

Date: 18 June 2018

Dear Councillor,

**Planning Committee**

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, Civic Offices, Civic Way, Swadlincote on **Tuesday, 26 June 2018 at 18:00**. You are requested to attend.

Yours faithfully,



Chief Executive

To:- **Conservative Group**

Councillor Mrs Brown (Chairman), Councillor Mrs Coe (Vice-Chairman) and Councillors Coe, Mrs Hall, Harrison, Muller, Stanton and Watson

**Labour Group**

Councillors Dr Pearson, Shepherd, Southerd and Tilley

**Independent / Non-Grouped Member**

Councillor Tipping

## **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 - 89**

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

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

# **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

**SECTION 1: Planning Applications**

**SECTION 2: Appeals**

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

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## 1. PLANNING APPLICATIONS

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

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
9/2017/0767	1.1	Swadlincote	Swadlincote	5
9/2018/0256	1.2	Hilton	Hilton	15
9/2017/0816	1.3	Foston & Scropton	Hilton	26
9/2017/0062	1.4	Woodville	Woodville	57
9/2018/0314	1.5	Midway	Midway	74

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.

Item 1.1

Ref. No. 9/2017/0767/FM

**Applicant:**  
**Ms Nicola Sharratt**  
**62 Hall Road**  
**Rolleston On Dove**  
**DE13 9BY**

**Agent:**  
**Ms Nicola Sharratt**  
**62 Hall Road**  
**Rolleston On Dove**  
**Staffordshire**  
**DE13 9BY**

**Proposal: OUTLINE APPLICATION (ALL MATTERS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF A 3-BED DETACHED PROPERTY ON LAND ADJACENT TO 8 LINDSAY COURT SWADLINCOTE**

**Ward: Swadlincote**

**Valid Date 18/12/2017**

Members will recall deferring this application at the meeting on 5 May 2018 in order to carry out a site visit. The report below remains unchanged since that meeting.

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

The item has been called to Committee by Councillor Robert Coe due to local concern that has been expressed about a particular issue.

#### **Site Description**

The site is located on a vacant plot of land that abuts a public footpath to the front. There is a steep gradient which inclines upwards to the south of the site with a gradual dip in land level to the north of the site. The site is located adjacent to two public car parks and is under a five minute walk from Swadlincote town centre. There is a concentration of residential properties to the rear and side of the site which are predominantly two and a half storey/two storey semi-detached dwellings. The properties directly adjacent to the south of the site are a mix of retail and commercial properties.

#### **Proposal**

Consent is sought for the erection of a two storey dwelling, there would be no vehicular access or parking proposed owing to the proximity of the site to the town centre.

9/2017/0767 - Adjacent to Lindsay Court, Swadlincote DE11 8JS



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## **Planning History**

9/2003//0865 Residential Development - 14/11/2003

9/2004/0915 The erection of four pairs of semi-detached properties and new vehicular access – 25/10/2004

9/2005/0438 The substitution of house type approved under application 9/2004/0915 - Withdrawn

## **Responses to Consultations**

The Contaminated Land Officer has no objections to the proposal. Whilst there is some evidence of the presence of potential infill or other former contaminative uses in the proximity of the development, the potential risk is likely to be small and therefore, the requirement to undertake a full land quality investigation is likely to be disproportionate to the risk.

The County Highway Authority has raised no objection to the proposal. Whilst there would be no car parking proposed as part of the proposed development, the site is located adjacent to a public car park and near to the core of the main town centre and on the basis of this, it is not considered that a highways refusal could be sustained. This is subject to a condition that a physical barrier is put in place across the site frontage to ensure that a vehicle could not access the property in the future without further consultation.

Following the submission of a more robust Coal Mining Risk Assessment (CMRA), the Coal Authority has withdrawn their initial objection subject to a condition that prior to the commencement of the development that an intrusive site investigation report is submitted detailing any findings and that any identified remedial works shall be incorporated into the development.

The Peak and Northern Footpaths Team have no objections provided that the footpath to the front of the site remains open and would not be obstructed.

