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Date: 23 June 2020

Dear Councillor,

Planning Committee

A Meeting of the **Planning Committee** will be a **Virtual Committee**, held via Microsoft Teams on **Wednesday, 01 July 2020 at 17:00**. You are requested to attend.

Yours faithfully,



Chief Executive

To:- **Conservative Group**

Councillor Mrs. Brown (Chairman), Councillor Mrs. Bridgen (Vice-Chairman) and Councillors Angliss, Brady, Ford, Muller, Watson and Mrs. Wheelton

Labour Group

Councillors Gee, Dr Pearson, Shepherd, Southerd and Tilley

AGENDA

Open to Public and Press

- 1** Apologies and to note any Substitutes appointed for the Meeting.
- 2** To note any declarations of interest arising from any items on the Agenda
- 3** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 4** REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY) **3 - 70**
- 5** TREE PRESERVATION ORDER 527 LAND OFF SWAN HILL **71 - 76**
MICKLEOVER
- 6** PROPOSED TREE PRESERVATION ORDER 528 THE HAWTHORNS 52 **77 - 78**
MAIN STREET NEWTON SOLNEY

Exclusion of the Public and Press:

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

Report of the Strategic Director (Service Delivery)

Section 1: [Planning Applications](#)

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

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
DMPA/2019/1143	1.1	Hilton	Hilton	6
9/2019/0406	1.2	Church Broughton	Hilton	35
9/2018/1047	1.3	Scropton	Hilton	45
DMPA/2019/0984	1.4	Hatton	Hatton	52
DMOT/2020/0134	1.5	Mickleover	Etwall	65
DMOT/2020/0396	1.6	Melbourne	Melbourne	68

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

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

Glossary of terms

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

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

Item No. 1.1

Ref. No. DMPA/2019/1143

Valid date: 22/10/2019

Applicant: Providence Land Limited

Agent: Dr Wickham
Howard Sharp & Partners LLP

Proposal: Outline application (matters of access to be considered now with matters of layout, scale, appearance and landscaping reserved for later consideration) for the residential development of up to 57 dwellings with associated landscaping, parking and sustainable drainage on land at SK2531 3702, Lucas Lane, Hilton, Derby

Ward: Hilton

Reason for committee determination

This item is presented to Committee at the request of Councillor Julie Patten on the basis that local concern has been raised about a particular issue. In addition, in excess of 4 letters of objection have been received against the application.

Whilst a report was previously published for this item, it was not considered by the Committee due to circumstances relating to the Coronavirus outbreak. The report has been updated and/or changed to reflect any further responses to publicity and changes in circumstances since then, and should be read in isolation to the previously published report.

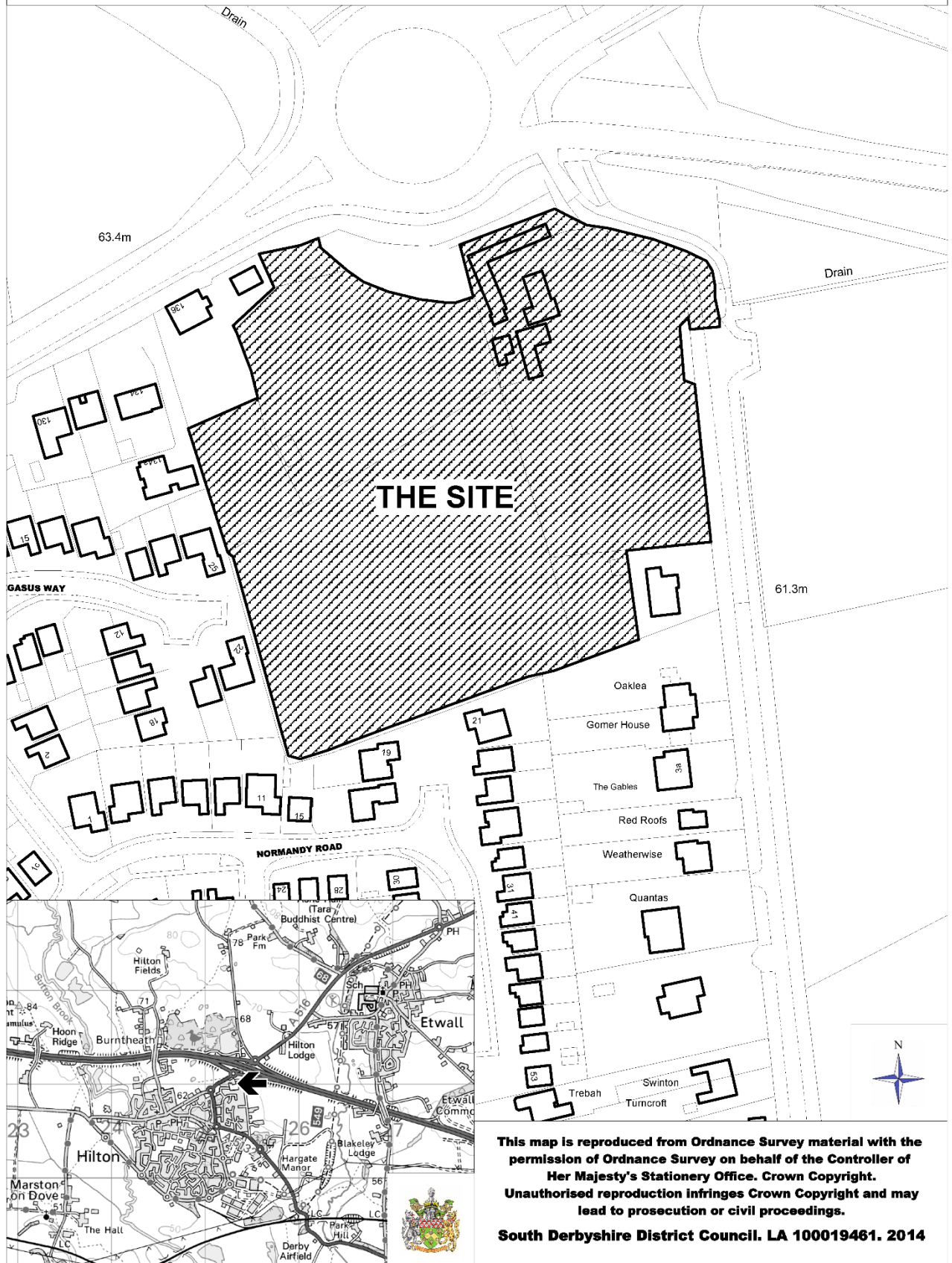
Site Description

The site is situated at the northern end of Lucas Lane, it is 2.0 hectares in area and is relatively flat. It comprises three fields, a group of agricultural buildings and small areas of residential curtilages. The main natural features comprise the perimeter and dividing hedgerows. To either end of the hedgerow bounding Lucas Lane, there are two substantial oak trees. The site is visually enclosed by the intersection to the A50 to the north and dwellings to the west and south. Currently, vehicular access into the site is via Lucas Lane leading to a private track serving the fields and farm buildings. Alongside this track is a public right of way, which continues further north. Properties along Lucas Lane, within the vicinity of the site are generally detached and set in large plots, whereas the dwellings on Normandy Road, to the south and Pegasus Way, to the west form part of relatively modern residential developments. Further east of the site is agricultural land and further north is the A1352 and a roundabout connecting to the A50. The highway infrastructure is however separated from the site by a woodland buffer. Pedestrian access to the centre of Hilton is along Derby Road or Lucas Lane.

The proposal

This is an outline application for up to 57 dwellings and associated infrastructure. All matters have been reserved for later consideration, aside from access. Two access points are proposed. The main access would be situated roughly mid-way along the sites eastern most boundary, with Lucas Lane. The secondary access would re-use (and upgrade) the existing farm access, situated further north along Lucas Lane. Illustrative layout details have been provided. These show an area of open space, incorporating SUDS features adjacent to the boundary with Lucas Lane. The layout is structured on the principle of perimeter blocks; meaning that the dwellings would address the street to maximise surveillance, and the orientation of buildings have been position so as to provide a clear

DMPA/2019/1143 - Land at SK2531 3702, Lucas Lane, Hilton, Derby DE65 5FL



demarcation between the private and public realm. To mitigate noise from the A50, a perimeter block of dwellings to the north of the site, in a crescent formation are shown, which would face sizes, including bungalows, along with the required parking provision and circulation space at an appropriate density, of approximately 30 dwellings per hectare.

Applicant's supporting information

A Planning and Sustainability Statement provides an overview of the site, its natural characteristics and existing access. Accessibility information is then detailed both in terms of the sites proximity to local service and facilities and to sustainable transport measures within the local area (bus routes, foot/cycleway). An appraisal of technical matters (topography, ecology, trees, landscape character, flood risk and noise) is then undertaken, followed by a policy review. Key points within the NPPF are discussed, including the presumption in favour of sustainable development and housing delivery. In regards to housing delivery, it is specifically identified that Local Planning Authorities (LPAs) must make every effort to meet their housing need and should seek to significantly 'boost' the supply. In terms of local policy it is identified that the principle of housing within settlement boundaries is accepted by Policy SDT1 and that the Core Strategy Topic Paper of July 2014 identified Hilton to be the District's second largest small town/village. A sustainability appraisal is then included. As part of this it is referenced that 30% affordable housing would be provided, along with properties sized to reflect local demand. The Flood Risk Assessment and Drainage Strategy is then referenced, stating how the proposal is able to meet the challenges of climate change in relation to future flood risk. A section summarising planning obligations and local financial considerations is then provided, followed by conclusions. The report concludes that the development is within a suitable location, where housing development should be accepted and would fulfil the economic, social and environmental intentions of sustainable development as a result of the following:

- The development would make a significant contribution to the Council's housing land supply;
- It would provide a range and mix of house types and tenures;
- It is in an accessible location in relation to Hilton but also bus services to nearby towns;
- It would provide housing in ways that would not harm the local landscape, is sensitive to its location and respond positively to the distinctive character of the area;
- It has a low probability of flooding and can be developed without increasing flood risk elsewhere;
- It can provide appropriate amounts of Green Infrastructure that would result in public open space, sustainable drainage and improvements in biodiversity;
- The development would qualify for a New Homes Bonus over a six year period which can be used to benefit the local community;
- The site is contained and would not result in any harmful visual impacts.

A Design and Access Statement describes the site and its context. A character appraisal of the nearby residential areas is provided, supplemented by a photomontage identifying specific architectural features. Design objectives, in accordance with the Design SPD are then listed; it is stated that the development would reflect and respect the character of Lucas Lane and the nearby countryside; would integrate within and enhance the sites setting; and would be designed to mitigate noise impacts from the A50. An evolution of the design is then provided. Sections are subsequently included on: 'Amount and Layout', identifying that the proposal would be for 57 dwellings at 30 dwellings per hectare (dph); 'Scale', identifying that this would be reflective of surrounding development, 'Appearance', which explains that the development would draw on local character and would utilise high quality materials; 'Landscaping', which identifies that a substantial area of open space would be provided to the sites frontage, that the woodland buffer adjacent to the A50 boundary would be retained and that as far as practical, existing trees and hedgerows would be incorporated; and 'Crime Prevention', which explains that the orientation of properties would ensure natural surveillance. Overall, the report concludes that an acceptable layout and access can be achieved, for vehicles, cyclists and pedestrians and that connectivity both within and surrounding the site can be improved. It is finally stated that the proposal would deliver a high quality policy compliant development that would secure good design and promote healthy communities.

A Preliminary Ecological Appraisal (PEA) and Ecological Impact Assessment identifies describe and assess the value of important ecological receptors, identifies potential ecological impacts, effects, mitigation and compensation measures and provides an assessment of the significance of any residual effects. The report also sets out the requirements for post-construction monitoring and identifies any associated legal and policy implications. On the basis of the evidence gathered, the site's habitats are not considered to be intrinsically of high ecological importance. It is however acknowledged that the development would result in a loss of grassland and hedgerows, but that impacts are not anticipated to be significant beyond the site level. Mitigation and compensation measures are identified to reduce or avoid effects on nesting birds, toads and great crested newts.

A Bat Survey seeks to identify the presence or likely absence of bat roosts and to make recommendations for any further survey work. The Building Assessments identified building B1 as having very low bat roost potential, B3 as moderate and B8 as low. To best practice standards the report advises that the low potential buildings should be subject to one dusk or pre-dawn survey and the moderate building should be subject to two surveys in the form of a single dusk and separate pre-dawn survey. However, in the context of the cluster of buildings and the local habitats, the report considered that three surveys (two separate dusk and a single pre-dawn) would be robust and appropriate. Each of these buildings (B1, B2, B3, B8) were included in each survey. Three surveyors were used on the dusk surveys and two for the pre-dawn survey. No bat roosts were recorded within the Site. During the nocturnal surveys, common pipistrelle brown long-eared bat and noctule were recorded over the Site. On this basis no mitigation is recommended.

A Breeding Bird Survey identified 37 species of bird during the course of the survey. Of these species, 24 were confirmed, probable or possible breeders within the application site. There were no specially protected species recorded throughout the course of the surveys. Of the birds of conservation interest, confirmed, probable and possible breeders were dunnock, house sparrow, song thrush, linnet and bullfinch.

The Reptile Survey notes that surveys were carried out between 12th July 2018 and 17th September 2018. The surveys concluded that there were no constraints on the site with regard to reptiles, but that the original ecology report should be referred to for advice on other flora and fauna. A great crested newt was however recorded at the site, but it is stated that this is further considered within the separate Ecological Impact Assessment.

A Tree Survey categorises the existing trees and hedgerows on the site according to their condition. A future management plan is also provided for each specimen/group of vegetation, along with measures to secure their protection throughout the course of the development. The report identifies that the vast majority of vegetation on the site would be retained and maintained/protected. This is with the exception of a small portion of vegetation which has been categorised as a 'C' or 'U' classification and so is of very poor quality.

A Transport Statement includes chapters on the following: Policy, The Existing Situation, The Proposed Development, Trip Generation and An Assessment of Traffic Impacts. This explains that the location of the proposed development is consistent with national, regional and local policy aspirations. That there are a range of jobs, schools, shops, community facilities and amenities, which are accessible within reasonable walking and cycling distance of the site, reducing the need to travel by private car and that the development would also be well positioned relative to a wider range of employment, commercial, retail and recreational facilities located in Hilton. It is identified that the development is proposed to be served by two new vehicular accesses onto Lucas Lane and that pedestrian access is also promoted from these locations, where new footways would provide pedestrian facilities, linking the site to the wider area. It is stated that parking provision would be in accordance with the specified guidance and that cycle parking provision would be provided. In conclusion it is explained that the appraisal of the impacts along the wider highway network demonstrate that the traffic flows generated would dissipate onto the various road corridors and that the resultant increases in traffic along the road corridors beyond the proposed development would

fall within the day-to-day variation of traffic flows, and would not therefore trigger any material impacts. In transportation terms it is stated that there are no overriding or sustainability reasons why the development should not be approved.

A Travel Plan sets out objectives and measures to promote and provide for the use of sustainable modes of transport as an alternative to single occupancy car use, along with a strategy for implementation, target setting and monitoring. The plan contains sections on: Transport Policy; Existing Sustainable Transport Opportunities; Development Proposals; Management; Measures and Initiatives; Targets and Monitoring; and Workplace and a School Travel Plan. The overarching objectives which underpin this Travel Plan are to:

- Reduce the need for unnecessary travel to and from the development;
- Reduce the traffic generated by the development to a lower level than would normally be predicted for the site without the implementation of a Travel Plan, in order to minimise the impact on the local highway network;
- Encourage those travelling to and from the development to use public transport, cycle or walk in a safe and secure manner; and
- Promote healthy lifestyles and sustainable, vibrant local communities.

It is identified that the developer would fund the requirements and monitoring of the Travel Plan and that sales/marketing staff would be trained to promote sustainable travel and sell the Travel Plan aspirations to potential buyers. Further, a Travel Plan Coordinator would be appointed to monitor targets.

A Flood Risk Assessment (FRA) identifies that the proposed development is within Flood Zone 1 and is not therefore at significant risk of flooding. To minimise surface water flooding it is proposed that finished floor levels be raised 1.5m across the north side of the development and 1.2m on the east side of the development. Finally it is stated that the proposed onsite drainage systems are in accordance with the NPPF and would ensure no third parties would be at risk from flooding.

The Flood Risk and Drainage Addendum details the surface water drainage proposals and their feasibility. Initially it was identified that it would not be possible to soakaway to a nearby watercourse. An acceptable discharge rate (at greenfield runoff rates) was subsequently calculated, which would prevent any downstream flooding. The design of a proposed attenuation feature has been determined on the specifics of the development (as far possible at this outline stage) and details of its design, provided; this feature would be to the size shown on the illustrative plans and would have grassed sides with a gradient of 1 in 3. It is explained that a maintenance contract would be established to prevent erosion and debris build-up. On the basis of its design, and that it would be overlooked, it is considered to result in minimal risks. Subject to it being able to hold the required volume, it is noted that the specific detail, shape and design of the attenuation feature could be amended.

A Noise Assessment initially describes the location of the site in relation to the existing transport infrastructure and neighbouring land uses and provides an overview of the development proposal. It contains chapters on the following:- national and local planning policy and 'industry standard' design guidance relevant to noise; the results of environmental noise monitoring (to determine existing noise levels); the results of the baseline acoustic modelling of the site; an initial risk assessment of noise conditions at the site in line with Stage 1 of ProPG guidance; a detailed Stage 2 assessment of the development proposals in line with ProPG guidance; and details of how the temporary construction impacts of the scheme would be controlled. In terms of the Existing Noise Environment it is stated that noise levels across the measurement locations are dominated by noise from the A50 and that the northern boundary of the site is also influenced by traffic on the A5132. The requirements of national and local planning policy are identified along with reference to industry standard design guidance, in particular ProPG: Planning and Noise, recently published by the Institute of Acoustic, Association of Noise Consultants and Chartered Institute of Environmental Health. The site suitability for residential development has been assessed in line with stage 1 of

ProPG guidance, which concludes that the site represents a “low” to “medium” noise risk. With particular regard to the considerations required by ProPG, it is concluded that:

- The development proposals reflect a good acoustic design process;
- Internal noise levels can be adequately controlled through the appropriate specification of glazing and alternative means of ventilation;
- Future residents should have access to private external amenity spaces, compliant with the aspirational noise levels indicated in WHI/BS8233 guidance;

In relation to construction noise and vibration, the nature and scale of the proposed development is not expected to give rise to any significant adverse noise impacts during construction works. If considered necessary however, the potential impact could be controlled by means of condition(s). In light of the above, the report considered that the proposed development should not raise any residual significant or other adverse impacts on the health and/or quality of life for existing residential and commercial neighbours of the site arising from noise. It is therefore concluded that the proposed development complies fully with noise related national and local planning policy.

An Archaeological Desk Based Assessment (DBA) draws together the available archaeological, historic, topographic and land use information to clarify the heritage significance and archaeological potential of the site. The report considers that the site has low potential to contain remains dating to the prehistoric, Roman, Saxon, Medieval and Post Medieval periods. The report acknowledges that construction related activities would remove any archaeological remains, however the assessment concludes that the site has a low potential for archaeological remains. It is noted that if the site does contain archaeological evidence, there would be an opportunity to expand and enhance understanding of rural settlement patterns in Derbyshire. The assessment determines that the likely significance of any buried remains within the site would be local, and the scale of the effect to their significance, which would be their removal by construction related activities, as is required by paragraph 189 of the NPPF. On this basis the report concludes that no further information is required to inform the planning decision.

An update to the Archaeological DBA specifically address comments raised by the Development Control Archaeologist. The report explains, that on the basis of a further review of the available evidence, that the study site does have the potential to contain artefactual evidence relating to the early Prehistoric period and also possibly below-ground evidence for Medieval agricultural activity in the form of ridge and furrow. It is also confirmed that the site does have the potential to contain artefactual evidence for the Palaeolithic period particularly. Further investigation is recommended by the report, comprising of the geo-archaeological monitoring of site investigation boreholes and/or of geo-archaeologically-controlled test-pits. Such investigations would subsequently inform the potential impact of development on any features and would allow a suitable mitigation programme to be scoped. It is further stated that the results of any such investigation and mitigation would also have the potential to inform research and understanding of the archaeological potential of the Eggington Common Sand and Gravel terrace and to contribute to the updated research agenda and strategy (2012). On the basis of the available evidence, including recent research and analysis of the Trent Valley, the report concludes that the archaeological potential of the study site does not preclude or constrain development proposals; however, a suitable programme of investigation, including mitigation as appropriate, is considered necessary.

Relevant planning history

9/2019/0244: Outline application (all matters to be reserved) for the residential development of up to 61 dwellings with associated landscaping, parking and sustainable drainage – Withdrawn April 2019

Responses to consultations and publicity

The Environmental Health Officer has raised no objections subject to the imposition of various conditions. These are discussed in further detail in the appraisal section below.

