considered above and would play a role in building a strong responsive and competitive economy and supporting a strong, vibrant and healthy community. There would also be some environmental gains in terms of the scheme's contribution to helping to improve biodiversity, minimise waste and pollution and adapt to climate change. However, for the reasons given, the scheme would fail to result in positive improvements in the quality of the built, natural and historic environment anticipated by paragraph 9 of the Framework. As such when considering the scheme as a whole, environmental gains would not be realised. As a result, the proposal does not amount to sustainable development.
29. I confirm in any event, that the adverse impacts of granting permission in this instance would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. With paragraph 134 of the Framework in mind, I also confirm that although the harm that would be caused to the significance of the setting of the Etwall Conservation Area would be less than substantial, it would nevertheless be material, and would not be outweighed by the public benefits of the proposal as outlined. Whilst I note the appellant's view that the scheme did not give rise to a high number of objections, that is not a reason to allow development I have found to be harmful.
30. I therefore conclude on this issue that the proposal would not be a sustainable form of development and would fail provide a suitable site for development having regard to policies which seek to protect the open countryside, it would also have a harmful effect on the character and appearance of the area and would fail to respect the character and appearance of the area and the setting of the Etwall Conservation Area and would undermine the significance of this heritage asset.
31. This would be contrary to Environment Policy 1 of the Local Plan, criterion (iii) of which seeks to safeguard and protect the character of the countryside, the landscape quality, and wildlife and historic features. In so far as it seeks to ensure that new development outside settlements protects the character of the countryside and landscape quality, I am satisfied that this criterion aligns with the core planning principle of the Framework to recognise the intrinsic character and beauty of the countryside. The Council also refers to Policy BNE1 of the emerging Local Plan Part 1 which relates to design excellence. However, since this plan remains subject to Examination and has not yet been adopted this policy is of only limited weight. The proposal would also fail to support paragraph 109 of the Framework which seeks to protect and enhance valued landscapes. Additionally it would be at odds with the core planning principles of the Framework of conserving and enhancing the natural environment and conserving heritage assets.

Other matters

32. The appellant has submitted a signed Section 106 agreement in relation to public open space (on site and off site contribution), along with contributions for affordable housing, health care and education. It also covers matters of waste management capacity and drainage and the occupation of the specialist

dwellings and self build units. However, since the appeal is unacceptable for other reasons and is to be dismissed on its substantive merits, it has not been necessary for me to consider the submitted obligation in the light of the tests out in regulation 122 and 123 of the Community Infrastructure Levy Regulations 2010 and paragraph 204 of the Framework.

Conclusion

33. For the reasons set out above, I conclude that the appeal should be dismissed.

Elaine Worthington

INSPECTOR

Appeal Decision

Site visit made on 8 December 2015

by J C Clarke BSc BTP MRTPI

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

Decision date: 15 January 2016

Appeal Ref: APP/F1040/D/15/3133650

139 Woodland Road, Stanton, Swadlincote DE15 9TJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Ann Power against the decision of South Derbyshire District Council.
 - The application Ref 9/2015/0651, dated 13 July 2015, was refused by notice dated 10 September 2015.
 - The development proposed is described as "Having the kerb dropped and create a car parking/drive".
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposed development in this decision is based on the response to question 3 of the application form, but excludes elements which do not describe the development.

Main Issue

3. The main issue is the effect of the proposed development on highway safety.

Reasons

4. 139 Woodland Road is in the middle of a short terrace of three houses fronting onto the A444, which is a busy principal road running southwards from Burton upon Trent. There are bends in the A444 both to the west and east of the appeal site. This section of the road has double white lines that restrict overtaking and have the effect of restricting parking. It is used, according to Derbyshire County Council (the Highway Authority for the area), by a significant number of Heavy Goods Vehicles and has a 30 mph speed limit.
 5. Whilst much of the area of the appeal site is rural, there is a significant amount of development alongside Woodland Road. There are a number of vehicular accesses off this road, for example to Stanton Primary School to the west, and to other dwellings. Of the three properties at 137-141 Woodland Road, the appeal property has the narrowest plot width reflecting its mid terrace location. The neighbouring properties at 137 and 141 Woodland Road are fronted, at the back of the footway alongside Woodland Road, by a high fence and high hedge
-

respectively. The proposed dropped kerb would provide access to a small parking area.

6. As stated in the Highway Authority comments, national guidance¹ advises that visibility splays should be provided at driver height from 2.4 metres back from the carriageway edge. The visibility splays must extend to either side from this point for a distance which depends on prevailing traffic speeds and must cater for the possibility of traffic approaching on either side of the carriageway, even where there are double white lines in the road. For example, where 85% of traffic travels at or below 30 miles per hour the required length of splay would be 43 metres. Longer splays are required where, as the Highway Authority has indicated may be the case here, traffic speeds are greater.
7. The available visibility falls considerably short of the requirements set out above, particularly in a westerly direction, due to the high boundary features which exist in front of neighbouring property and the alignment of the road. Furthermore, there is insufficient space within the appeal site for cars or other vehicles to turn. Any cars parking in the proposed parking area would need to reverse into or out of the site, thereby exacerbating the substantial accident risk.
8. Due to the limited visibility and lack of turning facility, the appeal proposal would cause significant harm to highway safety. It therefore conflicts with saved transport policy 6 of the South Derbyshire Local Plan 1998, and the provisions of the National Planning Policy Framework related to highway safety.
9. The lack of detailed evidence about the extent to which speed limits are exceeded on the A444 does not outweigh the requirements concerning visibility and vehicle manoeuvring. Whilst the width of the appeal property is more than sufficient to accommodate a car it is not sufficient to enable a car to turn safely within the site.
10. As stated by the appellant, some of the neighbouring dwellings have existing vehicular accesses of varying widths. Some but not all of these have turning areas within the site. I have limited evidence concerning the planning history of the other accesses, and their existence does not in any event justify allowing a new hazardous vehicular access.

Other matters

11. The appellant's enquiries about the steps being taken by the Highway Authority to address existing parking arrangements, management of bin lorries and other highway safety matters along this stretch of the A444 are not relevant to my remit, which is to consider the planning merits of the proposed new access.
12. The appellant's comments about the Council's processing of their proposal, availability of records of earlier similar enquiries and proposals, financial implications of the refusal of planning permission, the difficulties of parking overnight at Stanton Village Hall or Woodland Motors, and insurance issues connected with these arrangements are similarly not relevant to my consideration of these planning merits. Whilst the proposal would provide a parking facility within the appeal site this does not outweigh my findings concerning highway safety.

¹ See for example "Manual for Streets" Department of Communities and Local Government/Department of Transport 2007

Conclusion

13. For the above reasons, I dismiss the appeal.

Jonathan Clarke

PLANNING INSPECTOR