## **Responses to Publicity**

One letter of objection has been received, raising the following concerns/points:

- a) The proposed dwelling would be far too close to neighbouring lounge, kitchen, bathroom and bedroom windows.
- b) A previous development was altered because of this.
- c) The development would cause encroachment, loss of privacy and overbearance.
- d) This would be over-intensification and there would not be sufficient space for the dwelling.
- e) Vehicles would be too close to shop doorways and would be dangerous for customers.
- f) Tandem parking would have the potential for vehicles waiting on Alexandra Road to block the pavement.

- g) Vehicles reversing onto Alexandra Road risk an accident with pedestrians on the footpath.
- h) Vehicles would be driving over surfaces on the foot path.

An email has been received from Councillor Kim Coe raising a number of issues. The planning application is to rear of a company business premises on Alexandra Road. It is understood that a planning application for a build was turned down previously, there seems no reason for an application for a very similar build at this time in this spot. It would be over bearing and invasive in this very tight build spot. There is poor motor access, and it would impede on light, view and also service access.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets) and INF2 (Sustainable Access).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development) and BNE10 (Heritage).

### **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 Development
- Amenity of Local Residents
- Visual Impact
- Highways Issues
- Other

### **Planning Assessment**

#### Principle of Development

Policy H1 of the Local Plan Part 1 and policy SDT1 of the Local Plan Part 2 support development of all sizes within the settlement boundaries. The site is located within the Swadlincote Urban Area and is located close to the main core of the town centre.

The proposed dwelling would result in the development of an underused, vacant piece of land in a sustainable and accessible location. This would be supported by the principles of policies H1 of the Local Plan Part 1 and policy SDT1 of the Local Plan Part 2.

The site is not registered as public open space and does not present an area of visual relief; as the site is currently obscured from the public footpath by 2m high close board fencing and does not currently contribute positively to the street scene or provide an active frontage along the footpath which is on route to the town centre. The development of the site presents an opportunity to improve the visual appearance of the site and provide a form of natural surveillance along the footpath.

### Amenity of Local Residents

The South Derbyshire Design Guide and policy SD1 of the Local Plan Part 1 specifies that a good level of amenity shall be provided for both proposed and existing occupiers in terms of overlooking, overshadowing and overbearing.

The proposed dwelling would not be positioned within the forty five degree splay of vision from the immediate neighbouring properties and therefore, a distance in excess of 21m can be achieved when measured from the immediate neighbouring properties which would be consistent with the minimum separation distances as contained within Council's Design Guide. The proposed dwelling would therefore, not interrupt the outlook from the neighbouring windows and would not lead to overbearance or overshadowing.

There would be no inter-visibility between the proposed windows and existing neighbouring windows as the proposed ground floor, rear facing lounge window would be obscured by the proximity of the rear boundary treatment and would interrupt the outlook from the window, and into the window by other properties. The proposed side facing ground floor and first floor windows would be positioned more than 5m away from the boundary of the site and would face onto blank elevations. The existing rear facing windows of number 48 Alexandra Road would be positioned on a ninety degree angle from the proposed windows of the dwelling and it would therefore, not be possible for there to be inter-visibility between these windows. The proposed dwelling would also be positioned outside of the splay of vision of the existing windows at number 48 Alexandra Road.

An application was withdrawn in 2005 for the erection of a pair of two and a half storey semi-detached dwellings at the site. The proposed development is a significantly reduced scheme to this in terms of height, size and massing and is a reduction in the number of dwellings.

It is considered that the proposed dwelling could be accommodated within the site and would provide a good level of amenity for existing and proposed occupiers and would comply with policy SD1 of the Local Plan Part 1 and the South Derbyshire Design Guide.

## Visual Impact

Policy BNE1 of the Local Plan Part 1 supports development that relates well to local surroundings, reflects the local vernacular and seeks to improve community safety.

Whilst the site does not fall within the Swadlincote Conservation Area, the site does lie adjacent to it and is currently obscured when viewed from the footway by 2m high close board fencing and does not currently make a positive contribution to the street scene. The immediate area is predominately characterised by two and half storey semi-detached dwellings with some commercial/retail premises along Alexandra Road. Due to the proximity of the site to the town centre, the immediate area shows a dense characteristic of development. The proposed dwelling would be two storey in height and of a narrow, modest construction and would present the gable end to the footway. The proposed dwelling would be smaller in size, scale and design than the majority of the immediate dwellings but overall, would be reflective of the general design, proportions and orientation of other buildings within the local area.