Derbyshire Wildlife Trust (DWT) initially commented that the development would result in the loss of native hedgerow priority habitat as a result of the creation of the new access. To overcome this, it advised a revision to the site layout, along with further native hedgerow planting. The response also requested clarification of how a net gain for biodiversity would be achieved, through use of a biodiversity impact calculator.

In response, additional information was provided by the applicant. On the basis of this, DWT commented that whilst the loss of the hedgerow would be compensated for, that through the use of the Biodiversity Impact Calculator, it had been shown that there would still be a small net loss of biodiversity. On account of this, further detail was provided by the applicant. In response to this additional information, DWT has provided a final set of comments. These advise that whilst there would remain a small net loss of biodiversity, this could be suitably compensated for by off-site provision. On this basis, conditions have been recommended to secure a scheme of compensation/biodiversity offsetting along with an ecological management plan.

The Development Control Archaeologist initially objected to the application on the basis that the site does have potential for archaeological implications, but that no archaeological assessment had been provided. Accordingly, they requested that an archaeological desk-based assessment be produced. The applicant has provided such an assessment and on the basis of this, County Archaeology have raised no further objections subject to the imposition of a pre-commencement condition to secure further archaeological investigations.

Derbyshire County Council Planning Policy has stated that in terms of primary school provision within, analysis of the current and future projected number of pupils on role, together with the impact of approved planning applications show that the normal area primary school would have sufficient capacity to accommodate the 11 primary pupils arising from the proposed development. On this basis, no contribution is requested towards primary provision. In relation to Secondary level provision, following an analysis of the current and future projected number of pupils on role, it has been found that there would not be capacity to accommodate the 9 secondary and 3 post-16 pupils arising from the development. To mitigate against this, a contribution of £310,418.10 has been requested. This would go towards education facilities at John Port School. In terms of the provision of broadband, it is requested that an advisory note be attached to any planning permission to ensure occupants have access to sustainable communications infrastructure.

Severn Trent Water has raised no objection, but has provided advice which can be imposed as a note to applicant on any planning approval.

The Derby and Derbyshire NHS Clinical Commissioning Group (CCG) has provided a calculation which illustrates that the estimated population of the development would be 142.5 people. The population figure is subsequently inputted into a formula to establish the health-related requirements associated with the development. This calculation would amount to a sum of £27,456.00. The response further identifies that the contribution would go towards an extension on the existing surgery at Hilton.

The County Highway Authority (CHA) initially noted that inadequate details had been provided of the proposed accesses; there were concerns over whether the carriageway, margins and footpath could be accommodated on controlled land and that an incorrectly sized bin lorry had been used for vehicle tracking purposes. Overall they requested that engineering drawings, rather than illustrative drawings and based on the topological survey, should be submitted to demonstrate that a safe and suitable access to the site can be achieved, along with details illustrating a footway on Lucas Lane and clarification that Footpath 18, as shown on the Derbyshire Definitive Map, would not be affected

by the proposal.

Following the submission of additional details, the CHA has confirmed that the amended drawings illustrate the carriageway and footway extending off Lucas Lane, but fail to detail the requested northern side margin. In addition, continued concerns were raised on whether the proposed highway works could be achieved on controlled land. Queries were also raised in regards to whether a ditch relating to the southern access could be accommodated, although acknowledging that this could be dealt with at technical approval stage under highways legislation. Subject to receiving clarification in relation to the extent of the controlled land, the CHA has confirmed that they would be in a position to recommend conditional approval.

Land ownership details have been provided by the applicant and the CHA provided an interim response. Within this they reiterated that the extent of land ownership had previously been queried in regards to whether there would be sufficient space to provide a margin on the northern side of the extension to Lucas Lane. In relation to the amended plan, they identified that there would be insufficient space to provide a margin on the northern side of the carriageway and continued, that to achieve an adoptable layout, such a margin would be required.

Following continued dialogue between the CHA and the applicant's highway consultant, an amended solution has been proposed (discussed in further detail in the appraisal below). The CHA has agreed that this would be acceptable and have therefore raised no objection subject to conditions.

The Lead Local Flood Authority (LLFA) has raised no objection to the proposal subject to the inclusion conditions to deal with control and disposal of surface water.

The Environment Agency has raised no objection subject to a condition relating to potential ground contamination.

The Police Designing out Crime Officer raises no objection to the scheme.

Hilton Parish Council objects on the following grounds:

- a. The application does not conform with the Hilton, Marston and Hoon Neighbourhood Development Plan (NDP) policies which have been developed and endorsed by the residents.
- b. Lucas Lane is a valued community amenity and is used by walkers, dog walkers, cyclists, runners and as a safe route for schoolchildren on their way to and from John Port school.
- c. The Parish Council is working with SDDC to open up the "Path to Nowhere" (from Egginton Road, by Lucas Lane, to the Greenway) which would extend the safe, off-road, walking route for children going to, and from, John Port School into the heart of the new part of the village. This would also provide all residents another alternative walking route.
- d. The development would spoil the rural views of the area and the flora and fauna alongside the Lane.
- e. The development would destroy the character of the Lane and wider area.
- f. The development is unnecessary.
- g. It is not considered that the Lane could accommodate additional traffic or vehicles of an increased size which would be likely to result in highway safety issues.
- h. The development is in contravention of SDDC Policy SD1 "The Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments".
- i. The site is not allocated for housing in the Local Plan and given that South Derbyshire can demonstrate a five year housing supply, there is no need for extra sites to address any shortfall.
- j. If the allocated/approved housing sites build out as planned there will be no need for additional sites such as this.

- k. It has been identified that there are differences between the results of a traffic survey submitted with the application and that commissioned by the Parish Council; namely that the applicants survey contains lower traffic flows and so there are knock on implications in regards to queuing and future forecasts.
- l. Deficiencies are identified with the submitted TS; no speed survey has been provided and as such, proposed visibility splays may be inadequate.
- m. The swept path analysis in the TS is inadequate and does not cater for the fact that the bend in street 2 has been tightened, a comprehensive analysis should be undertaken.
- n. The layout of the development is poor and there is inadequate parking provision in terms of its quantum and location.
- o. There is potential for the development to cause overlooking and be overbearing impacts.
- p. The siting of the dwelling would cause a non-compliance with the Design Guide.
- q. The submitted noise assessment is inadequate and does not take account of the revised development.
- r. There are no details provided of how the house design would mitigate the likely noise, or what the over-heating implication of the potential mitigation would be.
- s. The noise assessment wrongly concludes that all receptors will have the same sensitivity to noise; some receptors may be more sensitive.
- t. The submitted Travel Plan assumes that the 280m gap in the footpath to access the development will be on Council land. If this is not achieved there will be no safe access to the housing development.

44 objections have been received, raising the following issues:

- a. Lucas Lane is unable to safely accommodate additional traffic
- b. Lucas Lane is congested
- c. A more appropriate access would be from Normandy Road and Pegasus Way.
- d. Hilton is losing its identity as a result of all the new housing
- e. There are insufficient services to cope with the additional demands caused by more housing
- f. New housing should be closer to towns and built-up areas
- g. The proposal will result in overshadowing of existing dwellings
- h. The proposal will cause a loss of privacy and overlooking of existing dwellings
- i. The plans are inaccurate in that they fail to identify all existing properties
- j. The development is out of character with the existing developments and is out of scale
- k. The proposal would be too high density
- l. The proposals would result in a loss of gardens and an established hedgerow
- m. The number of dwellings would result in a in a massive increase in traffic and would compromise highway safety
- n. The Lane is used as a 'cut through' by significant numbers of school children in a morning and evening, and potential highway conflict would increase as a result of the development.
- o. Other potential access to the site should be utilised and explored
- p. The Lane is narrowed towards its southern end by parked cars – increasing highway safety dangers
- q. Lucas Lane is of an inadequate width to sustain the additional traffic
- r. The junction onto Egginton road is unable to cope with current traffic flow – the development will worsen this
- s. The road construction may not be able to withstand heavy construction traffic
- t. The development may compromise the safe disposal of sewage from existing dwellings
- u. The development will bring an additional 100 vehicles onto the Lane, which will substantially increase the number of cars and the potential for accidents.
- v. The survey found a limited number of incidents, but this is because the Lane is currently lightly trafficked.
- w. Access along the lane is restricted by parked vehicles

- x. The quiet amenity of the Lane would be lost as a result in the increased number of vehicles.
- y. The Parish Council's draft Neighbourhood Development Plan identifies Lucas Lane as a valuable amenity and propose a limit of 8 houses along with community amenities on the site. This would enable the Lane to retain it's character and benefit the village.
- z. The A50 would result in a considerable noise issue and weaknesses have been identified with the submitted noise survey which haven't been resolved.
- aa. Noise in the area will be increased as a result of the additional traffic
- bb. Flooding issues are likely to be worsened
- cc. The development would adversely impact on existing ecosystems and wildlife
- dd. There is already adequate market and social housing provided in Hilton.
- ee. The benefits of this application do not outweigh the negative impacts
- ff. The application will result in more pollution
- gg. The development will result in additional security risks to existing properties
- hh. The Transport Statement and Travel Plans seems to have little consideration for the current 'single track' nature of a large proportion of Lucas Lane.
- 1. ii. There are concerns as a result of their being only one entry/exit to the site.
- ii. The development does not sufficiently consider access and the existing use of Lucas Lane as a pedestrian thoroughfare.
- jj. The highway issues could be improved by widening Lucas Lane, adding additional street lighting or reducing the number of dwellings.
- kk. Due to the cumulative effect of development in the area over the last 20 years, access is becoming increasingly difficult onto Egginton Road during peak hours.
- ll. There needs to be further resilience built into the road network as an when further developments take place.
- mm. The cumulative impacts of multiple developments within the particular area need to be taken into account in the TA.
- nn. Public rights of way throughout the village have not been adequately joined up – S106 money would need to be spent on improving the cycling and walking facilities in the area.
- oo. There is no mention of electric vehicle charging points
- pp. There are concerns that the development won't meet the governments Zero carbon strategy.
- qq. The ad hoc provision of facilities in Hilton makes it hard for those with mobility issues to access services
- rr. No allotments are proposed, which should be according to the Neighbourhood Plan.
- ss. The roundabout junctions in Hilton in the vicinity of the site have significant queuing during the evening peak at the current time which also causes issues with the provision of safe crossing facilities for pedestrians as there are only pedestrian islands and no formal crossing facilities.
- tt. The roundabout junctions have significant queuing during the evening peak at the current time which also causes issues with the provision of safe crossing facilities for pedestrians as there are only pedestrian islands and no formal crossing facilities.
- uu. The routes to / from the secondary school need improving and continuous cycling facilities are required.
- vv. There is no NHS dentist available in the village.
- ww. There is no evidence that people living in Hilton, work in Hilton, therefore if people have to travel further for work, more pressure will be placed on rural roads.
- xx. Why are green areas chosen for housing when industrial areas could be reclaimed for housing?
- yy. No more houses are needed in Hilton.
- zz. The houses proposed would have limited parking, small gardens and every house is squeezed in.
- aaa. The houses are designed with a lack of thought and character.
- bbb. Lucas Lane is a lovely walking spot for many local people which will be lost if the development goes ahead.
- ccc. The Lane is poorly lit and has poor footpaths.

- ddd. This is the route children use to access local schools as no free bus service is available.
- eee. The land should be used to provide allotments, as outlined in the Neighbourhood Plan, to provide space for those with limited gardens.
- fff. It would be wrong to go against the local peoples wishes which are set out in the Neighbourhood Plan, and approve the application.
- ggg. The proposed development of the site should be of a much-reduced scale to ensure that the Lane itself would not be impacted upon.
- hhh. The proposal would be contrary to the guidance set out on the Design Guide SPG
- iii. Destruction of local wildlife will have a negative impact on the mental health of existing residents, causing them increased stress.
- jjj. The ecological information provided is considered to be lacking in detail.
- kkk. There is no sewer provision for houses local to the Site on Lucas Lane or Derby Road, all properties in this area are served by septic tanks.
- lll. Hilton does not have enough amenities to accommodate more and more housing.
- mmm. Hilton needs more activities for young children, not more houses.
- nnn. The development will spoil the surrounding countryside.
- ooo. All the new housing is destroying the village community.
- ppp. The proposal would have an overbearing impact on the existing properties
- qqq. The proposal would breach the 45 degree rule.
- rrr. Improvements should be made to the junction visibility and also traffic calming should be considered for the Lane itself to reduce vehicle speeds.
- sss. The proposed house design is poor.
- ttt. The site was not included in the adopted Local Plan Part 2 in 2017.
- uuu. The development would be contrary to the proposed Neighbourhood Plan as it wouldn't provide low density housing for up to 8 dwellings.
- vvv. The site is close to the A50 so would suffer lots of engine pollution.
- www. Crime is increasing and the police cannot cope.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets) BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF6 (Community Facilities), INF7 (Green Infrastructure) and INF9 (Open Space, Sport and Recreation);
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage).

A Neighbourhood Area comprising the Parishes of Hilton, Marston on Dove and Hoon was designated on 6 March 2019 for the purpose of preparing a Neighbourhood Development Plan (NDP). A draft NDP has been published and taken through a Regulation 14 consultation with the consultation on the Strategic Environmental Assessment having just closed. Once submitted to the Council, the NDP will be subject to a further round of consultation before the NDP, together with these consultation responses, are subject to formal examination ahead of a referendum.

The relevant National Guidance is:

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

- National Design Guide (NDG)

The relevant Local Guidance is:

- Design Guide Supplementary Planning Document (SPD)
- Affordable Housing (SPD)
- Section 106 - Guidance for Developers

Planning considerations

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

- Principle of development;
- Character and appearance;
- Highway safety and accessibility;
- Residential amenity and noise;
- Biodiversity and trees;
- Drainage and flood risk;
- Archaeology; and
- Developer contributions.

Planning assessment

Principle of development

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires all planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises the policies of the LP1 and LP2. The draft NDP does not, as yet, form part of the development plan. Instead, in referring to what weight can be attached to an emerging plan, the PPG states that *“paragraph 48 of the revised NPPF sets out that weight may be given to relevant policies in emerging plans in decision taking. Factors to consider include the stage of preparation of the plan and the extent to which there are unresolved objections to relevant policies”*.

The emerging NDP is yet to be subjected to a formal public consultation through the Regulation 16 'publication stage'. Neither the draft NDP nor the consultation statement have been formally submitted to the Council and, as such, the extent of unresolved objections is unknown. As set out in the PPG, *“the consultation statement submitted with the draft neighbourhood plan should reveal the quality and effectiveness of the consultation that has informed the plan proposals”*. For these reasons, it is too early in the NDP's preparation to afford it any weight.

In terms of applicable Local Plan policies, at a strategic level, policy S1 outlines the Council's sustainable growth strategy and policy S2 identifies the 'presumption in favour of sustainable development'. Policy S4 commits to maintaining a 5 year housing supply. In specific reference to housing, policy H1 defines Hilton as a Key Service Village and policy SDT1 confirms the site is wholly within the settlement boundary. Villages are defined as such as a result of their range of services and facilities, and policy H1 confirms that within the defined boundaries of such settlements development of all sizes is considered appropriate.

Policy H21 seeks to ensure that developments exceeding 15 dwellings secure up to 30% affordable housing whilst policy H20 'Housing Balance' seeks to achieve a balance of housing, including a mix of dwelling type, tenure, size and density. Whilst this is an outline application, with all matters reserved aside from access, the illustrative layout identifies how a development could be achieved which would provide an appropriate mix of dwellings, both in terms of their size and detail, and

proposes a tenure mix and percentage of affordable dwellings reflective of the requirements of policy H21 and the Affordable Housing SPD.

At a national level, to support the Government's objective of significantly boosting the supply of homes, paragraph 59 of the NPPF identifies the importance of ensuring that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed, and that land with permission is developed without unnecessary delay. Whilst the Council presently has an adequate housing supply, the development of this site would further bolster it in a sustainable fashion and contribute towards the windfall allowance upon which part of this supply is predicated.

Through developing the site, an area of agricultural land would be lost. The classification of this land appears to be Grade 3 (good to moderate land) based on Natural England mapping, although its sub-grade is unknown. The NPPF seeks to ensure that the highest quality and most versatile agricultural land is retained (Grades 1, 2 and 3a). Whilst Grade 3 land is not poor quality, neither is it of excellent quality. Despite the absence of evidence as to whether it falls within Grade 3a or Grade 3b, the extent of land, its current productiveness and the ability to farm it economically for produce; the loss is not considered to be significant in terms of policy BNE4, the NPPF or the overall planning balance. On account of this, the harm associated with its loss would be limited.

When considered in accordance with both local and national guidance, the site is considered to be in a sustainable and suitable location, satisfying policy S6, and would contribute towards achieving the Council's objectively assessed housing need. The proposal would therefore be acceptable in principle and compliant with the relevant local and national planning policies in this regard.

Character and appearance

Policy BNE1 expects new development to be well designed, visually attractive and appropriate having regard to existing characteristics. The principles underpinning this policy are expanded upon within the Design SPD. The NDG also lends support with the NPPF highlighting that good design is a key aspect of sustainable development and that new development should respond to local character and be visually attractive. Policy BNE4 sets out that the character, local distinctiveness and quality of South Derbyshire's landscape will be protected and enhanced through the careful design and sensitive implementation of new development, whilst policy H20 places emphasis of efficient use of land without compromising landscape character.

The site comprises of three agricultural fields and a group of agricultural buildings. Small areas of residential garden are also included within the site. The main natural features are the perimeter and dividing hedgerows containing scattered trees, and the woodland buffer screening the road to the north. Vehicular access to the site is currently from the turning head at the top of Lucas Lane. The lane forms part of a designated right-of-way with access to the north towards Etwall. Hilton village centre lies approximately 1km to the south-west. Properties along Lucas Lane and Normandy Road to the south, and those on Pegasus Way to the west, form a character of relatively modern housing development. Further east, to the opposite side of the lane, are open fields. To the north, the A1352 and the southern element of the A50 dumbbell roundabout are separated from the site by a woodland buffer. By virtue of the surrounding landform, infrastructure, other built development and boundary vegetation, the site benefits from a high degree of visual enclosure.

In terms of its character, whilst on the settlement edge and being within close proximity to agricultural land to the east, the site is predominantly enclosed by residential development and significant highway infrastructure and therefore, to the north, west and south-west, the area has a developed landscape which is more urban in nature. The character of Lucas Lane itself however diverges from this. Here, frontage properties are predominantly set back, detached and occupy spacious, landscaped plots. This combined with the informal character of Lane, derived from its limited highway infrastructure, its width (single carriage) and grass verges which are host to native hedgerow and mature trees; results in the area having more of an 'edge of village' feel. The

development has identified this subtle change in character and has sought to provide an acceptable response. The illustrative layout identifies the majority of the Lucas Lane boundary as being absent from built development, instead being host to the drainage infrastructure. Where dwellings are proposed they would continue the style and form of dwellings further south along Lucas Lane. The density of development would subsequently increase to the north and west, reflecting the increasing density of development in these directions. The illustrative layout would therefore result in a scheme that would successfully integrate into the surrounding landscape. On account of this, it is considered that proposed development harmonises with the existing pattern of development.

In terms of appearance, the development would be prominent from Lucas Lane and from the public right of way along its north-eastern boundary. There may also be glimpsed views from the highway to the north. However, these would be fleeting by virtue of both the intervening vegetation and the speed at which the majority of receptors would be travelling. Whilst it is accepted that views would be gained, from the primary vantage points the development would be viewed against the backdrop of a semi-urban landscape and, as such, harm would be reduced and the development would appear assimilated into its setting as a result.

As this application includes limited detail in terms of scale, layout or appearance, it is not possible to undertake a detailed assessment at this stage. This said, on account of the areas existing character and landscape features and given the size of the site, it is considered that a suitably designed, policy compliant development could be achieved, with conditions ensuring the parameters of the illustrative layout are adhered to.

Overall, in terms of character and appearance, it is considered that an appropriately designed development could be achieved that would not result in any material harm in this regard, and would be compliant with policies H20, BNE1 and BNE4 of the Local Plan, as well as the Design Guide SPD and NDG.

Highway safety and accessibility

Access has been submitted for detailed consideration. Two points of access have been proposed. The primary access point would be in the form of a simple priority junction off Lucas Lane, which would access 40 dwellings. The second, and more northerly access, would utilise and upgrade the existing farm access, providing access to the remaining 17 dwellings.

Policy S6 seeks to ensure that development minimises the need to travel, makes efficient use of transport infrastructure and services, encourages a modal shift towards more sustainable means of travel and supports transport measures that address accessibility issues. Part B of this policy outlines various measures to ensure the policy intentions are met. Policy INF2 seeks to ensure that the travel generated by development has (a) no undue detrimental impact upon local amenity, the environment, highway safety, (b) that appropriate provision is made for safe and convenient access to and within the development, and (c) that development should include an appropriate level of parking provision.