The proposed dwelling would make a positive contribution to the street scene and would provide an active frontage along the existing footway. On the basis of this, the proposal would comply with the principles of policy BNE1 of the Local Plan Part 1 and the Councils Design Guide.

## Highway Issues

The site falls within the built up area of Swadlincote and whilst it is noted that there is no parking proposed as part of the development, the site is located close to the centre of Swadlincote with easy access to shops, public transport links and two public car parks. This would result in a highway objection being difficult to sustain. Policy INF2 of the Local Plan Part 1 stipulates the need to reduce car travel and that public transport services should ideally be at a convenient walking distance to development. This is further encouraged through the NPPF which seeks the creation of development that gives occupants access to different modes of public transport.

It is noted that the creation of a vehicular access at the site would disrupt the existing footpath and pedestrian movement. The proposed development would not alter or disrupt the existing footpath and a condition shall be imposed whereby a physical barrier shall be erected along the frontage of the site to ensure that there would be no informal parking. The design and position of the barrier would be assessed as part of the details to discharge the condition. On the basis of this, it is considered that the proposed development would comply with policy INF2 of the Local Plan Part 1.

## Other

There has been no objection raised by the Coal Authority owing to a more robust Coal Mining Risk Assessment that has been submitted by the applicant. This is subject to a condition that a site intrusive investigation report is submitted prior to the works commencing and that any remedial works that are noted at this stage are incorporated into the development.

## Conclusion

For the reasons outlined above, it is considered that the proposed dwelling would make a positive contribution to the street scene and would provide a good level of amenity for existing and proposed residents. Whilst there would be no vehicular access proposed as part of the application, owing to the position of the site close to Swadlincote town centre and its access to facilities, it would be considered that the proposed development would be positive and sustainable.

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

## **Recommendation**

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with plan/drawing Location Plan, received on 18th December 2017; and plan/drawing 2014-313-01-A; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).  
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. No development shall commence on the site until a scheme of intrusive site investigation has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in full and a report of the findings arising from the intrusive site investigations, along with proposed remedial measures (if any), shall be submitted to and approved in writing by the Local Planning Authority prior to any works of construction commencing. The approved remedial measures shall be implemented prior to first occupation of the building hereby approved.  
Reason: To ensure the stability and safety of the development to protect against coal mining legacy.
4. Prior to the construction of the dwelling house, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).  
Reason: To protect the amenities of adjoining properties and the locality generally.

5. The dwelling house shall not be constructed until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

6. Notwithstanding the submitted details, prior to the construction of the dwellinghouse, further details of the following building elements shall be submitted to and approved in writing by the Local Planning Authority:
  - (a) the windows and doors including the reveal, material and finish;
  - (b) the eaves, verges, headers and cills; and
  - (c) rainwater goods including their method of fixing.

These elements shall be constructed in accordance with the approved details and maintained as approved throughout the lifetime of the development.

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

7. There shall be no means of vehicular access to the dwelling house to which this permission relates. Details of a permanent physical barrier/boundary treatment to be erected across the entire site frontage, showing the; proposed location, height and appearance of the barrier, shall be submitted to and approved in writing by the Local Planning Authority. The physical barrier/boundary treatment shall be erected in accordance with the approved details prior to the first occupation of the dwelling and shall remain in perpetuity for the lifetime of the development.

Reason: In the interest of highway safety.

8. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; the dwelling shall not be occupied until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatments shall be completed in accordance with the approved details before the respective dwelling(s)/building(s) to which they serve is/are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

9. The dwellinghouse shall not be occupied until there has been submitted to and approved in writing by the Local Planning Authority, a scheme of landscaping and surfacing details. The landscaping scheme shall be implemented in accordance with the approved details prior to the occupation of the dwelling.

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

10. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons

following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

Informatives:

1. There is some evidence to suggest that the application site may have previously been subject to infill or that it is within 250m of a site which may have the potential to generate ground gas or leachate. Whilst we have no evidence to confirm this risk the applicant/developer's attention is drawn to the fact that there is the potential for production and migration of landfill gas. You are reminded that the responsibility for safe development rests with the owner and/or developer. Accordingly, the applicant/developer is advised to seek independent expert advice regarding the possibility of the presence, or future presence, of landfill gas and whether any precautionary measures are necessary.
2. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority). Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com).
3. The public footpath no.32 must remain open, unobstructed and on its legal alignment at all times. There should be no disturbance to the surface of the route without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section. If a structure is to be erected adjacent to the right of way, it should be installed within the site boundary so that the width of the right of way is not encroached upon.
4. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk)) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the

Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:

- Type A: on classified (A, B and C) roads, at junctions with classified roads, and at the commencement of local distributor roads (roads acting as through routes within developments);

- Type B: intermediate name plates along local distributor roads, on collector roads (roads which run within a development providing access and linking small access roads and access ways), on access roads (roads serving a small number of houses which may also have a surface shared by pedestrians and vehicles), and access ways which have a different name from their access road; all unless at a junction with a classified road (where Type A will be expected instead).

Further advice can be found online at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk) or by calling (01283) 228706.

5. The developer is strongly encouraged, as part of the delivery of properties on the site, to provide full fibre broadband connections (i.e. from streetside cabinet to the property). Further details of initiatives to support the provision of full fibre connections as part of broadband installation at the site can be obtained from Digital Derbyshire on [broadband@derbyshire.gov.uk](mailto:broadband@derbyshire.gov.uk) or 01629 538243.

Item 1.2

Ref. No. 9/2018/0256/SGR

**Applicant:**  
**St Modwen Developments Ltd**  
**c/o Planning Prospects**

**Agent:**  
**Mr Chris Dodds**  
**Planning Prospects Ltd**  
**4 Mill Pool**  
**Nash Lane**  
**Belbroughton**  
**DY9 9AF**

**Proposal: APPROVAL OF RESERVED MATTERS FOR ACCESS, LAYOUT, SCALE, APPEARANCE & LANDSCAPING OF OUTLINE PERMISSION REF. 9/2013/1044 (FOR THE COMMERCIAL DEVELOPMENT PHASE COMPRISING SIX EMPLOYMENT UNITS FOR USE AS OFFICES (USE CLASS B1(A)), LIGHT INDUSTRY (USE CLASS B1(C)), GENERAL INDUSTRY (USE CLASS B2) AND/OR STORAGE AND DISTRIBUTION (USE CLASS B8)) ON LAND SOUTH OF THE MEASE HILTON BUSINESS PARK HILTON DERBY**

**Ward: Hilton**

**Valid Date 08/03/2018**

This item was originally reported to Committee at the meeting on 5 June 2018 where Members resolved to defer the application for further consideration in respect of the layout and scale of unit 1 – in particular its impact on Birch Trees Farm. The report is reproduced below with updates *provided in italics*.

### **Reason for committee determination**

This is a major application with more than two objections. Furthermore Councillor Billings requests consideration by Committee because local concern has been raised.

### **Site Description**

The site lies to the north east corner of the former MoD vehicle depot. It is presently vegetated with young trees and bushes, with external boundaries defined by a security fence dating from its former depot use. Immediately to the east there is a range of agricultural buildings associated with Birch Trees Farm. The farmhouse is located about 43 m from the boundary at its nearest point, with a range of utilitarian agricultural buildings in between.



The application site is effectively split into two separate parcels by a watercourse running roughly north-south, the eastern part being larger than the western part.

## **Proposal**

The application proposes contemporary panel clad steel framed industrial/storage buildings. The cladding colours would be a variety of grey tones. The largest building (Unit 1) would be located to the east of the watercourse and adjacent to the boundary with Birch Trees Farm. It would provide 4770 sq m of floor space with a first floor office area amounting to 230 sq m. Its footprint would be some 97m x 49 m, measuring about 11m to the eaves and 13m to the top of the roof.

The service yard would be located between the building and the watercourse.