Various concerns have been raised within the letters of representation on grounds of highway safety, access and parking. The application has been accompanied by a Transport Statement and a Travel Plan. The Transport Statement contains chapters on policy, the existing situation, the proposed development, trip generation and an assessment of traffic impact. In regards to the current situation, it is explained that existing pedestrian and cycle networks provide a good level of accessibility to local education, retail, community and health facilities. In relation to bus services, it is stated that there are frequent services between the site, Derby and other surrounding sub-regional centres. On account of this, it is considered that there are realistic alternatives to the private car. It is also contended that the existing non-car networks in the vicinity, coupled with measures to enhance opportunities for sustainable travel, would ensure that non-car trips generated can be accommodated in a satisfactory manner.

The appraisal of impacts along the wider highway network demonstrates that the traffic flows generated by the proposal would dissipate onto the various road corridors. The resultant increases in traffic on the roads beyond the proposed development would fall within the day-to-day variation of traffic flows and would therefore not trigger any material impacts.

Throughout the course of the application there has been ongoing dialogue with the County Highway Authority (CHA) to address the issues raised. Within their initial consultation response, the CHA requested additional information on the following:

- the design detail for the proposed accesses;
- the viability of providing a 2 metre wide footway to the western side of Lucas Lane and a highway margin on eastern side, whilst also maintaining the route of Footpath 18 within the constraints of the site boundary;
- details to demonstrate how the ditch fronting the site would be accommodated;
- an amended swept path analysis (on the basis of a correctly sized vehicle); and
- appropriate visibility splays at the Lucas Lane/Egginton Road junction in the easterly direction.

To address these matters, amended and additional documentation was provided and a targeted re-consultation with the CHA was undertaken. In response, the CHA commented that whilst the majority of issues had been resolved, there remained some outstanding matters. Specifically, no details had been provided of the margin on the northern side of the access, or whether this was achievable within controlled land and no detail was provided of measures to accommodate the ditch. Subject to receiving the requested clarification, the CHA did however confirm that they would be in a position to recommend conditions.

The most recent comments from the CHA were discussed with the applicant and a solution has been identified. The CHA have confirmed that the submitted plans now show the extension of Lucas Lane into the site with a 5 metre carriageway, a 2 metre footway on the southern side, with a pinch point by the tree at the (northern) entrance to the site, where the footway would narrow to 1.5 metres, along with a 1 metre wide margin on the northern side. This would provide a minimum corridor of 7.5 metres and thus would be suitable for adoption. It has also been confirmed that the plans show the widening of Lucas Lane and extension of the existing footway up to and into the site entrances and that the new estate street would be laid out to an adoptable standard. On this basis, the CHA raise no objection subject to conditions.

The suggested conditions require the submission of a construction management plan, the implementation of the accesses in accordance with the specified details, the widening of Lucas Lane and associated works, that the internal road layout follows the principles of the 6Cs' Design Guide/Delivering Streets & Places and the 'Manual for Streets' document, that the internal roads are laid out in accordance with the approved plans, prior to occupation and that a swept path analysis for service and emergency vehicles is provided with any future reserved matters application.

Notwithstanding the comments from the CHA, on the basis of the submitted plans, it is considered that there could be further opportunities to improve connectivity through walking and cycling from the proposed development to existing residential areas, which have not been explored. To ensure these options are properly explored, evidence will be required as part of any reserved matters submission.

Overall, on the basis of the amended plans and the most recent highway comments, subject to the recommended planning conditions the development is considered to be acceptable in terms of highway safety and access matters and would therefore be in accordance with policies S6 and INF2 of the Local Plan and the relevant policies of the NPPF.

Residential amenity and noise

Policy SD1 is supportive of development that does not lead to adverse impacts on the environment

or amenity of existing and future occupiers within or around proposed developments. To ensure this, criterion (B)(iii) acknowledges the need for strategic buffers between conflicting land uses in respect of amenity issues, such as odours, fumes or dust and disturbance such as noise, vibration or light. Paragraph 190 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment.

On account of the site area and the quantum of development proposed, it is considered that a suitably designed and laid out development could be achieved that would not result in any materially adverse impacts in terms of residential amenity on grounds of overlooking or overshadowing and that the development would not be of an overbearing nature. This said, the specific detail relating to such would be considered further at reserved matters stage.

Notwithstanding the above, on account of the proximity of the site to a major highway network there would be the potential for harm associated with vehicle noise. The Noise Assessment identifies and summarises the key components:

- Existing Noise Environment: Detailed noise monitoring has been undertaken to determine the existing environmental noise climate at the site. Noise levels across the measurement locations are dominated by noise from the A50. The northern boundary of the site is also influenced by traffic on the A5132.
- Planning Policy Context and Design Guidance: Commentary on the relevant policies are provided along with reference to the ProPG: Planning and Noise.
- Site Suitability: The potential risk of the site for residential development has been assessed in line with Stage 1 of ProPG guidance. This concludes that the site represents a 'low' to 'medium' noise risk.
- ProPG: With particular regard to the considerations required by ProPG, it is concluded that:
 - The development proposals reflect a good acoustic design process;
 - Internal noise levels can be adequately controlled through the appropriate specification of glazing and alternative means of ventilation;
 - Future residents should have access to private external amenity spaces, compliant with the aspirational noise levels indicated within guidance.

The nature and scale of the proposed development is not expected to give rise to any significant adverse noise or vibration impacts during construction works. If considered necessary, however, the potential impact construction phase noise and vibration could be controlled by means of appropriate planning condition(s) (e.g. restricting the working hours of the site or through the submission of a Construction Environmental Management Plan).

The assessment concludes that the proposed development should not raise any residual significant or other adverse impacts on the health and/or quality of life and therefore complies fully with noise related policy and guidance. On the basis of the noise survey and the response from the Environmental Health Officer, subject to the necessary conditions being imposed the development would not result in any materially harmful impacts in terms of residential amenity generally, or noise, more specifically and would therefore be in accordance with the relevant local and national planning policy and guidance.

Biodiversity and trees

Policy BNE3 is supportive of development which contributes to the protection, enhancement, management and restoration of biodiversity and that delivers net gains in biodiversity, with criterion (B) of this policy specifically advising that planning proposal that could have a direct or indirect effect on sites with potential or actual ecological importance, including those with priority habitats or species need to be supported by appropriate surveys or assessments sufficient to allow the Council to fully understand the likely impacts and the mitigation proposed. Policy BNE4(B) expects key valued landscape components such as mature trees and established hedgerows to be retained,

unless it can be demonstrated that the loss of features will not give rise to unacceptable effects on local landscape character. Policy BNE7 seeks to ensure that where development is proposed that could affect trees, woodland and/or hedgerows, which are important in terms of their amenity, ecological, landscape or historic value they will be adequately protected and that the layout and form of development has taken their presence into account.

The application was initially accompanied by the following ecological surveys:

- Preliminary Ecological Appraisal and Ecological Impact Assessment Version 1 (March 2019);
- Great Crested Newt Survey Version 1 (February 2019);
- Reptile Survey report Version 1 (January 2019);
- Breeding Bird Survey report Version 1 (January 2019); and
- Bat Survey report Version 1 (2019)

The Phase 1 Habitat Survey identified the site as comprising cattle grazed pasture, barns and grassland, with native hedgerows and trees dividing the fields and forming the perimeter boundaries. Furthermore, all the native hedgerows on the site were classified as a Habitats of Principal Importance (priority habitats). As illustrated within the ecological surveys, the proposed development would result in the loss of native hedgerow priority habitat to the extent of between 160 to 221 metres. No other ecological harm was identified in other surveys.

Derbyshire Wildlife Trust (DWT) initially commented that the development was highly likely to result in a net loss of biodiversity, including hedgerow priority habitat, contrary to the objectives of local and national planning policy and recommended the use of a Biodiversity Impact Calculator to demonstrate the level of biodiversity loss and seek measures to address this. Concerns were also raised on the basis of the illustrative layout and the access proposals, which would result in further losses to hedgerows and associated habitats, and guidance was provided on potential alternative solutions. To address these concerns, the following documents were provided and a further re-consultation was undertaken with the Trust.

- Phase 1 Habitat Report;
- A hedge creation plan illustrating additional hedgerow in compensation for the unavoidable losses (resulting in a total gain of 41.3m of hedgerow); and
- Biodiversity Net Gain Calculations.

DWT commented that the proposed new planting of species-rich hedgerows within the scheme would suitably compensate for the loss, although clarification should be provided on the extent of hedge removal necessary to create the new access. They also identify that through the use of the Biodiversity Impact Calculator, there would be a small net loss of biodiversity. On this basis they advise that every attempt should be made to avoid and mitigate such impacts on-site, but that any residual impact could be dealt with by conditionally requiring a Net Gain Biodiversity Offsetting Scheme and that scheme could form part of the reserved matters submission. Hence, DWT confirmed that subject to the imposition of conditions they are satisfied that the development would not result in any materially harmful ecological impacts.

Information on the outstanding matters was submitted and DWT provided a further response. The Trust acknowledge that there will be a small residual loss to biodiversity through the proposal, primarily to semi-improved grassland, depending upon the type of habitats provided as part of the landscaping. Layout options have also been put forward that would either result in or avoid a net loss of hedgerow priority habitat. DWT advises that the small net loss of biodiversity can be suitably compensated for by off-site provision on arable land that is under the applicant's ownership and therefore recommend that a scheme for compensation/biodiversity offsetting is implemented as part of the application. This said, they also recognise that the scheme is only at outline stage and that the final development has the potential to be revised. On this basis, they advise that the mitigation hierarchy should be followed and as much ecological mitigation as feasible is provided on-site. DWT specifically recommend the creation of a wildflower meadow around the SuDS feature. The Trust

have also advised that as and when they are consulted at the reserved matters stage, the Biodiversity Impact Calculator would need to be recalculated on the basis of the specific detail, and that an ecological management plan would also be necessary to secure management of both the on-site ecological features and the off-site scheme for a minimum of 30 years. It is recommended that this be submitted with the reserved matters application to fully inform the revised calculation, whilst any shortfall is then captured by a Grampian condition. To address these points, taking into account that the final layout has not yet been determined, a suitably worded condition can be imposed.

The application has also been accompanied by a Tree Survey and Tree Constraints Plan. Of primary importance are two mature Oak Trees. These are situated at the northern and southern ends of the boundary of the site with Lucas Lane. These are both defined as Category 'A' trees owing to their physiological and structural condition. The trees also have a high amenity value as a result of their visual prominence within the street scene. The Oak tree to the north (T2) would be within close proximity to the site's secondary access. This access is existing (it currently serves the farm buildings) but would be upgraded to serve part of the development. It must therefore be ensured that the necessary tree protection measures are secured prior to any upgrading works. By virtue of its position, the Oak to the south would be at no greater risk as a result of the development proposed. This said, the trees and hedgerows identified on the constraints plan should be protected in accordance with the suggested details, to minimise the risk of any potential harm.

On the basis of the ecological and arboricultural surveys and subject to the suggested conditions and protection, there would be no harmful ecological or arboricultural impacts as a result of the proposal and, subject to conditions which would ensure a net biodiversity gain, the development would be in accordance with policies BNE3, BNE4 and BNE7 of the Local Plan, the relevant paragraphs of the NPPF and the Habitats Regulations 2017 (as amended).

Drainage and flood risk

Policy SD2 states that suitable measures to deal with surface water will be required on all sites to minimise the likelihood of new development increasing flood risk locally and that any development that could lead to increased flood risk should be managed through the incorporation of a Sustainable Drainage System (SuDS) which mimic natural drainage patterns, unless this is not technically feasible or where it can be demonstrated that ground conditions are unsuitable for such measures. Policy SD3 seeks to ensure that new developments incorporate sustainable drainage schemes as a means of managing surface water to improve water quality and reduce pressure of drainage infrastructure. Part (B) requires foul flows generated by new development to be connected to the main sewer and (C) requires surface water to be managed by SuDS. SD3 also seeks to limit water consumption in new properties.

The site is situated in flood zone 1 where, due to its scale, a Flood Risk Assessment (FRA) is supplied. Furthermore, on the basis of the Environment Agency flood risk maps, the south eastern corner of the site is identified to be at a higher risk of surface water flooding. The FRA concludes that the proposed development is not at significant risk of flooding. In relation to surface water flooding, it is suggested that to reduce any risk finished floor levels should be raised. Finally, it is stated that the proposed on-site drainage systems are in accordance with NPPF and would ensure that no third parties would be at increased flood risk. The FRA Addendum provides more specific detail relating to surface water flooding and the design of sustainable attenuation features. This shows that a viable solution is achievable for the site.

The Environment Agency have raised no comments whilst no objection has been received from Severn Trent Water. The Lead Local Flood Authority (LLFA) also has no objection, subject to conditions. Given that the site does not fall within an area of high flood risk and on the basis that surface water would be drained by way of a SuDS, the development would not result in any material harm in terms of drainage or flood risk and as such, would be in accordance with policies SD2 and SD3 of the Local Plan.

Archaeology

Policy BNE2 states that development that affects heritage assets will be expected to protect, conserve and enhance the asset and its setting in accordance with national guidance. BNE10 supports this policy. Paragraph 189 of the NPPF requires that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting and in relation to the consideration of potential impacts. Paragraph 199 advises that local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.

The Development Control Archaeologist originally objected to the application on grounds that no archaeological assessment was provided. The request for an assessment was on the basis that within this part of Derbyshire and on sites with specific geological characteristics (such as this one) there is an increased likelihood of associations with Palaeolithic (early 'stone age'), Neolithic and Bronze age activity. Furthermore, it was stated that there is also Historic Environment Record (HER) information relating to a possible Anglo Saxon cemetery in the vicinity of Hilton gravel pits, which are roughly 350m to the north of the site.

In response, an Archaeological Desk-Based Assessment was provided. This concluded that, on the basis of available evidence, the site had low potential to contain remains dating to the prehistoric, Roman, Saxon, Medieval and Post Medieval periods. The Development Control Archaeologist was further consulted on this document, but did not concur with its conclusions. They commented that the assessment was insufficient on grounds that it did not adequately address the potential for early prehistoric remains and failed to assess the extent to which recent land-uses may have impacted upon earlier archaeology. Furthermore, they were surprised that the potential for the survival of prehistoric remains on site were considered low, in spite of the fact that the presence of multiple prehistoric assets within the wider study area were acknowledged within the report.

The applicant's archaeologist provided further information to address these specific matters and on account of this information, the Development Control Archaeologist has reached a position whereby they are content to recommend approval subject to a pre-commencement condition. This condition would require an initial archaeological assessment, on the basis of which, an archaeological mitigation programme could be scoped. The initial phase of investigation would involve geo-archaeological monitoring of site investigation boreholes and/or test pits. Dependent upon the results of this work, further, more extensive archaeological recording may be necessary. They have also advised that the assessment for early prehistoric remains requires specialist input, and the developer should seek the advice of their archaeological consultants to identify a suitable archaeological contracting organisation.

Subject to the imposition of the suggested condition, potential archaeological impacts would be adequately assessed and managed and the development would therefore be compliant with policies BNE2 and BNE10 of the Local Plan and the referenced paragraphs of the NPPF.

Developer contributions and obligations

In regards to the provision of Affordable Housing there is a policy requirement for 30% provision. On the basis of the indicative proposals and the maximum proposed under the description of development, this would equate to up to 17 units. The Strategic Housing Officer has requested that 68% of the properties should be for social rent and the remaining 32% for intermediate housing. Requests in relation to their size and layout have also been identified.

In terms of open space provision, as the development proposes in excess of 50 dwellings there would be requirements for on and off-site provision. In regard to on-site open space and play facilities, a Locally Equipped Area for Play (LEAP) with a minimum dimension of 20m x 20m along

with 25.4 sqm of open space per person (bedroom) would be required. Any deficiency in accessible on-site provision could be addressed by a financial contribution, calculated at £373.00 per bedroom would be required towards open space, a contribution of £220.00 per bedroom would be required towards outdoor facilities and a contribution of £122.80 per bedroom would be required towards built facilities. Through liaising with the Open Spaces and Facilities Manager, the following projects have been identified:

- the open space monies could contribute towards additional allotment provision, the Hilton Greenway Link or the Mease Woodland;
- the outdoor space provision would go towards upgrading and increasing existing play provision in the area; and
- the built facilities contribution would go towards the village hall project or the scout hut project.

As part of the application, both the illustrative plans and the FRA detail that on-site SuDS would be provided. It is unknown at this stage exactly what form these would take, given the outline nature of the application, and whether the long term management and maintenance of the facilities would be the responsibility of a Local Authority or a private management company. As such an either/or clause along with a maintenance sum would be included within the legal agreement.

In relation to secondary level education provision, following an analysis of the current and future projected number of pupils on role, the County confirms that there would not be capacity to accommodate the 9 secondary and 3 post-16 pupils arising from the proposed development. To mitigate against this, a contribution of £310,418.10 has been requested. This would go towards expanding facilities at John Port School.

The CCG has provided a calculation which illustrates that the estimated population of the development would be 142.5 people. The population figure is subsequently converted to establish the health-related requirements associated with the development, resulting in a sum of £27,456.00. The response further identifies that the contribution would go towards an extension at the existing surgery.

An obligation of £2,500 would also be sought to cover the Council's section 106 (s106) monitoring costs.

From a planning perspective, there are legal tests for when a s106 agreement can be utilised to secure developer contributions. These are set out in regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010, as amended (and within paragraph 56 of the NPPF). The contributions sought must address the specific impacts brought about by the new development. To ensure this, contribution requests must meet the following tests, they must be:

1. Necessary to make the development acceptable in planning terms
2. Directly related to the development; and
3. Fairly and reasonably related in scale and kind to the development.

In this case it is considered that the contributions requested would meet the identified tests and therefore can be secured by way of a legal agreement. The proposal is thus compliant with policies INF1, INF6 and INF9 of the Local Plan and the section 106 guidance.

Other issues

The Environmental Health Officer (EHO) has advised that the site is within influencing distance of several areas of potentially contaminated land and have recommended a pre-commencement condition to ensure that this issue is adequately assessed and if necessary, managed and mitigated. Subject to the imposition of the suggested condition there would be no materially harmful impacts in this regard. The EHO has also recommended conditions which seek to prevent the installation of

solid fuel combustion appliances and functioning chimneys. However, it is not presently considered these can be imposed since they would not meet the tests set out in the NPPF for various reasons, one of which being that the installation of solid fuel combustion appliances would not comprise development and so could not be controlled via the planning system.

Overall planning balance and conclusion

Although this site is not formally allocated in the Local Plan for housing development, its inclusion within the settlement boundary of Hilton is significant. Here, the strategy of the Plan is supportive of residential development regardless of its scale and, indeed, the LP2 examining inspector was particularly attentive to the scope of settlement boundaries to provide scope for the windfall allowance factoring into the housing land supply. By virtue of its location, the site would be easily accessible, would promote opportunities for the use of more sustainable modes of transport and would be within close proximity to a range of services and facilities. Furthermore, the development would contribute towards and assist in boosting the Council's housing land supply and would provide for 30% affordable housing. As such, the principle of the development is considered acceptable.

In regards to more technical issues, details of the access have been considered and a policy compliant solution has been identified. Noise impacts arising from the A50 have been identified as a key issue but, subject to appropriate mitigation being secured, can be reduced to an acceptable level. Matters relating to biodiversity and trees, drainage and flood risk, archaeology and land contamination have all been considered within specific technical reports and there are no outstanding issues with the relevant consultees with conditions appropriate. To address the impacts of the development on the local infrastructure and services, a range of developer contributions have been requested. The detail of these have been assessed against the relevant legislation and are considered compliant and necessary to render the development acceptable. Finally, the character and appearance of the area has been appraised and on the basis of both the site area and the quantum of development proposed, it is considered that a form of development could be achieved which would respect and respond to the area's character and would not result in any material harm in terms of appearance.

In terms of adverse impacts, the development would result in a minor loss of agricultural land. However, the harm attributed to this loss is low. The development may also not result in a biodiversity net gain on-site, but the proposals have sought to reduce the associated harm as far as possible and, alongside reserved matters requirements, a Grampian-style condition can be imposed to ensure suitable off-site compensation can be secured to address this issue. On balance, it is not considered that the adverse impacts identified would significantly and demonstrably outweigh the multitude of benefits that this development would bring.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

A. Grant delegated authority to the Strategic Director (Service Delivery) to conclude negotiations on and complete an agreement under section 106 of the Town and Country Planning Act 1990 so to secure the planning obligations outlined in this report along with associated provisions for long term management of any public facilities provided; and

B. Subject to A, **Approve** the application subject to the following condition(s):

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 before any development is commenced the further approval of the Local Planning Authority is required in respect of the following reserved matters:
 - (a) appearance;
 - (b) landscaping;
 - (c) layout; and
 - (d) scale.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory, and so 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. The details/matters of access hereby permitted shall be carried out in accordance with the Location Plan ref. 2200/01 Rev. B, the Proposed Access Road General Layout ref. 107725-002 Rev. E and the Proposed Access Road Vehicle Tracking ref. 107725-003 Rev. E unless otherwise required by a condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

3. (i) 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, the details of which shall broadly be in accordance with the illustrative masterplan, and each application for reserved matters approval shall incorporate or be supported by, in so far as relevant to that/those matter(s), the following specific detail/requirements:
 - (a) retained hedgerows and trees shall, as far as practicable, not act as enclosures to proposed dwellinghouses and be incorporated into public spaces/green infrastructure;
 - (b) a shading analysis to demonstrate the effects of tree and/or hedgerow shading on residential properties created by the development;
 - (c) where applicable, details of measures to support hard landscaping within any root protection areas of retained and proposed trees or hedgerows;
 - (d) evidence to demonstrate that the open (pond/swale) features of the sustainable drainage system have been designed to provide sufficient capacity to drain the site in accordance with conditions 19 & 20 of this permission;
 - (f) the provision of at least 2 bungalows broadly in the positions shown on the illustrative masterplan;
 - (g) the internal layout of the site shall be in accordance with the guidance contained in the 6C's Design Guide (or any subsequent revision/replacement of that guidance), Manual for Streets issued by the Department for Transport and Environment and Local Government (or any subsequent revision/replacement of that guidance) with the matters of layout accompanied by a swept path analysis for service and emergency vehicles;
 - (h) the provision of bin collection points at the adoptable highway end of private shared driveways and courtyards, sufficient in size to accommodate two bins per dwelling to which they serve;
 - (i) each dwelling shall be provided with space for the parking of two vehicles for each 1, 2 or 3 bedroom dwelling or three vehicles for each 4+ bedroom dwelling in accordance with the dimensions set out in the Council's Design Guide SPD (or any subsequent revision/replacement of that document), with any garages to be counted as a parking space of internal dimensions no less than 3m x 6m;
 - (j) a Landscape and Ecological Management Plan (LEMP) for all retained and created habitats demonstrating provision for the establishment of the approved landscaping scheme for a period of no less than thirty years and details of the legal and funding mechanism(s) by

- which the long-term implementation of the LEMP will be secured by the developer with the management body(ies) responsible for its delivery;
 - (k) a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain) compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework; and
 - (l) evidence of research and bone-fide efforts to improve connectivity by walking and cycling means between the proposed development and existing residential areas, with such connections where feasible included within the matters of layout and landscaping.
- (ii) 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: For the avoidance of doubt and in order to secure an appropriate detailed design which accords with best design principles under the Council's Design Guide SPD and Secured by Design, protects the character and appearance of the area, and in the interests of sustainable drainage and reducing flood risk, protecting and enhancing biodiversity and the safeguarding the cultural heritage of the District.

4. In the event that the Biodiversity Metric Calculation submitted and approved under condition 3 demonstrates that a net gain in biodiversity on site has not been achieved, no development, including preparatory works, shall commence until the following has been submitted to and approved in writing by the Local Planning Authority:
- a) a scheme for the offsetting of biodiversity impacts at the site ('the offsetting scheme') shall be submitted to and approved in writing by the Local Planning Authority. The offsetting scheme shall make every effort to achieve an overall 10% net gain in biodiversity and include:
 - (i) a methodology for the identification of receptor site(s);
 - (ii) the identification of receptor site(s);
 - (iii) details of the offset requirements of the development (in accordance with the recognised offsetting metrics standard outlined in the Defra Metrics Guidance dated March 2012, or any document that may update or supersede that guidance);
 - (iv) the provision of arrangements to secure the delivery of the offsetting measures (including a timetable for their delivery); and
 - (v) a management and monitoring plan (to include for the provision and maintenance of the offsetting measures for fifteen years from the commencement of the offsetting scheme.

The development shall be carried out in accordance with the approved LEMP and/or scheme(s).

Reason: In order to safeguard protected and/or priority species from undue disturbance and impacts, noting that initial preparatory works could have unacceptable impacts; and in order to secure an overall biodiversity gain.

5. No development, including preparatory works, shall commence until a scheme for the protection of trees, hedgerows and ponds has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be based on best practice as set out in BS 5837:2012 (or equivalent standards which may replace them) and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas of trees/hedgerows. The approved scheme of protection shall be implemented prior to any works commencing on site and thereafter retained throughout the construction period. In the interests of safeguarding existing habitat and the visual amenities of the area, recognising that initial preparatory works could bring about unacceptable impacts to protected and non-protected interests.

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

6. No development, including preparatory works, shall commence until details of measures indicating how additional surface water run-off from the site will be avoided during the construction works have been submitted to and approved in writing by the Local Planning Authority. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved measures and systems shall be brought into operation before any works to create buildings or hard surfaces commence.

Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development itself; recognising that initial works to prepare the site could bring about unacceptable impacts.

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

Reason: To protect the amenities of adjoining properties and safeguard against potential surface water flooding.

8. No development shall take place until a Written Scheme of Investigation (WSI) 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

- 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/organization to undertake the works set out within the Written Scheme of Investigation.

The development shall take place in accordance with the approved WSI and shall not be occupied until the site investigation and post investigation reporting has been completed in accordance with the programme set out in the approved WSI and the provision to be made for publication and dissemination of results and archive deposition has been secured.

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

9. No development shall take place until details have been submitted to and been approved in writing by the Local Planning Authority 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 and any proposed temporary traffic restrictions. The approved details shall be adhered to throughout the construction period.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety, recognising that initial preparatory works could bring about unacceptable impacts.

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

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

11. Prior to the construction of a dwelling, a scheme of noise mitigation for protecting occupants of the development from noise from the road network shall be submitted to and approved in writing by the Local Planning Authority. The dwellings shall be constructed in accordance with the approved scheme and noise mitigation measures shall be completed before the first occupation of each respective dwelling and thereafter maintained. Subsequent replacement or insertion of windows and doors and any conversion of loft space by owner/occupiers of the dwellings shall be done in a manner to ensure the same level of acoustic protection as achieved by the noise mitigation measures approved under this condition.

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

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

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

13. Prior to any works to construct a building or hard surface, setting of finished floor/site levels or installation of services/utilities, a detailed assessment to demonstrate that the proposed destination for surface water accords with the hierarchy in paragraph 80 of the planning practice guidance (or any revision or new guidance that may replace it) shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall demonstrate, with appropriate evidence, that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:
 - i) into the ground (infiltration);
 - ii) to a surface water body;
 - iii) to a surface water sewer, highway drain, or another surface water drainage system;
 - iv) to a combined sewer.

The assessment shall also provide an evidenced and full understanding of the springs within the site and any associated mitigation requirements which might be required. Any mitigation required shall be accommodated in the surface water drainage scheme.

Reason: To ensure that surface water from the development can be directed towards the most appropriate waterbody in terms of flood risk and practicality, noting that certain works may compromise the ability to subsequently achieve this objective.

14. Prior to the first occupation of each dwelling hereby permitted, the new street(s) between each respective plot and the existing public highway shall be laid out in accordance with the plan(s) approved under condition 1, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageway and footway(s) in front of each respective plot/unit shall be completed with the final surface course within 12 months (or 3 months in the case of a shared surface road) from the first occupation of that plot/unit.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety.

15. Prior to any works to construct a building or hard surface, setting of finished floor/site levels or installation of services/utilities, a detailed design of, and associated management and maintenance plan for, surface water drainage of the site, in accordance with the principles contained within the Defra non-statutory technical standards for sustainable drainage systems, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that, as a minimum, suitable capacity is proposed to attenuate peak flows from the site, making allowance for climate change and urban creep. The scheme shall also include measures to capture and drain overland surface water flows between gardens and properties adjoining the site. The surface water drainage infrastructure shall be installed in conformity with the approved details prior to the first occupation/use of each respective building/road/hard surface served by the surface water drainage system or in accordance with a phasing plan first submitted to and approved in writing by the Local Planning Authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.

Reason: To ensure that the principles of sustainable drainage can be incorporated into the development, noting that initial preparatory and/or construction works may compromise the ability to mitigate harmful impacts.

16. Upon completion of the surface water drainage system, including any attenuation ponds and swales, and prior to their adoption by a statutory undertaker or management company; a survey and report from an independent surveyor shall be submitted to and approved in writing by the Local Planning Authority. The survey and report shall demonstrate that the surface water drainage system has been constructed in accordance with the details approved pursuant to condition 19. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be included for approval in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed by an independent surveyor, with their findings submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the effective operation of the surface water drainage scheme following construction of the development.

17. Each dwelling shall be constructed and fitted out so that the estimated consumption of wholesome water by persons occupying the dwelling will not exceed 110 litres per person per

day, consistent with the Optional Standard as set out in G2 of Part G of the Building Regulations (2015). The developer must inform the building control body that this optional requirement applies.

Reason: To ensure that future water resource needs, wastewater treatment and drainage infrastructure are managed effectively, so to satisfy the requirements of policy SD3 of the Local Plan Part 1.

18. The developer shall install recharge points for electric vehicles to comply with the following criteria: 1 charging per dwellinghouse with dedicated parking or 1 charging point per 10 spaces (or part thereof) where individual dwellings have non-dedicated (shared) parking. To prepare for increased demand in future years, appropriate cable provision shall be included in scheme design and development. Residential charging points shall be provided with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket shall be located where it can later be changed to a 32amp EVCP. Once installed, the charging points shall be subsequently retained and maintained in working order.

Reason: In order to reduce carbon emissions associated with residents' transport to and from the development and to improve air quality.

19. During the period of construction, no ground, construction or fitting out works shall take place and no deliveries shall be taken at or dispatched from the site other than between 0730 and 1800 hours Monday to Friday and 0800 and 1300 hours on Saturdays. There shall be no construction works (except for works to address an emergency) or deliveries on Sundays or Bank Holidays.

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

20. With the exception of any site clearance works or works associated with the construction of the site compound, no other works/development shall commence on site until the new estate street junctions have been formed to Lucas Lane, laid out and constructed in accordance with the approved access drawings. The southern access shall have a carriageway width of 5.5m, two 2m wide footways and visibility sightlines of 2.4m x 43 m in the southerly direction and 2.4m x 33 m to the north, the area forward of which shall constructed as footway and form part of the adopted highway. The northern access shall have a minimum width of 5m, widening to 6m on the bend, a 1m wide margin on the eastern/northern side and a 2m wide footway on the western/southern side, only narrowing to 1.5m to accommodate the tree adjacent to the new estate street. For the avoidance of doubt, measures will need to be taken to accommodate the ditch fronting Lucas Lane when constructing the southern access.

Reason: To ensure that the the development is provided with a satisfactory access, in the interests of highway safety.

21. Prior to the first occupation of any new dwelling hereby permitted, the Lucas Lane carriageway shall be widened to 5m and a 2m wide footway provided on the western side, extending north from that existing up to and into both new estate street junctions, laid out in accordance with the approved access drawings, constructed, drained and lit to Derbyshire County Council's specifications for adopted highway. For the avoidance of doubt, the applicant will need to enter into an Agreement with the Highway Authority under Section 278 of the Highways Act 1980 to carry out this work.

Reason: In the interests of highway safety.

22. No removal of trees, hedges and shrubs shall take place between 1st March and 31st August inclusive unless a survey to assess the nesting bird activity on the site during this period and a

scheme to protect the nesting birds has first been submitted to and approved in writing by the Local Planning Authority. No trees, hedges and shrubs shall be removed between 1st March and 31st August inclusive other than in accordance with the approved bird nesting protection scheme.

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

Informatives:

- a. This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990. All formal submissions to discharge obligations of the undertaking or agreement, or queries relating to such matters, must be made in writing to s106@southderbyshire.gov.uk with the application reference included in correspondence.
- b. You are advised, as part of the application for approval of reserved matters, to provide details of the following (so to avoid the need for additional conditions at a later stage):-facing materials, eaves and verge details, and cill and lintel details;-rooflight, porch and bay canopy details;-surfacing materials and patterns;-boundary treatments (including materials thereof); and-if applicable, details of a management and maintenance strategy for any highways not adopted under an agreement pursuant to section 38 of the Highways Act 1980, nor conveyed to individual property owners. You should also ensure that the reserved matters ensure that
(1) all exposed housing elevations are well treated to allow a view between interiors and external space;
(2) where housing is set in blocks of more than two properties rear garden access should originate within the view of associated houses either by using gated undercroft alleyways, through plot access where practical, or by breaking up housing blocks into two or less;
(3) enclosed parking courtyards are best gated or overlooked; and
(4) the open aspects of the footpath route and proposed links are not compromised by any landscaping sited between footpath and the development.
- c. The application site is abutted by a Public Rights of Way (Footpath 18 in the Parish of Hilton, 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 the Rights of Way Duty Officer in the Economy, Transport and Environment Department at County Hall, Matlock.
- d. 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.
- e. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- f. The developer should ensure that construction and contractor vehicles are parked legally in a manner that shows consideration to the occupiers of adjacent and nearby properties.

- g. The watercourses, attenuation pond(s) and/or swale(s) hereby permitted or which would be incorporated into public areas on the site should be designed to accord with health and safety guidance as set out in the CIRIA SuDS Manual 2015 (C753) or guidance that may update or replace it, and to meet the requirements of the Construction (Design and Management) Regulations (CDM) 2015 through assessing all foreseeable risks during design, construction and maintenance of the pond, minimising them through an 'avoid, reduce and mitigate residual risks' approach.

Item No. 1.2

Ref. No. 9/2019/0406

Valid Date 12/04/2019

Applicant: Mr J Bailey
J Bailey & Son

Agent: Mr J Imber
JMI Planning

Proposal: **Change of use of part of agricultural paddock for the exercising of dogs along with the erection of buildings for boarding kennels and associated storage and the creation of a parking area on land adjacent to Greenacre, Bent Lane, Church Broughton, Derby**

Ward: Hilton

This report was originally published on the agenda for the meeting held on 25 June 2019, but it was deferred at the request of the Head of Planning Strategic Housing following it being reported at that meeting that a new dwelling had been approved adjacent to the application site. Subsequently, a revised Noise Assessment was requested to address this recently permitted dwelling (ref. 9/2019/0333) in regard to the potential impacts of the proposed use on this new residential receptor. That has now been received and so the report below remains largely the same as previously published other than additional assessment or comments set out in *italics* to reflect the current position and any outdated discussion ~~struck through~~.

Reason for committee determination

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

Site Description

The application site comprises a paddock adjacent to and to the rear of Greenacre, Bent Lane, Church Broughton, a bungalow. The site lies within open countryside to the east of a group of former farm buildings now converted to residential dwellings. The site is approximately 1.7km southeast of the village of Church Broughton and approximately 2km north of Hatton.

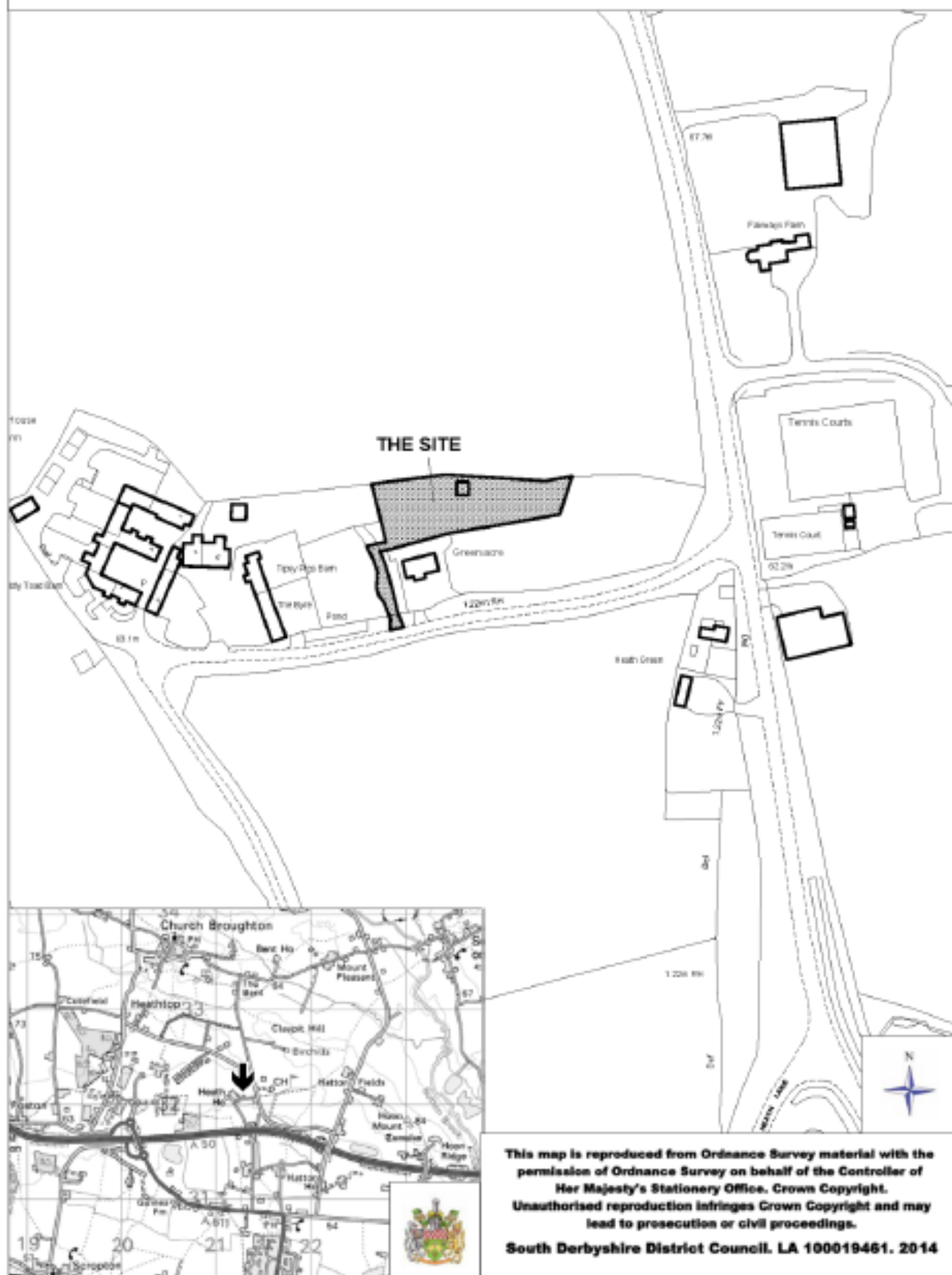
Proposal

The application proposes the erection of a kennel building and separate smaller storage building at the rear of Greenacre. The northern part of the paddock the west would serve as an area for the exercising of dogs and a small parking area would be created to the north of the Greenacre itself. Access to the parking area and kennels would be via a surfaced track currently used to access the field but also used by a neighbouring property.

Applicant's supporting information

The applicant has provided location and block plans as well as plans and elevations of the proposed buildings. In addition the applicant has provided a Supporting Planning Statement, a Business Case as required by Policy E7 demonstrating the need and economic viability of the proposal, a Noise Assessment which recommends the provision of acoustic fencing and concludes that noise can satisfactorily be controlled by the design of the development, and a Barn Owl and Wider Ecology Survey which concludes that the shed and nesting boxes does not show any evidence of past Barn Owls and that the boxes should be moved to adjacent trees.

9/2019/0406 - Land adjacent to Greenacre, Bent Lane, Church Broughton,
Derby DE65 5BA



30 letters of support are provided. The authors include being dog owners or trainers in the majority, with some having known the applicants for some time and verifying their repute. These letters support the need for the kennels and express a desire to take up space at the business, as well as expressing disappointment at the previous refusal.

Planning history

9/1982/0060 - The erection of an agricultural workers dwelling: Approved April 1982.

9/2018/0839 - Change of use of agricultural paddock for the exercising of dogs along with the erection of buildings for boarding kennels and associated storage and the creation of a parking area: Refused in December 2018 for the following reason:

“Notwithstanding the submitted evidence, even taking into account the noise mitigation measures recommended in the noise report accompanying the application, there would be significant adverse impacts on quality of life for nearby residents by way of noise levels emanating from the development which could not be reasonably controlled by planning conditions. As such the proposal is contrary to policies SD1 and E7 of the adopted Local Plan Part 1”.

9/2019/0333 - Outline permission for the erection of a dwelling on land west of Greenacre: Approved June 2019

DMPA/2019/1037 - Approval of reserved matters pursuant to outline permission ref. 9/2019/0333: Approved November 2019.

Responses to Consultations

The Environmental Health Manager notes that the previous application was refused, and the reason for this refusal. The revised scheme is identical to that previously submitted, save for the reduction in the size of the outdoor exercise area and its enclosure with acoustic fencing. The noise data submitted in support of this application has been compared with the previously submitted noise report, and a conclusion to the comparison is that:

- The predicted noise from the external exercise area would be ‘half as loud’ as the original application;
- The noise from the outer run will be slightly less than half as loud as the original application, and;
- The noise from the inner run will be ‘perceptibly’ less than the original application.

The noise report states that the proposals meet the criteria in BS8233 “Guidance on sound insulation and noise reduction for buildings”. It is also useful to compare the predicted noise levels against the measured background noise levels at the development location to provide an indication about how prominent barking noise is likely to be against the existing background noise environment. Based on the noise data collected, the impact of dog noise from the proposed development is considered to be ‘low’. Nevertheless, at the noise levels predicted it is still considered that dog noise would be audible at the local noise sensitive receptors. However, the proposal is not considered to result in demonstrable harm to the amenities of nearby residents subject to conditions relating to the provision of sound insulation for the building and the installation of an acoustic fence.

Following the meeting on the 25 June 2019, the Environmental Health Officer provided a further response stating they had concerns with regards to noise from the proposed unit, with the introduction of a new receptor needing to be considered as part of the kennel application, as without it the noise impacts cannot be accurately quantified. The applicant initially signalled intent to provide a revised noise assessment, but this has not been forthcoming until recently. This covers the potential impacts on the new residential receptor and contains a revised modelling impact of the dog

noise on various noise sensitive receptors, taking account of the proposed mitigation. Having assessed the new evidence it is concluded that as the predicted averaged noise exposure levels at the new residential property are effectively the same as that set out in the previous application (ref. 9/2018/0839) the same conclusion is reached - that of a recommendation for refusal.

The Highway Authority, having commented on the previous application, notes that the proposal differs little in highway terms from the previous application and has no objections. The previous comments stated that Bent Lane is of single width and only serves 12 properties. Whilst not ideal, it is not considered that the traffic generated by 14 kennels to accommodate 28-32 dogs could be considered severe enough to recommend refusal of the application. The Highway Authority therefore recommends conditions relating to access, parking and manoeuvring and location of gates.

The Development Control Archaeologist considers that the proposal would have no archaeological implications.

Derbyshire Wildlife Trust supports the recommendations of the submitted Barn Owl and wider ecology survey, such that any development should be carried out in accordance with the recommendations of the survey. This would secure the relocation of the existing bird boxes and checks on the building for occupation by birds before its demolition. In addition the provision of native hedgerow planting and wildflower meadow establishment is supported.

Responses to Publicity

Church Broughton Parish Council objects on the following grounds:

- a) there is an agricultural tie on the property and possibly the land as well, and the planned development should be allowed to proceed;
- b) the property has been let out to a tenant who now wants to create this business, which is not agricultural and so outside of the constraints of the tie;
- c) the scope for noise from a site housing so many dogs is significant;
- d) noise from the A50, as referred to in the application, is not normally audible and would not cover the sound of barking dogs;
- e) it is not clear on how faeces is to be collected and disposed of, with concerns of cross contamination and threat to health.

A petition signed by 62 people has been received, this raising a number of objections. In addition 45 letters of objection have been received, by many of the same residents whom signed the petition raising the following concerns/points:

Principle

- a) There are sufficient existing facilities in the area so there is no need for another one. There are 11 within a six mile radius of Hilton.
- b) This rural location is inappropriate for commercial development.

Amenity Impacts

- c) The proposed measures to reduce noise are laughable.
- d) Dogs barking will be to the detriment of the local population.
- e) 32 dogs will cause a lot of noise.
- f) The frequency, pitch and volume of the dogs 24 hours a day will negate any mitigation.
- g) Happy hounds in Church Broughton is already heard from 2 miles away.
- h) Increased lighting nuisance.
- i) The various activities around the site including the tennis courts will set dogs barking.
- j) The guidance set out in South Derbyshire 'barking dogs leaflet' is noted as regards statutory nuisance. This proposal would constitute a considerable nuisance.

- k) At the last Planning Committee it was stated that the process of enforcement of noise would be a complex issue – no monitoring or enforcement would be practical.
- l) Impact from the development on a recently approved dwelling close to the site.
- m) The assessment is based on just two dogs barking at the same time – this is not a true reflection of how much noise 28 – 32 dogs will make.
- n) Impact on adjacent children's play area (private garden) and the implications of this.
- o) Comparing noise to the ambient noise from the A50 is inappropriate – dog barking is more sporadic and noticeable
- p) Dogs are pack animals and one barking would set others off.
- q) The proposed acoustic fencing is totally ineffectual – how can this work.
- r) Impact upon the pleasant and peaceful surroundings to enjoy outdoor sport.

Highways

- s) Increased traffic causing disruption to residents and impacting on the road surface.
- t) Access via the single track is narrow and unsuitable for the development.

Other

- u) Concern for welfare of the dogs due to the small exercise area.
- v) There is no evidence that the barn owl boxes have been relocated as required by the submitted survey.
- w) The buildings would be visible from the public highway.
- x) Cross contamination – removal of faeces is not covered by this application.
- y) The supporting letters within the statement live a long way from Church Broughton.
- z) Impact on existing biodiversity including barn owls with the building to be demolished.

Since the meeting on the 25 June 2019 a further representation has been received echoing the comments previously received.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S6 (Sustainable Access), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), E7 (Rural Development), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport)
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows),

National Guidance

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

Local Guidance

- South Derbyshire Design Guide SPD

Planning Considerations

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

- Principle of the development;

- Design;
- Impact on amenity;
- Highway safety;
- Impact on historic environment; and
- Impact on ecology

Planning Assessment

The Committee should note that this application is a revision to the previously refused scheme considered in December 2018. The main change relates to the extent of the proposed exercise area, which has been reduced in size, located away from the site boundaries, and enclosed to the south, east and west by acoustic fencing.

Principle of the development

The principle of new development in the countryside is established by BNE5 of the Local Plan Part 2. This states that (inter alia):

“Outside of settlement boundaries (as defined in policy SDT1) within the Rural Areas of the district planning permission will be granted where the development is... allowed for by policies H1, H22, E7, INF10, H24, H25, H26, H27 or H28”.

Policy E7 of the LP1 states that: *“development proposals which diversify and expand the range of sustainable employment activities on land outside of settlement boundaries will be supported by the Council provided they support the social and economic needs of the rural communities in the District”.* The policy goes on to state that *“the Council will support proposals for the re-use, conversion and replacement of existing facilities and development of new buildings...”* subject to certain criteria. These include the submission of a sound business case, that the highway network is capable of accommodating the traffic generated, that development will not give rise to any undue impacts on neighbouring land, that the proposal is well designed and at a scale commensurate with the proposed use, and visual intrusion and the impact on the character of the area is minimised. The submission of a business case is fundamental to the principle of the development. Other issues are discussed under relevant headings below.

The applicant has provided a business case which highlights the need for additional high quality dog kennels in the area based on the number of new dwellings being constructed in the area and the associated growth in the population. Using the number of homes that currently have a dog, the applicant estimates the potential additional dog population from the number of new homes to be built over the period of the Local Plan. The business plan then looks at the number of kennel facilities in the area and concludes that there is a shortfall. Given the limited number of other kennel facilities highlighted in the Business Case at the time the previous application was submitted, the applicant was asked to provide additional information. The Council has a publicly available list of licenced premises which totals 36 premises throughout South Derbyshire. The additional information provided assessed this list and reduced to 13 the number of premises that actually provide boarding facilities for dogs. Whilst there is limited evidence of existing kennel spaces available at present and no mention of what kennel facilities might be available in Staffordshire, also within a reasonable catchment area, it is considered that a case has been made for the number of new households in the District which is expected to rise substantially over the plan period and it is reasonable to assume that the dog population would rise in line with the additional housing provision. The supporting letters are also a good indication of the likelihood of take-up of the business. The business case also sets out the start-up costs and expected turnover based on providing the new building to the most recent Licencing standards. The proposal therefore complies with criterion (i) of Policy E7.

Objectors have raised the issue of the property being constrained by an agricultural tie. Planning history for the site confirms that Greenacres is a dwelling that was granted consent with condition to

limit its occupation to someone working in agriculture. Whilst the property was recently purchased in 2017, the current owner is employed in agriculture, with the current tenant also working for the owner of Greenacres and employed as a farm manager. As the property is both owned by someone who works in agriculture and his tenant works for him employed in agriculture, there is no breach of this condition. The application, whilst in the name of the owner of Greenacres, is a proposal by the tenant and family to run the kennel business whilst still employed in agriculture. There are also no restrictions on the original permission restricting the setting up of a business from the property.

Design

Policy E7(iv) states that the new buildings should be “*well designed and of a scale commensurate with the proposed use*”. The proposed kennel and storage building are of functional design being proposed as double skin blockwork construction and timber clad gable ends with the main window and door openings facing north and south. The kennel building is of pitched roof construction with relatively low pitch roof with a height to ridge of just under 4.1 metres and height to eaves of 3.62 metres. The kennel building would be 19.10 metres in length and 11.30 metres in width. The flat roof storage building located to the west of the kennel building would be much smaller being only 3.56 metres in height and measuring 6.30 metres by 5.70 metres.

Whilst these buildings have a relatively large footprint they have been designed to have a minimal impact on the wider area being located to the rear of the existing house and minimising their height through the use of a shallow pitched roof. The materials are similar to that found on modern agricultural buildings, the use of concrete and timber boarding being prevalent in modern agricultural buildings. The kennel building itself would be some 18 metres away from the western boundary of the site and 10 metres away from Greenacres itself. The storage building would be located opposite Greenacres and create a courtyard around the parking area being 21 metres away from Greenacres but closer to the western boundary than the kennel building itself. In addition, the proposal includes the provision of a solid timber fence (acoustic barrier) along the boundary of the exercise area, which could impact upon the character of the area. However, considering that such a fence could be erected without the need for planning permission (up to a height of 2m) and it would be partially screened from the public realm by the existing field boundaries (which could be supplemented further by a landscaping scheme to the outer edge of the fence), the fencing in itself is not considered to be demonstrably detrimental to the character or appearance of the area.

Overall the layout, buildings and proposed development are considered to be of a scale commensurate to the proposed use, and the area in general subject to the submission and agreement of materials and landscaping details and therefore complying with E7(iv) as well as policies BNE1 and BNE4.

Impact on amenity

The previous refusal of the application is a material consideration in determining the acceptability of the current proposal. The question is therefore whether this application is materially different to the degree that conditions are either not required to control noise and disturbance from the site or that conditions can be applied which are both enforceable and offer reasonable control.

The design and layout of the building are considered to be acceptable as set out above being functional in appearance and layout. In addition, there would be no overlooking of neighbours being sufficiently distant from neighbouring properties and in any event the buildings are single storey. The proposal also includes a new hedgerow on the southern/eastern side of the acoustic fence minimising the visual impact the proposal would have on the surrounding area.

The nature of the development however could create potential adverse impacts on neighbour amenity affecting their living conditions. Policy SD1 states that: “the Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments”. This policy states that the Council will

take into consideration certain criteria, including criterion (iii) which states “the need for a strategic buffer between conflicting land uses such that they do not disadvantage each other in respect of amenity issues, such as odours, fumes, or dust and other disturbance such as noise, vibration, light or shadow flicker”.

The closest residential dwelling other than Greenacres itself is approximately 55m away. The Noise Assessment has been considered in detail by the Environmental Health Manager such that the proposed kennels and revised exercising area is considered to be capable of being accommodated without causing undue harm in this location subject to the proposed mitigation (i.e. the provision of acoustic insulation for the building and acoustic fencing to surround the outdoor exercise area). The revisions to the scheme are considered to result in the predicted noise from the external exercise area being ‘half as loud’ as the original proposal – a reduction of 9 to 11dBA, with noise from the outer run being reduced by 7.5 to 9.2dBA and the inner run at feeding times by 2 to 4dBA. Each of these measurements results in noise from the operation being below background noise levels.

Following the granting of permission for the new dwelling adjacent to the application site (ref. 9/2019/0333) and deferral of this proposal there has been a lengthy delay from the applicant considering whether a revised noise assessment would be prepared. A revised noise assessment has now been provided taking into account the recently approved dwelling adjacent to Greenacre, the dwelling associated with the application site. It should be noted that an application for reserved matters has also now been approved (ref. DMPA/2019/1037) allowing greater accuracy in terms of noise impacts as the exact location and orientation of the new dwelling is known. The closest residential dwelling other than Greenacre itself is now the proposed dwelling adjacent to Greenacre, approximately 30m away from the kennel building.

The updated noise assessment has been assessed by the Environmental Health Manager (EHM) who considers the changes to the revised noise assessment which incorporate minor changes to the proposal. He states that the predicted averaged noise exposure levels at the new residential property resulting from this application would be approximately the same as the predicted average noise exposure levels at the existing noise receptors from application ref. 9/2018/0839. The noise levels are 45 L_{Aeq} 1hour as opposed to 45.2 L_{Aeq} 1hour at the nearest receptor in the original study. Therefore, by inference, the application must be unacceptable based on the previous decision.

In addition to commenting on the revised noise assessment, further information is provided by highlighting a study published by the Institute of Acoustics (IOA) titled “The Assessment of Dog Barking Noise from Boarding Kennels”. The paper identifies that no comprehensive noise guidance documents have been issued with respect to boarding kennels in the UK and therefore the IOA paper sought to determine the current assessment practices across the UK. The paper does not identify by way of a conclusion the most appropriate assessment methodology to use. However, it does identify that in seven of fifteen cases it reviewed, the assessment methodology used for kennel noise was that of BS4142:1997 (now revised as BS4142:2014); five used World Health Organisation community noise exposure criteria and BS8233 criteria were used in three.

The BS8233 methodology has been used for this application. In the EHM’s experience, the use of different methodologies can have significantly different outcomes:

- *The BS8233 methodology determines the average noise exposure over a relatively long averaging time and does not take any specific regard to any particular characteristics of the noise;*
- *On the other hand the BS4142 methodology compares the average noise against the existing background noise levels (expressed as LA90) and applies a ‘rating’ feature to the noise based on any distinctive characteristics such as tonality, impulsivity and intermittency.*

Experience suggests that the BS4142 methodology can be a much more difficult test to meet than the BS8233 standard.

Secondly, the previous decision was made after considering the relatively high level of uncertainty about the differing amount of noise generated by differing populations of dogs which would be expected at a boarding kennels. The Committee therefore expressed concern that this uncertainty would undermine the veracity of noise modelling predictions. These concerns were a factor in the decision to refuse.

Thirdly, the EHM expresses concern at the possibility that activities at the recently approved residential property are in such close proximity that they could result in a stimulus of the dogs in the kennels.

Having taken account of all of the factors above, it is concluded that there is a significant risk that the noise from the proposed development would exceed the Significant Observed Adverse Effect Level at the local noise sensitive receptors, resulting in a recommended refusal of the application. Notwithstanding the submitted evidence, even taking into account the noise mitigation measures recommended in the revised noise report accompanying the application, it is considered there would be significant adverse impacts on quality of life for nearby residents by way of noise levels emanating from the development which could not be reasonably controlled by planning conditions.

Whilst a lighting layout and specification has been submitted, the information submitted is insufficient to allow a full assessment of the scheme to be provided. As such, a condition requiring the submission of a full scheme is considered appropriate in order to ensure any lighting installed at the site would not impact on the amenities of nearby residents and reduce sky glow in the evenings/at night.

Highway safety

Bent Lane, leading to Miry Lane, is one of several roads that were severed by the A50 when constructed in the 1990s. It is now a dead-end and serves a small number of properties. The road is predominantly single width carriageway and therefore does not encourage high vehicle speeds. The Highway Authority states that whilst not ideal, it is not considered that the traffic generated by 14 kennels to accommodate 28-32 dogs could be considered severe enough to recommend refusal of the application. The Highway Authority also notes that the proposed access is across land in third party ownership, but the applicant maintains that he has a right of access to access the paddock across the land adjacent to Greenacres. This is a legal issue and not a planning one and therefore the Highway Authority recommends conditions relating to access, parking and manoeuvring, and location of gates. The proposal is therefore considered to comply with policies E7(ii) and INF2 and paragraph 109 of the NPPF.

Impact on historic environment

The site lies adjacent to but outside the Derbyshire Historic Environment Record (HER) for the World War II airfield at Church Broughton. The County Archaeologist has acknowledged that the proposal would have no impact on any associated archaeological remains. However, the site is within 'Heathhouses', a small settlement attested as early as the 14th century, and possibly therefore with potential for medieval settlement archaeology. The site is within a small field with no evidence for occupation on historic mapping, though the form of the field suggests that it may have been a medieval 'croft' or backplot rather than part of the open field as per the rather larger fields in the surrounding landscape. The site also appears on aerial photographs to have some surface earthworks, although the 2009 satellite photography suggests that these are far more likely to be the result of 20th century dumping and settlement-edge activity rather than medieval village remains.

As the County Archaeologist considers it very unlikely that this location would be the focus of a medieval settlement and the proposal involves the construction of the kennel and storage buildings at the rear of Greenacre and the creation of hedgerow/tree planting, it is concluded that the nature and location of the proposal set against policies BNE2, BNE10 and the NPPF do not justify the a planning requirement for archaeological work in relation to the current proposals.

Impact on ecology

The proposal involves the demolition of an existing three sided timber outbuilding. The building contains two boxes suitable for Barn Owls, the building and surroundings have been surveyed. The surveys have identified no evidence of Barn Owls using the building but evidence that they are currently being used by Little Owl, Stock Dove and Blackbirds. The survey identifies the need to relocate these boxes on to adjacent trees, and surveys undertaken of the building to check for nesting birds before the removal of the shed. Subject to conditions to secure this and an appropriate landscaping scheme, the proposed development would not have a detrimental impact on biodiversity and as such complies with the requirements of policy BNE3.

Conclusion

The proposal appears to meet the policy requirements of BNE5 and E7 in terms of the principle of development. The NPPF and policy S2 set out a presumption in favour of sustainable development which arises from the three strands of economic, social and environmental objectives. There would be economic and social benefits to the local area with investment in supporting businesses to the proposal as well as additional kennelling opportunities for residents in the wider area. *However, following the approval of the dwelling adjacent to the application site, the impact on this receptor has been established to be not materially different to the impact which was identified under the previous refusal. The occupiers of this property would be subjected to undue disturbance to the degree that permission should be withheld. Whilst the application has the potential to cause harm to neighbouring amenity, these potential impacts are considered to be acceptable through the imposition of conditions that would provide the necessary environmental safeguards to ensure the impacts are not a significant or unacceptable harm.*

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

Recommendation

Refuse permission for the following reason:

1. Notwithstanding the submitted evidence, even taking into account the noise mitigation measures recommended in the noise report accompanying the application, there would be significant adverse impacts on quality of life for nearby residents by way of noise levels emanating from the proposed use which could not be reasonably controlled by planning conditions. As such the proposal is contrary to policies SD1 and E7 of the Local Plan Part 1, along with paragraph 180 of the NPPF, supported by the PPG.

Item No. 1.3

Ref. No. 9/2018/1047

Valid Date 19/10/2018

Applicant: Mr W Roper
c/o Agent

Agent: Mr Adrian Hawley
Benchmark Design Build Ltd

Proposal: The variation of conditions 1 & 12 of planning permission ref. 9/2018/0592 in relation to plot 1 (garden wall) and landscaping on land adjacent to Mill Green House, Brook Lane, Scropton, Derby

Ward: Hilton

Reason for committee determination

This item is presented to Committee at the request of Councillor Julie Patten because matters of local concern have been raised.

Site description

The site is part of a housing development and the subject plot has been largely completed in accordance with a preceding grant of permission.

The proposal

This application seeks permission to amend the layout for Plot 1 (now known as Grey Gardens) to accommodate boundary walls at the front boundary, whereas the current approved layout shows a swale with a hedge behind. Two of the plots are already occupied, conflicting with the existing timing requirements of condition 12. A change in this trigger for condition 12 is sought, with the condition presently requiring all landscaping to be completed prior to occupation of any dwelling. There is also a revised landscaping plan, which incorporates changes to the scheme already approved, pursuant to a condition attached to the appeal decision referred to below.

Applicant's supporting information

The applicant makes the following submissions:

- The road is now wider and has clearer vision than previously approved. The lower wall replaces an existing military wall and the curved wall is where a previously overgrown bramble scrubland was which is now cleared and forms part of the garden. A 1.8 metre timber fence would be there if a wall had not been built;
- The road is not a public highway nor a public footpath;
- The applicant is in the process of appealing the decision of the phase 2 application (see Planning History below);
- Speed signs will be renewed indicating 10 mph along track and 5 mph on the development.

Relevant planning history

9/2019/0491: The erection of 6 detached dwellings with detached garages and associated works on erection of 6 dwellings - Refused February 2020

9/2018/0592: The variation of condition 1 of permission ref: 9/2017/1164 for the erection of six dwellings, to amend the design of plot 3 - Approved August 2018

9/2017/1164: The variation of condition 1 of permission ref: 9/2017/0309 for the erection of six dwellings, to amend the design to plot 3 - Approved December 2017

9/2017/0309: The variation of condition 2 of permission ref: 9/2016/0003 (relating to the erection of six dwellings with improvements to site access and to Brook Lane/Leathersley Lane junction) - Approved May 2017

9/2016/0003: The removal of condition 6 of planning permission 9/2013/0342 (relating to the erection of six dwellings with improvements to site access and to Brook Lane/Leathersley Lane junction) - Approved February 2016

9/2013/0342: The erection of six dwellings with improvements to site access and to Brook Lane/Leathersley Lane junction - Refused May 2013 but allowed at appeal April 2014.

Responses to consultations and publicity

The County Highway Authority considers that the whilst the wall is not ideal and would obscure visibility for emerging drivers it does not form part of the public highway nor does it have a public footpath in the location. Hence, a highway objection could not be sustained.

Foston and Scropton Parish Council have no objection but note the application is retrospective.

11 objections have been received and these are summarised below:

- a) Lack of visibility on the blind bend and due to the wall there is now no space to manoeuvre;
- b) The wall is out of keeping with the surrounding area;
- c) The wall now shades the road surface making the road dangerous in the winter;
- d) The access road is also a footpath;
- e) The residents of houses behind Willowbank are creating an access opposite Plot 1 which would increase the danger to road users;
- f) The wall reduces the line of sight around the bend;
- g) The wall is in direct contravention to planning portal advice which states walls adjacent to roads should not exceed 1m;
- h) The wall should be replaced by a hedge as per approved landscaping;
- i) The road is unlit and the wall increases risk to road users;
- j) It is located in a narrow part of the road where there is a severe gradient;
- k) The original application proposed landscaping and hedging to mitigate the development's impact on the countryside and this is now being removed;
- l) There is a 200% increase in traffic generated by the development;
- m) Existing residents would incur legal fees in obtaining insurance advice in relation to the risk posed by the wall;
- n) Plots 1 and 2 have been occupied for 8 months and as such the applicant has had this time to landscape the area;
- o) The wildlife area has not been created;
- p) Overlooking caused by the lack of landscaping and boundary treatments;
- q) Existing trees that were shown as retained have been removed and not planting has taken place;
- r) Noise and dust is exacerbated by the lack of landscaping; and
- s) Condition 12 should be enforced.

Relevant policies and guidance

The relevant Development Plan policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), 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)

- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside)

The relevant national guidance is:

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

The relevant local guidance is

- South Derbyshire Design Guide SPD

Planning considerations

The principle of development was established at appeal in 2014 and the scheme has been implemented pursuant to that permission. Since then, a number of design amendments have subsequently been approved, as detailed above. This application seeks permission for the erection of sections of walls on the front boundary of plot 1 as well as consideration of the timing for completing landscaping (condition 12).

The PPG states that permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one(s) previously granted.

A decision notice describing the new permission should clearly express that it is made under section 73 (i.e. to vary or remove conditions). It should set out all of the conditions which need to be imposed on the new permission, and for the purpose of clarity, restate the conditions imposed on earlier permissions that continue to have effect. As numerous 'pre-commencement' conditions have already been approved, the wording of any conditions attached to any section 73 permission are amended accordingly as a normal part of the process. Hence, condition 1 is to also be amended to accommodate a revised layout plan, whilst minor changes to the surface water drainage scheme and the areas subject to biodiversity requirements will also require adjustment – the latter acknowledging that the recently refused scheme (ref. 9/2019/0491) remains eligible for an appeal and would otherwise encroach on the currently approved 'wildlife area'.

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

- The proposed variation of condition 12;
- Highway safety matters; and
- Impact of the wall on visual amenity;

Planning Assessment

The proposed variation of condition 12

The landscaping that has already been undertaken is not in conformity with the scheme approved, in the normal manner, pursuant to a planning condition imposed by the Inspector in allowing the original appeal. A revised landscaping scheme, as planted, has now been submitted, which is no less satisfactory than the previously approved scheme and it would serve the amenity interests identified by the Inspector.

Condition 12 presently requires landscaping to be implemented *“before any dwelling hereby permitted is occupied or the completion of the development, whichever is the sooner”* – this being based on and carrying forward the precise wording used in the Inspector’s decision – *“before the any dwelling hereby permitted is occupied or the completion of the development, whichever is the sooner”*. Given the slow progress of the project and its self-build nature resulting in plot by plot changes, it is now apparent that the condition as presently worded is neither practicable nor reasonable. In accordance with the NPPF and PPG, conditions have to be worded in a manner which does not impose unreasonable burdens on developers at an inappropriate stage of the development. The present condition originating from the Inspector’s decision requires all landscaping to be implemented, across the entire development, prior to any occupation of a dwelling on the wider site. This would require the developer to plant and landscape the site before likely removing and damaging that planting in order to construct remaining dwellings, drainage and services, etc. The PPG suggests that this condition would not pass the 'reasonable' test and thus it should not be retained in its present form.

In order to ensure landscaping is carried out at the earliest opportunity, without imposing an unreasonable burden, a change to a plot-by-plot provision is considered appropriate, and a precise and reasonable condition can be drafted based on the revised landscaping scheme.

Highway safety matters

Whilst it is acknowledged that the new wall would fall short of the normal visibility guidelines for adopted roads in terms of vehicles emerging from Plot 1, the road is private and lightly trafficked. The applicant has also since clarified that there is a distance of 1 metre from the wall to the edge of the private way that users are entitled to pass over. The public footpath does not pass alongside the wall, so the public at large are unaffected in safety terms. With these factors in mind, there would be no demonstrable harm to highway safety interests, this also being the view of the Highway Authority. As such there would be no conflict with policy INF2 and the NPPF.

Impact of the wall on visual amenity

The wall to the front of plot 1 is viewed in context with the large detached property, with only limited views from the nearby public footpath. While it is also visible to the authorised users of the private drive, the overall character of the locally would not be harmed and this aspect of the proposal is in conformity with policy BNE1.

It should also be noted that a material fallback position exists. Had the wall been constructed so that no part exceeded 2 metres in height, it could have been built under permitted development rights. Reducing the piers to that height (a minor alteration) would bring the wall within permitted development limits and it would not appear expedient to subsequently enforce demolition of the wall given it could be reconstructed back to that form.

Other matters

Aside from the phasing of the landscaping, other conditions relating to the surface water drainage scheme (approved by the Lead Local Flood Authority) and ecological matters (approved by Derbyshire Wildlife Trust in response to the phase 2 application) have been updated to reflect current circumstances and also to avoid the need for, and further disruption of, the wildlife areas should an appeal for phase 2 be successful.

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

That permission be **Granted** subject to the following conditions:

1. This permission shall relate to drawing refs. WR-PLOT1BW-001.1 rev A, WR-PL-S01 Rev E; P01.1 Rev C, P01.2 Rev A, P01.3 Rev A, P01.4 Rev D, P02.1 Rev D, P02.2 Rev D, P03.1 Rev D, P03.2 Rev D, P03.3 Rev C, P03.4, P03.5, P04.1, P04.2, P05.1, P05.2, P05.3, P05.4, P06.1 and P06.2; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt.

2. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the 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.

3. Visibility splays extending from a point 2.4 metres back from the Brook Lane carriageway edge and measured along the centreline of the access for a distance of 15 metres in each direction measured alongside the carriageway edge shall be permanently kept clear of any object greater than 1 metre in height (600mm in the case of vegetation), as measured relative to the level of the nearside carriageway of Brook Lane.

Reason: In the interests of highway safety.

4. The measures detailed in Peter Diffey and Associates letter dated 15 January 2015 to prevent the general use of Mill Lane by vehicles shall be retained in place for the lifetime of the development.

Reason: In the interests of highway safety.

5. Prior to the occupation of any of the dwellings the corresponding parking spaces and turning areas shown on drawing no WR-PL-S01Rev E shall be provided and thereafter retained for such purposes.

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

6. The foul drainage arrangements detailed in Clear Environmental Consultants Report Reference CLE10132/005/001 dated January 2015 shall be implemented prior to the occupation of each dwelling to which the scheme relates.

Reason: In the interests of pollution control.

7. The surface water drainage scheme for the site, as detailed in Drainage Statement v1, dated January 2015, Ref: CLE10132/005/01, prepared by Clear Environmental Consultants (as amended by CLE30250/05/02 Version A dated 16 September 2019 prepared by RPS) shall be implemented in accordance with those approved details before each dwelling to which it relates is occupied.

Reason: In the interests of flood protection.

8. The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment Reference CL550/05/01 Revision 03 dated January 2012, approved Plan No.

C121/DW/2 Revision E and the following mitigation measures detailed within the Flood Risk Assessment:

- i) Limiting surface water run-off in accordance with condition 10. (Sections 3.4 and 4.3 of the Flood Risk Assessment);
- ii) Provision of compensatory flood storage scheme (including location, volume and methodology) for any ground level raising within the 100 year (1% chance) flood plain as shown on figure within Appendix D, for example, any works in respect of the access road/track from Brook Lane to the development. (Section 4.2 of the Flood Risk Assessment);
- iii) Demonstration within the Flood Risk Assessment that the improvement/protection and maintenance of existing flood defence assets(s) and the on-site culverted watercourse will be provided. (Section 4.4 of the Flood Risk Assessment);
- iv) Identification and provision of safe route(s) into and out of the site to an appropriate safe haven as part of the site specific Flood Warning and Evacuation Plan as set out in Appendix F. (Section 4.2 of the Flood Risk Assessment);
- v) Finished floor levels of the dwellings hereby permitted shall be as set out on approved Plan No. C121/DW/2 Revision E. (Section 4.1 of the Flood Risk Assessment); and
- vi) Provision of an annually reviewed and, where necessary, revised Flood Warning and Evacuation Plan. (Section 4.2 of the Flood Risk Assessment).

Reason: To ensure that it is possible to incorporate important flood avoidance features including construction levels in the interests of flood protection.

9. The development shall be implemented in accordance with the construction method statement, as shown on Drawing No. CLE10132/05/106 and J. Taberner Plant Hire Method Statement.

Reason: In the interests of flood protection.

10. Except for the areas annotated 'Wildlife Area 1' and 'Wildlife Area 2' shown on Ashmead Price drawing no. AP-557-02-01 rev A all planting, seeding or turfing comprised in the approved details of landscaping, as shown on Ashmead Price drawing no. AP-557-01-01 rev A shall be carried out in the first planting and seeding seasons following completion or occupation of each dwelling to which the scheme relates, whichever is the sooner; in the case of the areas annotated 'Wildlife Area 1' and 'Wildlife Area 2' shown on Ashmead Price drawing no. AP-557-02-01 rev A the approved details of landscaping shall be carried out in the first planting and seeding season following the date of this permission; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

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

11. No removal of trees, hedgerows, shrubs or undergrowth shall take place between 1 March and 31 August inclusive unless a recent survey has been undertaken by an appropriately qualified ecologist to assess the nesting bird activity on the site and details of measures to protect the nesting bird interest on the site have been submitted to and approved in writing by the local planning authority.

Reason: To ensure that nesting birds are adequately protected.

12. Immediately following the planting required by Condition 10 the areas annotated 'Wildlife Area 1' and 'Wildlife Area 2' shown on Ashmead Price drawing no. AP-557-02-01 rev A shall be fenced off in accordance with details specified in the Brindle & Green Ecological Management

Plan Ref.BG15/103 dated November 2014 and revised October 2019), and the fencing shall remain in place for the duration of all site clearance, demolition and construction work. The approved fencing shall only be removed once the last dwelling hereby permitted has been occupied.

Reason: In the interests of biodiversity protection, recognising that initial clearance and groundworks could compromise the long term health of the habitats affected.

13. The development shall be implemented in accordance with section 7 of the Ecological Impact Assessment report ref BG18.347.1 prepared by Brindle & Green dated June 2019 and shown on Drawing number AP-557-02-01 Revision A and the Landscape and Ecological Management Plan (LEMP) report ref BG18.347.2 prepared by Brindle & Green dated September 2019.

Reason: In the interest of biodiversity.

14. The materials to be used in the construction of the external surfaces of the buildings hereby permitted shall be as detailed in the applicant's e-mails dated 23/02/2017, 01/03/2017 and 13/11/2017, unless as may otherwise be agreed in writing with the Local Planning Authority.

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

15. Development shall be carried out in accordance with the approved details of security measures specified in Peter Diffey and Associates Limited letter dated 15 January 2015 and thereafter shall be retained.

Reason: To minimise risk of crime.

16. The boundary treatment specified in Peter Diffey & Associates Limited letter dated 15 January 2015 shall be implemented before occupation of the last dwelling on the site, unless as may otherwise be agreed in writing with the local planning authority.

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

Item No. 1.4

Ref. No. DMPA/2019/0984

Valid date: 23/08/2019

Applicant: Mr Allister Gardiner
A & G Real Estate

Agent: Mr Adam Wilson
Wilson Architects Ltd

Proposal: **Change of use from hotel and drinking establishment to 4no. one-bedroom flats and 9no. two-bedroom flats (use class C3) along with alterations to the vehicular access and landscaping works at The Castle Hotel, Station Road, Hatton, Derby, DE65 5DW**

Ward: Hatton

Reason for committee determination

This item is presented to Committee as it is not in strict conformity with the Local Plan on the basis it would not provide the required developer contributions as a result of financial viability implications.

Site Description

The site is situated within the Hatton settlement boundary to the south of the village and forms the edge between Hatton and Tutbury. The site looks over the River Dove to the south, the Nestlé factory to the east and a series of village amenities to the west. Access is via the A511 which runs directly adjacent to the site and the railway station (and Stoke to Derby line) are directly to the north. To the front of the site, Marston Old Lane provides access to a residential estate and allotments.

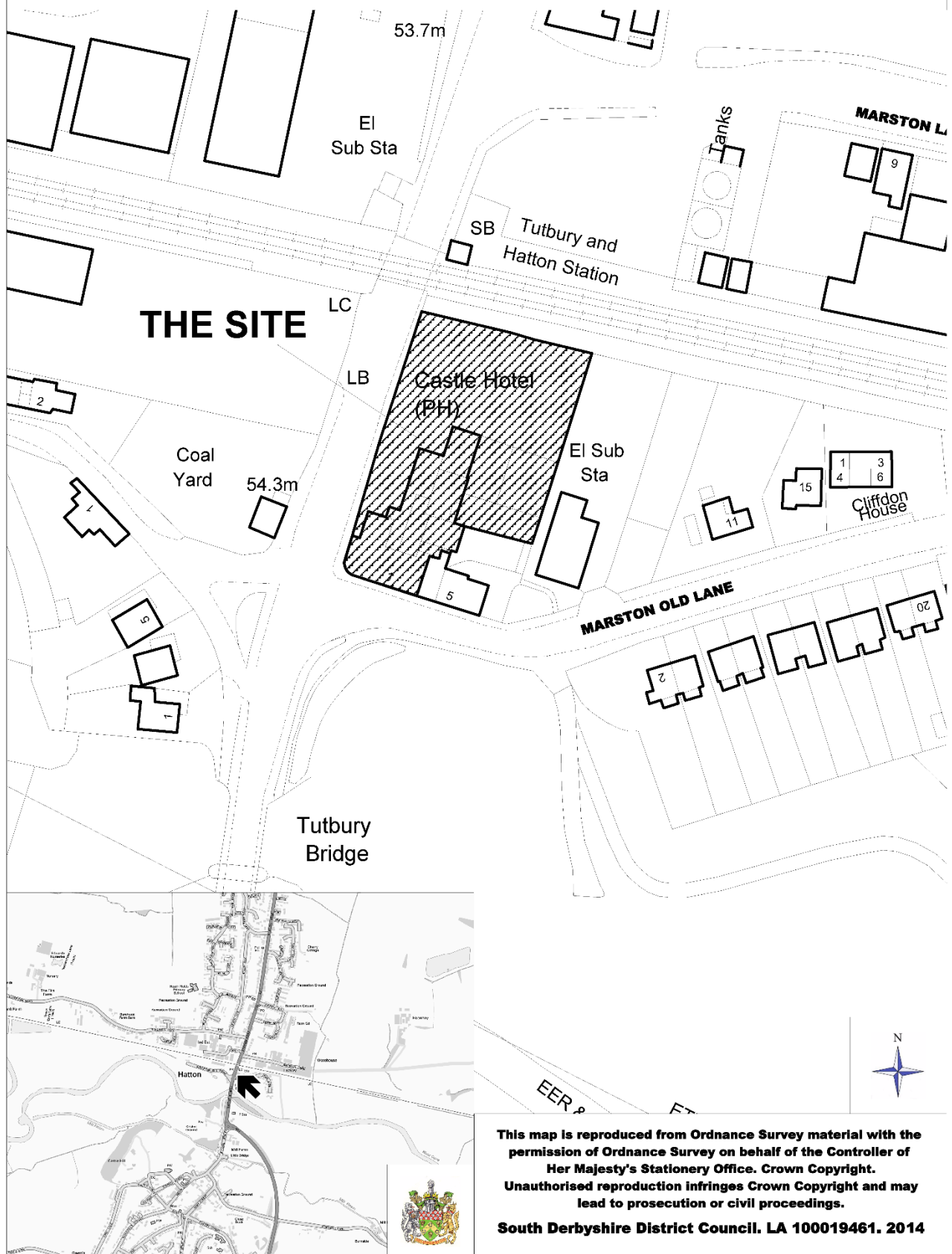
The site is host to the former Castle Inn public house and bed & breakfast (B&B), more latterly known and operated as The Castle Hotel. This comprises an original three storey Georgian element, facing towards the River Dove, along with a number of more recent extensions - both single and two storey and of varying design, to its north and west. A large surface parking area extends to the north of the building, culminating at the railway line boundary, with a landscaping belt defining this boundary and a garden area to the east of the building.

The proposal

The proposal seeks to utilise the existing building and convert it into 4 one-bedroom and 9 two-bedroom flats, with ancillary storage at ground floor for each unit as well as amenity provision. The proposal would re-model and modernise the existing built form through the use of a restricted palette of materials and a consistent design approach.

Throughout the course of the application access to the site has been amended. It was originally intended for the development to be served by the existing access off Station Road. However, following discussions with the Highway Authority, from a safety perspective it was considered preferable to re-site the access centrally within the roadside boundary. As such, access is to be taken from a central point along the Station Road boundary. A dedicated pedestrian access is also shown further south of the vehicular access. The existing hard-surfaced parking area would be softened through the introduction of landscaping and a new grassed lawn area is shown adjacent to Station Road.

DMPA/2019/0984 - The Castle Hotel, Station Road, Hatton, Derby DE65 5DW



Applicant's supporting information

A Design and Access Statement provides an overview of the site, outlines the design process and illustrates how the analysis, research and consultation have informed the final design proposals. The statement provides an explanation of the design and demonstrates compliance with the relevant planning policies. Specifically, it states that the site benefits from recent flood defence improvements. It also states that the establishment is now closed but was operational for 37 years, and gradually declined despite efforts to maintain operation through various other means of income generation. Details of the existing and proposed accommodation layout are provided, along with commentary on the approach to amenity provision, which would be provided for by way of a number of designated areas, along with a communal garden which, it is contended, would be preferential from a maintenance perspective. The design approach has been appraised in accordance with Policy BNE1 and the Design Guide SPD. It is stated that the external refurbishment has been proposed to lift the current state of the building fabric and to allow the building to be read more like a residential building instead of a commercial pub. In regards to landscaping, it is stated that further soft landscaping would be added to soften the appearance of the building, make it more appealing as a residential development and to create more of an identity to the prominent site. Lighting details are also provided, which it is stated would comprise of low energy LED fittings.

The Flood Risk Assessment (FRA) initially sets out, that in accordance with Environment Agency mapping the site is partially within flood zone 2 and partially within flood zone 3. The FRA would ensure that the development would be safe from flooding and would not increase flood risk elsewhere. Within the assessment it is acknowledged that the site does have a history of flooding, but that this was pre-2000, prior to the flood defences being installed. The report concludes that there may be some residual risk of flooding should the defences fail, but that measures have been recommended to deal with such an event. It is suggested that residual risks would be managed by way of a flood warning and evacuation plan. In regards to surface water flooding, it is contended that as this is a change of use application, there would no changes to the existing drainage system and, as such, no change to the runoff rates or volume. Overall the report concludes that the development is acceptable for the level of flood risk and would not increase flood risk elsewhere.

A Transport Statement identifies the site context and land use. An overview of the relevant planning policy and associated 'tests' are then provided. It is stated that the existing land use generates trips by vehicles and active travel modes and that it is therefore appropriate to consider the existing land use as the baseline against which the development proposals should be assessed. The report continues that on a review of the sustainable access options, it is considered that site is within easy walking distance to the key shops and services within Hatton and Tutbury. The report continues that there are commuter cycling opportunities, as well as leisure cycling opportunities available from the site, that the nearest bus stop is immediately along the site frontage and that the site is immediately adjacent to the Tutbury and Hatton railway station. The report continues that there are significant opportunities for retail, leisure and further education accessible by public transport, with a very short access time to Derby of around 15 minutes. It is also stated that there is a significant walk-in catchment to the commercial unit, with all of Hatton and a significant proportion of Tutbury being within a 1km walk. The report includes a review of the five-year road traffic accident data within the vicinity of the site access which shows there are no existing highway safety issues within the study area. The report continues that the low traffic flows mean that vulnerable users are likely to utilise the site as a shared-use surface and that the access proposals are considered to meet with the needs of sustainable travel modes and vulnerable users.

A traffic generation exercise has been undertaken utilising the industry-standard TRICS database. A comparison with the extant land use forecasts an overall reduction in development-related traffic generation following the development. A reduction in traffic flows would be beneficial to the local highway network and also the level crossing which is located adjacent to the site. Overall a net reduction in traffic is considered to be positive and, as a result, the site is considered to accord with the requirements of applicable planning policy and it is contended that

there would be no highway reasons to refuse the development.

A Viability Assessment takes the form of two reports, the first setting out the development related costs without the required developer contributions and the second setting out the costs with contributions factored in. The report sets out that with no contributions there would be a profit of £139,691, but that when contributions are factored in this would be reduced to £36,360.

Relevant planning history

None applicable.

Responses to consultations and publicity

Derbyshire Wildlife Trust (DWT) initially advised that dependent on the nature and extent of the external refurbishment works that are planned to “lift the current face of the building fabric”, they would require clarification in this regard, particularly if any works were planned to the roof, before confirming that no ecology assessment is required. In response, the agent has confirmed that the external refurbishment would generally be focused on the rear elements of the building. The two storey element will be re-rendered and new windows will be installed and repainted. It is stated that the roof would remain as existing, with the exception of the construction of the small dormer extension to the rear of the original building shown on the rear elevation drawing. On the basis of this information, DWT have confirmed that there would be little likelihood of bats being present or affected by the proposed development and that no further surveys are considered necessary.

The County Highway Authority has raised no objections to the principle of redeveloping the site on the basis that the traffic generation is unlikely to increase when taking into account the existing use. However it has been identified that the current access arrangements are not ideal and it has been suggested that should the applicant close the existing access and create a new central access, it would be a significant improvement in terms of the available emerging visibility and would also allow vehicles to enter and exit the site at 90° to the public highway. It is further advised that two-way traffic would also be improved if drivers were able to drive straight in and straight out of the site.

In regards to parking, whilst the level of parking has been identified as adequate, it was initially identified that there was no available room for a refuse vehicle to manoeuvre. As such, if the bin store were to remain in its original location the parking layout would need to be modified and swept path drawings submitted to illustrate how this area could be accessed by a larger vehicle. It was advised that it would be detrimental to highway safety should a refuse vehicle be forced to reverse to or from Station Road. To address the points raised, a revised site layout drawing has been provided, the site entrance has been amended and additional soft landscaping has been introduced. In addition, a swept path analysis drawing has been provided which illustrates the access and egress for waste vehicles. The Highway Authority has confirmed that they have no objection subject to conditions.

The Lead Local Flood Authority (LLFA) have stated that they have no formal comments and therefore refer to standing advice. This has been verified on the basis that the scheme comprises a major application, with the LLFA has providing no further response.

Network Rail has raised no objection to the principle of the development, but have recommended conditions to secure site drainage details, boundary fencing, Armco barriers, method statements, soundproofing and lighting details. An extensive list of informatives has also been recommended which they have advised be included on any decision notice.

The Environment Agency has raised no objection subject to the imposition of a condition to ensure that the development adheres to the requirements as set out in the Flood Risk Assessment.

The Environmental Health Officer has raised no objection subject to the imposition of conditions.

The conditions require specific glazing to be implemented to mitigate against noise impacts and that electric vehicle charging points are installed.

The County Planning Policy Officer has requested a contribution to mitigate the impacts of the development in regards to deficiencies in both primary and secondary school provision.

Councillor Julie Patten has commented that whilst there are no objections to the principle of the development, there are concerns on parking grounds. It is suggested that there are already parking issues within close proximity of the railway. On this basis a robust assessment of car spaces and potential management techniques is recommended.

Two objections have been received, raising the following concerns/comments:

- a. Highway safety concerns relating to the access and its visibility;
- b. Concern in relation to the existing parking provision on site, in that the numbers quoted are inaccurate;
- c. That there would be a further detrimental impact on the existing highway conditions, which are problematic and congested if this proposal is approved; and
- d. That three windows facing Old Marston Lane would open out onto the pavement, causing a possible obstruction and danger to its users.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF6 (Community Infrastructure), INF7 (Green Infrastructure) and INF9 (Open Space, Sport and Recreation).
- 2017 Local Plan Part 2 (LP2): SDT1 Settlement Boundaries and Development.

The relevant national policy and guidance is:

- National Planning Policy Framework (NPPF)
- National Design Guide (2019)
- Planning Practice Guidance (PPG)

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)
- Section 106 - A Guide for Developers

Planning considerations

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

- Principle of development;
- Design, character and appearance;
- Highway safety and parking ;

- Drainage and flood risk;
- Ecology; and
- Developer contributions and viability.

Planning assessment

Principle of development

Policy H1 of the Local Plan defines Hatton as a Key Service Village. Within the settlement boundary for such a settlement, as defined under policy SDT1, the policy allows for residential development of all sizes. This application proposes the conversion of a (now closed) premises formally operated as a public house, restaurant and guest house (along with providing ancillary residential accommodation) to 4 one-bedroom apartments and 9 two-bedroom apartments. The proposal would be acceptable in principle, according with policy H1.

In addition to Policy H1, however, consideration of Policy INF6 is necessary. Policy INF6 concerns development related to community facilities, with part B of the policy stating that community facilities will be protected unless it is clear that there is no longer a need to retain the use, or where a suitable alternative is provided. The Local Plan defines a community facility as:

"Facilities used by local communities for leisure and social purposes where the primary purpose of the facility is for the public benefit. Examples of community facilities would include, but not exclusively, village halls, community centres and meeting places, places of worship, cultural buildings, non-profit sporting facilities and play areas" [emphasis added].

At a national level, the NPPF (para 92) states the following in relation to such facilities, which is also considered relevant in this context:

To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;...and

c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs" [emphasis added].

Initially it must be ascertained whether or not the establishment could be defined as a 'community facility'.

As set out within the Local Plan, to be defined as a community facility, the primary purpose of the facility must be one of public benefit. The emphasis is also towards community halls and meeting places. In this case, the primary purpose of the facility was one of private financial gain, as a hotel, and so the proposal would fail this test. This said, the facility would provide some community benefits as a result of its general use for leisure and social purposes, and it is for this reason that national policy has identified public houses as falling within this category. In terms of the specific circumstances relating to this facility, however, the use of the establishment was not solely as a public house, it provided overnight guest accommodation and residential accommodation for the operator, thus diminishing its social value. Furthermore, as a result of there being similar facilities within the settlement, the loss of this facility would not result in the settlement being wholly deficient of facilities providing similar social benefits.

Accordingly, whilst it could be argued that the existing establishment does provide some social and community benefits, irrespective this loss there would be other facilities within the settlement which would continue to fulfil this purpose and overall the proposal would not reduce the community's ability to meet its day-to-day needs. It is not considered that the premises would fall within the Local

Plan definition of 'community facility' such that the conversion to residential accommodation is considered acceptable in principle.

Design, character and appearance

The application buildings occupy a prominent position on the edge of village, providing a commanding entrance feature as a result. To the south of the site, across Marsden Old Lane is a large open green space which leads to the River Dove. From this approach the area has an open, natural character. To the north of the site, however, there is a marked change in character as the area becomes rapidly built up. The existing building comprises an original three storey element of Georgian architecture extended by way of an eclectic mix of unsympathetic extensions of various scale and design to its side and rear. The premises utilises a varied palette of materials, including buff brick, orange brick and render and over the years, the original buildings architectural features have been somewhat eroded.

The application proposes to comprehensively remodel the building through a cohesive and simplistic approach to materials and massing. The scheme would redesign the existing extensions, removing their overly 'fussy' detailing and throughout, whilst fenestration would be of a uniform appearance and of vertical alignment. This is with the exception of a dormer window to the rear of the three storey element. This feature has been added throughout the course of the application, and dialogue has taken place in terms of its design, resulting in a number of revisions. The final design of this feature is not ideal, but is an improvement on that originally proposed and, on balance, as a result of its siting and its relatively minor scale would not appear overly prominent and would not therefore comprise the overall design to a detrimental level. The appearance of the external areas, which are (currently) predominantly hard-surfaced would be softened through the incorporation of soft landscaping and alternative forms of surfacing. Overall the development would be well balanced and unified and as a result of its design features would have a contemporary appearance. The development would result in enhancements to the existing building and the wider area and would form a positive entrance to the village. The development would therefore be compliant with policies BNE1 and BNE4 of the Local Plan.

Highway safety and parking

The site is served by an existing access off Station Road and there is a large surfaced car park to the north of the building. Throughout the course of the application, in response to comments raised by the County Highway Authority, the site layout has been revised and a swept path analysis has been provided for refuse vehicles. The amended details illustrate that the position and design of the access has been amended and the siting of the waste storage container has been changed. The development would continue to provide 13 parking spaces, along with 9 visitor parking spaces.

Local concern has been expressed in relation to highway and parking matters. The application has been accompanied by a Transport Statement, which addresses some of the concerns raised. This document initially identifies that the existing land use generates trips by vehicles and active travel modes and that it is therefore appropriate to consider the existing land use as the baseline against which the development proposals should be assessed. The statement continues that a review of sustainable access options to the site shows that key shops and services are within easy walking distance and that there are commuter cycling opportunities and rail and bus facilities close by. A review of traffic accident data has also been undertaken for Station Road and its junctions with Bridge Street and Scropton Road, and this shows that there are no existing highway safety issues within the study area. A traffic generation exercise has also been undertaken utilising the TRICS database and a comparison with the extant land use forecasts an overall reduction in development related traffic generation following the regeneration of the site. Overall the report concludes that a net reduction in traffic must be described as a positive and as a result the proposal would accord with the relevant policy guidance.

The County Highway Authority have been consulted on the amended plans and confirm that they

have no objection subject to conditions. On this basis it is considered that the proposed parking provision and the amended access and swept path analysis details are acceptable. Accordingly the proposal is considered to comply with policies BNE1 and INF2 of the Local Plan.

Drainage and flood risk

As acknowledged within the FRA, the application site is situated approximately 75m from the River Dove and is located partially in Flood Zone 2 and partially in Flood Zone 3. The FRA identifies that the site benefits from flood defence measures completed in 2013, which provide extensive flood protection throughout Hatton. The report concludes that there would be a residual risk to the site if the flood defence measures failed. To address this potential risk it is stated that it would not be viable to suitably raise ground floor levels and that therefore flood resilience/resistance measures would be employed to mitigate the residual risk to the building. In terms of residual risk to people, this would be managed by a flood warning and evacuation plan. In a flood emergency, when prior evacuation is not possible it is stated that an access route will still be available that provides 'danger for some' flood hazard rating, with flood depths no greater than 0.3m. Overall the FRA identifies that the proposed development would not change the vulnerability classification of the site, remaining 'more vulnerable' in accordance with the NPPF/PPG.

Given that this is a change of use application, there are no changes planned for the existing drainage system and as such, no change to run-off rates and volumes would occur. Accordingly, there is considered to be no requirement to seek the provision of sustainable drainage systems (SuDS) on the site - the proposal not altering existing drainage conditions.

The Environment Agency has raised no objection subject to a condition being imposed to secure the mitigation outlined within the FRA. On this basis, the proposed development would be considered appropriate for the level of flood risk and is not expected to increase flood risk elsewhere.

Ecology

Derbyshire Wildlife Trust originally requested additional clarification in terms of the works to the existing building. The applicant has clarified the proposed works and upon the basis of these, along with a site visit undertaken by the Trust, it has been confirmed that there would be no harmful ecological impacts as a result of the proposal.

Developer contributions and viability

Policy INF1 is supportive of development that is otherwise in conformity with the plan so long as it provides the necessary on and off-site infrastructure to support and mitigate any impact caused. Policy INF9 identifies that current provision of open space and sports and recreation facilities within South Derbyshire are not sufficient to meet the local need. To address this the policy explains that new facilities would be secured within future development and/or by securing funding for the delivery of new and improved open spaces. The Section 106 guidance provides further detail on the specific contributions and their calculation.

As this is a major development resulting in the creation of 13 dwellings, contributions would be required. In terms of open space, sports and recreation, a financial contribution towards off-site open space provision based on £372 per person, outdoor sports facilities based on £220 per person and built facilities based on £122 per person would be required. On the basis of 22 people occupying the development, this would equate to a total contribution of £15,708. This contribution could go towards a range of planned enhancements to the nearby open space known as the 'Jubilee Fields'.

With regard to education, paragraph 94 of the NPPF states:

"It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive

and collaborative approach to meeting this requirement and to development that will widen choice in education They should:

- a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and*
- b) work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted".*

Capacity at the local primary and secondary schools has been assessed and the County Council seeks £33,624.48 for the provision of 2 primary pupils at Heath Fields Primary School, to be used towards new classroom accommodation, and £52,806.92 for the provision of 1 secondary and 1 post-16 place, to be used towards additional accommodation at John Port Spencer Academy.

This application has been accompanied by a viability appraisal. This identifies that on the basis of the specific development costs, it would not be viable for the development to provide the requested developer contributions and thus, the developer would not be adequately incentivised to undertake the development. The viability report has been assessed by the District Valuer and it has been comprehensively concluded that the development would not be able to support any level of contribution. The independent assessment identified that in a number of areas, development costs had either not been acknowledged, or had been underestimated. On the basis of the assessor's figures, the viability of the development was re-tested and this confirmed that in the absence of contributions, the development would just be feasible, subject to a lower profit threshold.

In regards to development viability, paragraph 57 of the NPPF sets out that it is the responsibility of the applicant to demonstrate whether particular circumstances justify the need for a viability assessment...and that *'the weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case...'*

In this case the development would result in various benefits, including the provision of additional low-cost housing in an accessible location, would facilitate the re-use of an existing building, which is currently vacant, and would upgrade the appearance of this prominent site, which would enhance the street scene and the wider area. Whilst the development would not be able to support the requested education or play and open space contributions, on the basis of the specific nature of the development it is considered less likely that the accommodation would appeal to families with school-aged children, and due to the relatively small scale of the proposal, the existing recreational facilities within the vicinity of the site would not be placed under undue pressure in the absence of the contributions, thus reducing the harm in this regard. On balance, it is considered that the benefits associated with the development would outweigh the limited harm in this case, and that on account of this, the development should proceed.

Other matters

The response of Network Rail is noted. Much of that raised is covered by separate legislation or is advise suitable for an informative. Of the suggested conditions, only those requiring boundary treatment details, soundproofing and lighting are to be imposed. A surface water drainage condition would not be necessary, on the basis that this is a change of use application and there would be no alterations to the existing drainage system, whilst the remaining conditions are not considered to meet the relevant tests.

Conclusion

The conversion of the premises would be appropriate in principle, delivering dwellings towards the Council's five-year supply in a sustainable location. The loss of the facility is not considered to compromise the ability of the existing community to meet its day to day needs. The proposed dwellings would also not be subject to unacceptable risk of flooding, nor would the use compromise highway safety and capacity. Conditions can address other matters. Whilst the inability of the scheme to support financial contributions to alleviate pressure on educational and recreational

facilities is regrettable, the type and quantum of accommodation is not considered to bring about undue pressure on these facilities to a degree which would be unsustainable in the round.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

GRANT permission subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plan refs: Site Location Plan (18018-P-001), Proposed Site Layout (18018-P-101 REV C), Proposed Front and Side Elevations (18018-P-104 REV A), Proposed Rear and Side Elevations (P18018-P-105 REV D), Proposed Ground Floor and First Floor Plans (18018-P-102 REV C), Proposed Second and Third Floor Plans (18018-P-103 REV G) unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

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

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

4. The flood risk mitigation measures detailed within sections 3.4, 4.1.1 to 4.1.3, 4.2.1, and 6.0 of the FRA revision V 2.0 dated 21st August 2019, Ref: 2167L shall be fully implemented prior to first occupation and thereafter, all flood risk mitigation measures employed on the Castle Hotel site shall be subsequently maintained in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may be subsequently agreed in writing by the LPA.

Reason: To reduce the risk of flooding to the proposed development and future occupants; to ensure safe refuge, access and egress to and from the site.

5. Prior to the occupation of any dwelling a scheme of hard and soft landscaping, including boundary treatments and a landscape management plan (LMP) for all communal areas of the site, shall be submitted to and approved in writing by the Local Planning Authority. All hard landscaping shall be carried out in accordance with the approved details prior to occupation of each respective dwelling, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of each respective dwelling or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or

diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation. The soft landscaping shall be maintained in accordance with the approved LMP.

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

6. No development shall take place until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for 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 and any proposed temporary traffic management.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety, recognising that initial preparatory works could bring about unacceptable impacts.

7. Prior to the first occupation of each dwelling, space shall be provided for the parking and manoeuvring of vehicles associated with that dwelling in accordance with the approved plan(s) and the 6Cs Design Guide (or any subsequent guidance that may amend or replace it); and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, such space shall be maintained throughout the life of the development free of any impediment to its designated use.

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

8. Prior to the installation of any external lighting a detailed lighting strategy (designed in accordance with the guidelines issued by the Institute of Lighting Engineers, or any equivalent guidelines which may supersede such guidelines) which shall include precise details of the position, height, intensity, angling and shielding of lighting, as well as the area of spread/spill of such lighting, has been submitted to and approved in writing by the Local Planning Authority. All lighting shall be installed in accordance with the approved strategy and thereafter retained in conformity with them.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers and/or transport routes from undue illumination impacts or distraction, and to minimise light pollution at night.

9. The glazing of all aspects of the proposed dwellings containing windows to noise sensitive rooms, defined in table 4 of BS8233:2014 (a room used for either resting, dining or sleeping) shall be double glazed to an acoustic rating of at least 33 Rw and provided with sufficient trickle ventilation to meet the requirements of Building Control Approved Document F (Ventilation).

Reason: To protect those living in the dwellings from traffic or other external noise sources, in accordance with local planning policy SD1.

10. Recharge points for electric vehicles shall be provided within the development to comply with the following criteria: 1 charging point shall be provided per unit (house with dedicated parking), 1 charging point per 10 spaces where the individual units have no allocated parking. Residential charging points shall be provided with an IP65 rated domestic socket 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket should be located where it can later be changed to a 32amp EVCP. Non-residential charging points shall be supplied by an independent 32 amp radial circuit and equipped with a

type 2, mode 3, 7-pin socket conforming to IEC62196-2. Alternative provision to this specification must be approved in writing, by the local planning authority. The electric vehicle charging points shall be provided in accordance with the stated criteria prior to occupation and shall be maintained for the life of the approved development.

Reason: In order to safeguard the amenities of the occupiers of the proposed development in respect of atmospheric pollution in compliance with the South Derbyshire Design SPD & policies INF2 and BNE1.

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

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

Informatives:

- a. The applicant is advised of the response of Network Rail to this application (a full copy available at planning.southderbyshire.gov.uk under the application reference):
- All surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property. In the absence of detailed plans all soakaways must be located so as to discharge away from the railway infrastructure. These matters should be considered in seeking to discharge the relevant condition of the permission.
 - All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.
 - All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail.
 - Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.
 - At least six weeks prior to works commencing on site the Asset Protection Project Manager (OPE) must be contacted. The OPE will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway.
 - Any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures. The demolition of buildings or other structures near to the operational railway infrastructure must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from Network Rail's Asset Protection Project Manager before the development can commence.
 - Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.
 - The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the

operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership.

- 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.

Item No. 1.5

Ref. No. DMOT/2020/0134

Valid date: 28/01/2020

Applicant: Martin Buckley
South Derbyshire District Council

Proposal: The pruning of various trees covered by South Derbyshire District Council Tree Preservation Order no. 132 on Public Open Space, Wilson Close, Mickleover, Derby

Ward: Etwall

Reason for committee determination

This item is reported to the Committee as the Council is the applicant.

Site Description

The application affects two small parcels of public open space close to highways and residential properties, both containing the 4 subject trees of both Ash and Oak.

The proposal

The proposal is for routine crown lifting and tree maintenance.

Applicant's supporting information

Full surveys and assessments have been submitted as justification.

Relevant planning history

A Tree Preservation Order (TPO) was made concurrent with proposals to develop the former Pastures Hospital.

Responses to consultations and publicity

None received.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

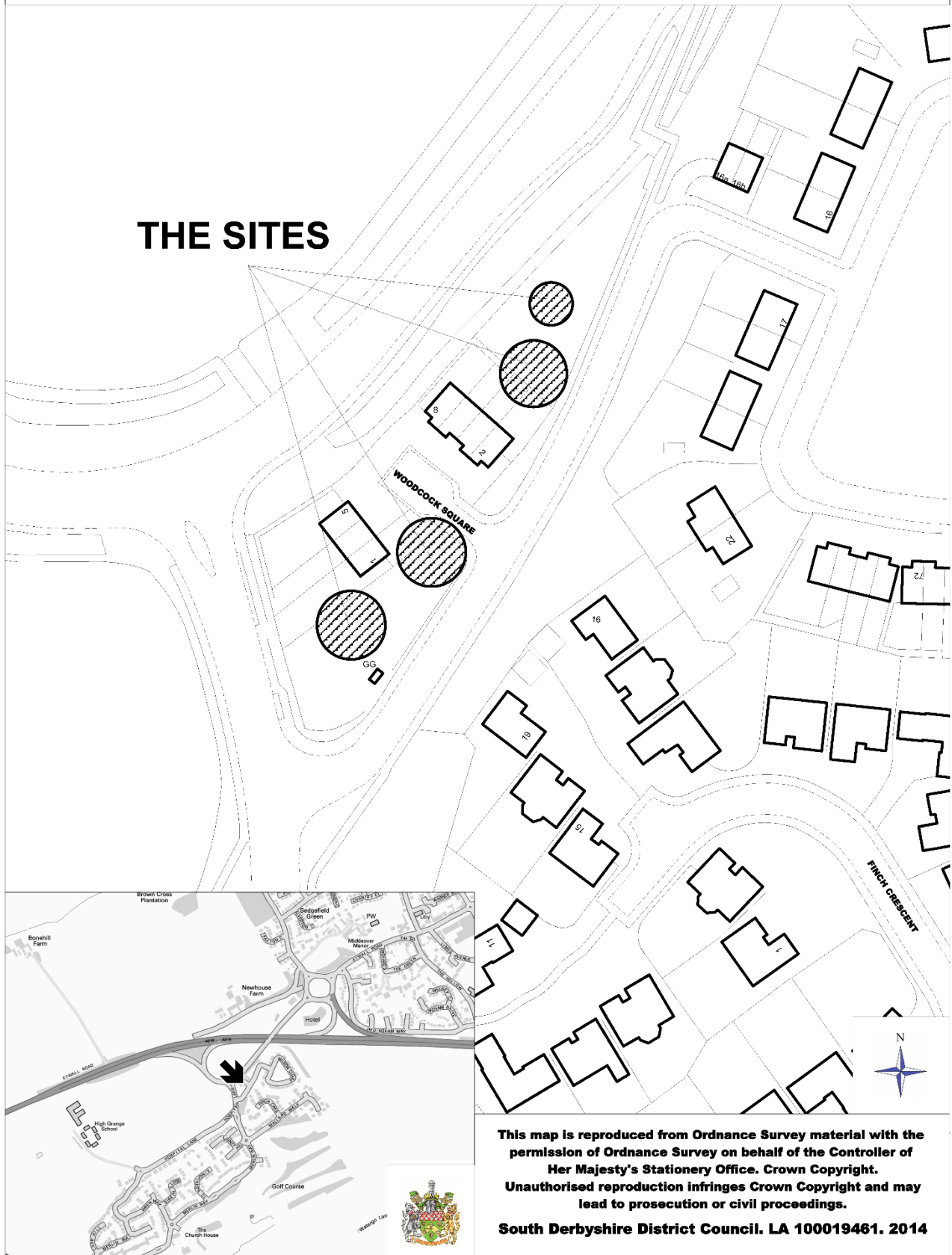
- Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness)
- Local Plan Part 2 (LP2): BNE7 (Trees, Woodland and Hedgerows)

The relevant national policy and guidance is:

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

**DMPA/2020/0134 - Public Open Space, Wilson Close, Mickleover, Derby
DE3 0BY**

THE SITES



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The relevant legislation is:

- The Town and Country Planning (Tree Preservation) Regulations 2012

Planning considerations

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

- Whether the works are justified; and
- Whether the resultant biodiversity and amenity value remains acceptable.

Planning assessment

Whether the works are justified

The works are justified as routine safety/tree maintenance works.

Whether the resultant biodiversity and amenity value remains acceptable.

Providing the work is carried out to the appropriate standard (to be secured by condition) the long term amenity and wildlife value of the trees would not be unacceptably diminished and would still make a valuable and positive contribution the character of the area, in accordance with policies BNE3, BNE4 & BNE7.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

GRANT consent subject to the following conditions:

1. The work hereby approved shall be carried out within two years of the date of this consent.

Reason: To conform with Regulation 17 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, in order to enable the Local Planning Authority to consider any proposals beyond this period in the interests of safeguarding the amenity value of the tree(s).

2. The works shall be carried out in accordance with BS3998:2010 - Tree Work.

Reason: To protect the health of the trees.

Item No. 1.6

Ref. No. DMOT/2020/0396

Valid date: 23/04/2020

Applicant: Jim Hewlett
Thomas Cook's Memorial Trust

Agent:

Proposal: Pruning back of a Walnut tree at no. 7 Penn Lane at Thomas Cook Memorial Cottages, 53 High Street, Melbourne, Derby, DE73 8GJ

Ward: Melbourne

Reason for committee determination

The item is presented to Planning Committee as Councillor Jim Hewlett is the applicant.

Site Description

The Walnut tree is located in the rear garden of 7 Penn Lane but overhangs Thomas Cook Almshouses, which is a listed building.

The proposal

The proposal involves pruning the branches of the tree away from the listed building.

Applicant's supporting information

It is contended the overhanging branches are causing excessive shading, leaf fall blocks gutters and the tree will soon make contact with the building.

Relevant planning history

None.

Responses to consultations and publicity

Melbourne Parish Council has no objection.

Melbourne Civic Society has no objection to the works.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): BNE4 (Landscape Character and Local Distinctiveness)
- Local Plan Part 2 (LP2): BNE7 (Trees, Woodland and Hedgerows)

The relevant local guidance is:

- Melbourne Conservation Area Character Statement

DMOT/2020/0396 - 7 Penn Lane at Thomas Cook Memorial Cottages, 53 High Street, Melbourne, Derby DE73 8GJ



The relevant national policy and guidance is:

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

The relevant legislation is:

- The Town and Country Planning (Tree Preservation) Regulations 2012

Planning considerations

To clarify, in determining this notification the Committee have three options: (1) do not object to the proposal of felling and removing the tree, (2) not respond within the 6 week period allowing an automatic grant of consent, or (3) place a Tree Preservation Order on the tree.

In taking account of the application documents submitted and the site and its environs, the main issue central to the determination of this application is whether the amenity value of the tree is high enough to warrant a Tree Preservation Order (TPO), given the extent of works proposed and other relevant considerations.

Planning assessment

The tree is located to the rear of 7 Penn Lane and is largely shrouded by surrounding buildings. The works are clearly necessary to prevent conflict with the fabric of historic buildings and to bring about reasonable living conditions for its occupants. The amenity value of the tree would not be substantially reduced, given its context, and a TPO would not be justified in this case.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

That the Committee **DOES NOT OBJECT** to the works as proposed.

Informatives:

- a. If for any reason the proposed works are not carried out before the expiry of two years from the date of the original notice, a further notice must be served. Furthermore all work should be carried out in accordance with the British Standards Institute's recommendations for tree work.

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 5
DATE OF MEETING:	1st JULY 2020	CATEGORY: DELEGATED
REPORT FROM:	STRATEGIC DIRECTOR (SERVICE DELIVERY)	OPEN
MEMBERS' CONTACT POINT:	TOM BEARDSMORE (01283) 595821 THOMAS.BEARDSMORE@SOUTHDERBYSHIRE.GOV.UK	DOC:
SUBJECT:	TREE PRESERVATION ORDER 527: LAND OFF SWAN HILL, MICKLEOVER	REF: TPO527
WARD(S) AFFECTED:	ETWALL	TERMS OF REFERENCE:

1.0 Recommendations

- 1.1 That this Tree Preservation Order should be modified to omit the area outside the main woodland and then confirmed as such.

2.0 Purpose of Report

- 2.1 To consider confirmation of this Tree Preservation Order (TPO).

3.0 Detail

- 3.1 A provisional Tree Preservation Order was made in October 2017 (TPO478). Following recent development the future of the trees and their screening qualities was felt to be in doubt. Given that uncertainty and in the interests of protecting the character of the area here, it was felt expedient to protect the trees by way of a TPO. The trees present on site were classed as numerous and in good health, as well as having a high amenity value. It was considered expedient to create a TPO due to the potential threat the trees were under.
- 3.2 The 2017 Order received objection and was reported to the Planning Committee in March 2018. At the meeting, Councillors resolved to confirm the Order with modifications. However, it appears that this resolution was not subsequently acted upon, meaning the Order expired. As the trees still exist and warrant protection, a new Order was required to protect the trees on site.
- 3.3 This TPO was made on 24 January 2020 in respect of multiple trees forming a woodland on land off Swan Hill, Mickleover.
- 3.4 One letter of objection has been received through consultation. In the interest of transparency, previous objections received in response to consultation on TPO478 have also been included below.
- 3.5 One letter of support has been received highlighting the biodiversity benefits from protecting the woodland but also requesting a number of exceptions to works allowed under the Order.

3.6 The objection received against the new Order raises the following points:

- The letter to neighbouring properties makes no reference to Order 478, nor does it state this further Order is an addition to the same.
- No mention is made in the covering letter as to the additional opportunity to comment/object.
- It is contended that TPO527 is invalid as the Council has failed to properly carry out its duties under Regulation 9(a), (b) and (c) of The Town and Country Planning (Tree Preservation) (England) Regulations 2012 ('the Regulations').
- The Council has also failed in their duty, as public servants, to respond to those questions and concerns raised in response to TPO478.
- The reasons for issuing this subsequent order mimic those reasons attached to the original order, word for word, and remain unacceptable, unsubstantiated and without evidence.
- They question why such Orders can be authorised and signed when the total absence of factual reasoning is so apparent.
- Over the years, the local community have repeatedly appealed to the authority to properly manage the land, as it charged to do. The Council's response has been virtually non-existent and untruthful.
- If a tree is deemed to be unsafe or interfering with local property borders, exemptions should be put in place or leniency should be given to this if permission is required for their removal. This should also be the case for dead trees and branches.

3.7 In answer to the comments made, officers have the following response:

- Regulation 9(a), (b) and (c) only applies where a decision is made to confirm or not to confirm. Whilst a resolution was reached, a decision (i.e. a legal confirmation) was not subsequently made. Original correspondence sent at the time of making both Orders sets out that the protection afforded will 'fall' if confirmation does not take place within 6 months.
- An officer wrote to the current objector in response to the 2017 Order, addressing many of the points raised in paragraph 3.6 above, whilst the rest were set out in the report to the Committee in March 2018 (repeated below).
- An officer indicated, in writing, to the current objector the date of the March 2018 meeting and that the report could be viewed online.
- It remains the case that the land affected, other than that now claimed by adverse possession, is under the ownership, and thus maintenance responsibility, of Redrow Homes and Taylor Wimpey Homes. Accordingly, the Council does not hold any maintenance responsibility for the land.

- The land remains under threat from piecemeal sale of land to extend adjoining gardens.
- Protecting the trees by way of a TPO does not prevent appropriate work being applied for and approved. There are also exemptions to the need for express consent where Health & Safety supersedes the visual amenity of the tree(s) or for the removal of deadwood, etc.

3.8 The responses received against TPO478 raised the following points:

- The Order should be amended to exclude the former access strip, that at the bottom of the bund and most immediate to the houses; this land limited in regard to tree numbers and is more overgrown with brambles, etc. The principle of a TPO here though is a public amenity well worth safeguarding.
- The Order should be amended to exclude our land, that that we have maintained (through the lack of others) for the last 15 years using our own time, effort and expense.
- Why is the track at the bottom of the bund included? there are no trees there so nothing to preserve.
- Who owns the woodland? Whilst in general support of the order, some basic maintenance of the trees is required, even if just to lessen the potential to damage adjacent property.
- The trees are becoming quite tall and blocking sunlight from our homes/gardens. Our preference is that the trees are retained albeit in a managed form that keeps their height in check. We would trust the TPO would not stop this from happening or the landowner use it as an excuse not to carry out necessary work, more so with some trees failing in the area of late.
- Are the trees the appropriate species? They are growing so tall with no obvious slowing in their growth rate. Has any sort of risk assessment been carried out on the trees (in terms of potential to fail) given their situation/condition?
- Why has the trees amenity been assessed as high, the land to the opposite side of the bund now so overgrown, it effectively 'screens' the 'planned for screen'? Our amenity has been compromised with local groups of youths congregating here and carrying out anti-social activities.
- The order presumably does not relate to self-set shrubs? Equally, how do we identify specific trees we may wish to prune (if we were to apply) given the dense nature of the woodland and the third-party ownership of such (i.e. trespass concern).
- We have looked after the area (part of the TPO) for the last 15 years, at our own expense through adverse possession. Putting a TPO on land looked after by one party but owned by another will cause confusion and possibly delays if any works are required.
- You want the TPO in place to protect the trees from recent development; what is that development?

- We have been maintaining shrubs and bushes in the area now covered by the TPO; can we still do so, they in our opinion not being trees? What do you consider to be a tree?
- Who should make an application for necessary works; us or the landowner? If it is the landowner it is unlikely to bear fruit due to their limited interest in the land and lack of incentive to assist.
- Is an application required for works deemed necessary by way of Health & Safety?
- Why is the word woodland used when it is clearly not ancient or a woodland - that is misleading.
- The wording used to justify the order is a misrepresentation. The land has been neglected by those responsible for its maintenance and management. Only once in 15 years have you organised a one-day visit to maintain the access strip. There has to be a reason why you have shown no interest in the land for 15 years and now fancifully dress it up as something that it is not.
- We are the only known landowners covered by the Order such others (neighbours) commitment and interest is as passive onlookers only.

3.9 In answer to the comments made at that time, officers gave the following response:

- The trees have been assessed by the Council's Tree Officer where he believes the feature best fits a woodland description. Having visited the site he is of the opinion some thinning and coppicing work (as a minimum) could be carried out here without detriment to the woodland screening qualities. It is preferred however that this be done in a controlled fashion. This could be done by way of a series of approved (by way of applications) long-term tree management plans; that in turn would reduce the administrative burden on any future applicant. He is also of the opinion that the work should be done fairly soon before the trees become too tall.
- Protecting the trees by way of a TPO does not prevent appropriate work being applied for and approved. There are also some exemptions in terms of express consent, where Health & Safety supersedes; or the cutting of deadwood etc.
- The land is not owned by the Council such maintenance of it falls to the landowner. In the main the site is owned by Redrow Homes and Taylor Wimpey Homes although two small parts are owned by local residents. It is the responsibility of the landowner to make the trees safe. Applications can be made however on behalf of the landowner although separate consent would be required from them also.
- The access strip to the immediate south-west of the curtilage of the adjoining houses and between the trees could be removed from the order (by way of modification) without undue detriment. It may be best it be kept open however (i.e. not fenced off) to allow maintenance access, as was originally planned.
- TPO guidance advises that authorities may consider taking into account other factors such as importance to nature conservation. The Council's Tree Officer has

opined that the feature certainly contributes to local wildlife habitats in addition to its primary use as a vegetative screen.

- A tree has been described as a woody perennial plant typically having a single stem or trunk growing to a considerable height and bearing some lateral branches at some distance from the ground. The Council would be willing to advise on this further should the need arise.

4.0 Planning Assessment

- 4.1 There has been no material change in circumstances since March 2018 and it remains that the trees could otherwise be removed, reducing the screening and amenity value they provide.
- 4.2 It is noted that the Committee resolved to confirm the 2017 Order subject to modification to omit the area outside the main woodland. This area is a strip of land to the immediate rear of gardens on Sandpiper Lane. It remains prudent to repeat this modification given the original plan has been included in the new Order in error.
- 4.3 It is expedient in the interests of amenity to make the trees the subject of a tree preservation order in accordance with advice set out in the Government's Planning Practice Guidance. No changes to the provisional order are required.

5.0 Conclusions

- 5.1 It is expedient in the interests of amenity to preserve.

6.0 Financial Implications

- 6.1 None.

7.0 Corporate Implications

- 7.1 Protecting important trees contributes towards the Corporate Plan themes of enhancing biodiversity across the District, tackling climate change and enhancing the attractiveness of South Derbyshire.

8.0 Community Implications

- 8.1 Trees that are protected for their good visual amenity value enhance the environment and character of an area and therefore are of community benefit for existing and future residents helping to achieve the vision for the Vibrant Communities theme of the Sustainable Community Strategy.

9.0 Background Information

- a. 24 January 2020 - Tree Preservation Order made
- b. 25 February 2020 - Letter of support received
- c. 27 February 2020 - Consultation end date
- d. 4 May 2020 - Objection received

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 6
DATE OF MEETING:	1st JULY 2020	CATEGORY: DELEGATED
REPORT FROM:	STRATEGIC DIRECTOR (SERVICE DELIVERY)	OPEN
MEMBERS' CONTACT POINT:	TOM BEARDSMORE (01283) 595821 THOMAS.BEARDSMORE@SOUTHDERBYSHIRE.GOV.UK	DOC:
SUBJECT:	PROPOSED TREE PRESERVATION ORDER 528: THE HAWTHORNS, 52 MAIN STREET, NEWTON SOLNEY	REF: TPO 528
WARD(S) AFFECTED:	REPTON	TERMS OF REFERENCE:

1.0 Recommendations

1.1 That this Tree Preservation Order should be confirmed.

2.0 Purpose of Report

2.1 To consider confirmation of this Tree Preservation Order (TPO).

3.0 Detail

3.1 The tree has previously been protected by virtue of TPO482 made to protect the tree because of an application received for its removal (application ref. 9/2017/0231).

3.2 There is no evidence to suggest that the order was ever confirmed, potentially leaving the tree at risk from removal in the future.

3.3 This TPO was made on 24 January 2020, in respect of one tree situated on land at 52 Main Street, Newton Solney.

3.4 One letter of objection to making the Order has been received through consultation, raising the following points:

- We have had previous concerns regarding the Eucalyptus Tree adjoining our property. In the recent past a bough fell and flattened around 10 metres of the hedge, when the tree surgeon came to clear the debris he noted this had exposed a further issue with the tree.
- The tree is now further misshapen and unbalanced and exposed a heavier bough susceptible to breaking off and causing further damage, certainly to property, but more importantly to people as well.
- With our previous correspondence regarding the tree, we made the point that your inspectors should visit sites and to talk to people affected by TPOs.

3.5 In answer to the comments made officers have the following response:

- Although claims have been made as to the safety and long term health of the tree, no substantiating evidence of this has been submitted as part of the consultation process.
- It is noted by the Council's Tree Officer, following a visit pursuant to the objection, that there is evidence of some defects but, overall, the tree is in good health and is approximately two thirds of its potential mature size.
- Given the outstanding amenity value the tree provides and its potential to provide such amenity value for many years to come, the potential for falling limbs is not considered sufficient justification to warrant its felling.
- Through appropriate management of the tree, which falls under the responsibility of the landowner, any limbs that require removal can be detailed and assessed through the application process.

4.0 Planning Assessment

- 4.1 It is expedient in the interests of amenity to make the trees the subject of a TPO in accordance with advice set out in the Government's Planning Practice Guidance.

5.0 Conclusions

- 5.1 It is expedient in the interests of amenity to preserve.

6.0 Financial Implications

- 6.1 None.

7.0 Corporate Implications

- 7.1 Protecting important trees contributes towards the Corporate Plan themes of enhancing biodiversity across the District, tackling climate change and enhancing the attractiveness of South Derbyshire.

8.0 Community Implications

- 8.1 Trees that are protected for their good visual amenity value enhance the environment and character of an area and therefore are of community benefit for existing and future residents helping to achieve the vision for the Vibrant Communities theme of the Sustainable Community Strategy.

9.0 Background Information

- a. 24 January 2020 - Tree Preservation Order made
- b. 26 February 2020 - Objection received.
- c. 27 February 2020 - Consultation end date.