The roof design has been amended since initial submissions, from a dual pitch to a curved design, resulting in an overall reduction in height of about 1 metre. Amended landscaping proposals include tree planting between Unit 1 and the agricultural buildings at Birch Trees Farm.

The remainder of the proposal comprises two units of 278sq m and three of 216 sq m, located to the west of the watercourse.

Access to all units would be gained via the existing private road to Hilton Business Park off The Mease. The submitted drawings also show how the site would connect to the cycle route along the Greenway to the north

This is a reserved matters application, seeking approval of access, appearance, landscaping, layout and scale only. Matters of principle are controlled by condition attached the host outline permission. Condition 5 to the outline planning permission requires “the reserved matters submitted in accordance with condition 3 and details submitted with any other condition of this planning permission shall accord with the principles set out in the Development Framework (Figure 6) contained within the revised Hilton Depot Redevelopment Design and Access Statement Rev. A, received by the Local Planning Authority on 15th April 2014.” Condition 58 also requires “The permission shall relate to the amended concept Masterplan for the development contained within the revised Hilton Depot Redevelopment Design and Access Statement Rev. A received by the Local Planning Authority on 15th April 2014, as well as drawings Site Access 1 Roundabout Improvements – 5094693-ATK-GE-DR-C-008 Rev P05 and Site Access 2 Roundabout Improvements – 5094693-ATK-GE-DR-C-0007 Rev P02.”

## **Applicant’s supporting information**

### Background and Context

The proposed employment units form part of the wider redevelopment proposals for the former Hilton Depot which has outline planning permission for a mixed-use development of homes, local neighbourhood centre, a new primary school, as well as public open space and landscaping and over 7ha of new employment development.

This application for the first phase of the approved commercial development follows ongoing delivery of housing by St Modwen Homes. Work is also set to commence on the first phase of a new primary school which, again, represents significant investment from St Modwen in the site and Hilton generally.

This commercial phase forms a speculative development and is being brought forward, at risk, to attract commercial investment to Hilton fully in line with what has been approved at the outline stage. It is influenced by numerous challenges and constraints presented by the wider site, including (but not limited to):

- Significant on and off-site infrastructure requirements, including provision of a new primary school (as described above)
- Diversion and opening up of a currently culverted watercourse
- Re-profiling of a floodplain to ensure the approved development can be delivered
- Ecological constraints and considerations
- Overhead power lines running through the site
- A foul water pumping station

The constraints listed above have presented numerous challenges to delivery of the approved redevelopment, not least in terms of its financial and commercial viability. Additionally, the proposed redevelopment has presented numerous layout implications where the constraints listed above have limited the achievable developable area and this is exacerbated where the mix of uses required of the approved development has required particularly careful consideration to limit potential conflict. This is also true when considering the approved development in context of the site's neighbouring uses.

In summary, delivery of the approved redevelopment of the former Hilton Depot site is challenging but submission of these Reserved Matters for the first commercial phase confirms St Modwen's continued investment and commitment to delivery of the approved development and will see further investment and job creation as a result.

#### Scale and Layout (of Unit 1 in particular)

Suggestions that the extent of Unit 1 has been previously approved are inaccurate. Conditions 5 and 28 refer to the Framework Plan and Concept (or Illustrative) Masterplan. To provide further context, the approved Design and Access Statement explains at page 20 and again at page 22 that "layout is reserved within this application, a set of development principles are provided to ensure the development concept can be realised; it is these principles that will inform subsequent reserved matters applications. A Development Framework, Illustrative Masterplan and sketch illustrations have been prepared to assist in communicating the development principles being applied for. The Development Framework has been tested by the technical team, ensuring deliverability and viability of the scheme as a whole. It does not fix the exact form of development and alternative solutions may be suitable providing the development principles stated overleaf are delivered"

This application for the first part of the commercial phase of development accords with the approved general parameters and principles as set out. In doing so the proposal:

- Locates the employment/commercial phase of development to the east of the wider site (i.e. where it has always been envisaged).
- Includes landscaped buffers between the employment uses, residential dwellings and adjacent development. This includes planting of Hornbeams and Oak trees within the eastern boundary with Birchtrees Farm, to provide a vegetated screen between the farm buildings and the proposed Unit 1. The boundary between these ranges from circa 5.5m to circa 14m with oak trees to be provided within the wider boundary areas to the north, i.e. those that are potentially visible from the farm house itself. The submitted a visual montage shows the longer-term views from the farmhouse's window facing the site. This shows that the existing farm buildings effectively screen the majority of the proposed Unit 1 and where there is a view over, or through, the farm buildings the tree screen will be effective. Additionally, it should be noted that the distance between the proposed Unit 1 and Birch Tree farm house itself is circa 50m, with numerous farm buildings in between, and as a result there will be no impact on the farm house's ability to receive natural daylight.
- Additionally, hedge and tree planting is proposed along the northern site boundary to provide screening of the north facing elevation of Unit 1 with native trees and shrub beds when viewed from the closest points on the existing Greenway and footpaths. This mix has been proposed to retain a green setting in this location.

These design and landscape features have been included specifically to ensure that the development relates well to neighbouring uses.

This Reserved Matters proposal is also required to satisfy Outline condition 23 in providing more than 929 sq.m (GEA) of employment floorspace and Outline condition 24 in providing more than 7.7 ha of employment land.

The layout of Unit 1, in particular, is heavily influenced by the realigned/opened up watercourse which is being delivered as a result of the wider site's redevelopment, as well as the overhead power line and generally constrained access into this part of the wider redevelopment site.

#### Access Road and Cycleway

It is proposed that the route will run alongside, but separated from, the site road. The site road will also be the subject of a programme of improvement works, the final details of which are to be completed. The highway and cycleway will be maintained as part of the wider site's ongoing maintenance and management programme as required by the S106 accompanying the outline planning permission.

#### 24 Hour Use (Noise and Lighting Implications)

Matters of noise and lighting relative to the commercial phase of development are controlled by conditions attached to the outline planning permission, which are being

discharged separately. Generally, the positioning of the commercial buildings and service yards have been designed to limit noise impact and contribute to the mitigation measures with regards noise.

The proposed lighting has been specifically selected to minimise light spill from the commercial areas. Those selected for the roadway will direct light to access areas and highway only where luminaires are generally angled to prevent direct line of site which minimises glare. Lighting proposed within the commercial service yards is building mounted and directed to the yards only, to minimise spill into neighbouring properties.

### Surface Water from Birch Trees Farm

Drainage ditches that serve the farm have been accommodated with a positive connection to the realigned/opened up channel being delivered as part of the wider site's redevelopment to maintain current surface water flows.

### **Planning History**

9/2013/1044 Outline application with all matters except for access reserved for a mixed used development comprising up to 485 dwellings; employment units for use as offices and/or light industry, general industry and/or storage or distribution; a primary school; community facilities including doctors, dentist and/or crèche; retail and other service uses consisting of financial and professional services, restaurants and cafes and/or hot food takeaways, and assembly and leisure along with associated access, parking, footpath/cycleways, public open space including allotments, landscaping and other infrastructure – Approved March 2015

Condition 5 requires reserved matters applications to accord with the Development Framework contained within the Design and Access Statement. An illustrative Masterplan shows the general layout of the entire site, identifying the areas for housing, open space, commercial and a new primary school and how they are to be linked.

### **Responses to Consultations**

The Highway Authority and Environment Agency have no objection.

### **Responses to Publicity**

The Parish Council raises concerns about access and parking, as street parking is having a detrimental effect on the village. There would be increased traffic around the new primary school and there is no crossing.

Three objections have been received from neighbours raising the following points:

- a) Surface water from Birch Trees Farm presently discharges within the application site. If provision is not made for this it would lead to flooding of farm buildings
- b) The size of the Unit 1 is nearly twice the size as that previously shown on the illustrative master plan submitted with application 9/2013/1044. The building would overshadow Birch Trees Farmhouse and adjoining buildings such that there would be far less natural daylight. Typically the adjoining farm buildings have a ridge height of 5.5 metres and would appear dwarfed in comparison.
- c) The setting of the farmstead and its context within open countryside would demonstrably change and be significantly adversely affected. The extent of the building should be as shown on the illustrative master plan and the overall height should be reduced to reflect those in the immediate vicinity, namely those at Birch Trees Farm.
- d) The proximity of the nearest commercial building is considered far too close to Birch Trees Farm boundary, leaving insufficient space to allow adequate screening between the two sites. Given the height and overall massing of the proposed Unit 1, this distance should be significantly increased so as to protect the setting and character of Birch Trees Farm.
- e) The size of the buildings would cause unacceptable impact on the character of the countryside and the greenway/rights of way.
- f) There would be noise and light pollution (Officer comment - these matters are controlled through conditions attached to the outline permission).
- g) The road through the Business Park is private and not suitable as a cycle route.
- h) The amended drawings do not improve the amenity impacts on neighbours

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1, S2, S6, E1, SD1, BNE1, BNE4, INF2
- 2017 Local Plan Part 2: BNE7

### **Emerging Policies**

The Council has received, from Hilton Parish Council, an application for designation of the area comprising the Parishes of Hilton, Marston on Dove and Hoon as a neighbourhood area for the purposes of preparing a Neighbourhood Development Plan (NDP). At the time of writing this report, no designation has been made and no emerging NDP exists.

### **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:

- Compliance with outline permission
- Impact on the general character of the area
- Residential amenity
- Access

## **Planning Assessment**

### Compliance with outline permission

Issues of principle have been resolved through the grant of outline planning permission, having regard to the relevant policies and other material considerations. In particular, controls on drainage, noise, lighting and landscape management will be implemented via the outline permission.

Condition 3 of the outline permission requires development to “accord with the principles set out in the Development Framework”. This sets out areas for each component of the overall development and the application is compliant.

Condition 58 states that the outline permission “shall relate to the amended concept Masterplan”. This sets out general layout principles showing how the various land uses will connect. The Masterplan does not, however, set out a prescriptive layout and the Design and Access Statement makes it clear that it is illustrative only. This is entirely typical for large scale major development at outline stage.

In this context the specific characteristics of the reserved matters fall to be considered on their own merits.

### Impact on the general character of the area

The proposal lies within an area situated next to existing business development and its scale layout and appearance is thus in keeping with the land use characteristics of this part of the previously developed MoD vehicle depot.

The layout is clearly very heavily influenced by the watercourse running through the site, which will be altered to accord with Environment Agency requirements for the outline site as a whole, to secure hydrological and ecological benefits. Nevertheless the new buildings, in particular Unit 1, would be visible from the public realm, notably Egginton Road and the greenway. The development would thus have an impact on the general rural character of this edge of village setting. However the application proposes landscaping, in particular tree planting along the eastern and northern boundaries which would soften the visual impact from outside the site and from the adjoining farmstead and farmhouse. The neutral colour palette would also help to mitigate the impact of the building’s mass. The other buildings would be subservient to Unit 1 and set away from the boundaries, such that their visual impact would be minimal.

In terms of landscape character the surrounding open countryside is identified in The Landscape Character of Derbyshire as Trent Valley Washlands. Given the location of the site, within a larger area of previously used land, there would be no adverse impact on any identifiable valued landscape.

Given these design and landscaping considerations the proposal would be in accord with Local Plan Policies BNE1, BNE4 & BNE7.

### Residential amenity

The largest building (Unit 1) would be located close to the boundary of the site with Birch Trees Farm (varying between 6m – 7.5 m away for most of the building's length). The agricultural outbuildings are also situated close to this boundary. As they are in use for the farm business, with their openings facing away from the application site, there would be no demonstrable impact on the amenities of people working in those buildings.

Birch Trees Farmhouse has some habitable room windows facing westwards towards the application site, in particular the kitchen. However the main aspect of the house, and its garden, are orientated to the south east, so outlook from this primary aspect, and sunlight to it, would not be significantly adversely affected. There are no distance guidelines for commercial development, (although local Housing guidance seeks 12 metres separation distance between main windows and a two-storey proposed blank elevation, with increased distances for larger buildings being a matter for judgement). The nearest part of Unit 1 to secondary windows in the west facing elevations of the house would be about 50 metres, with the existing agricultural buildings in the foreground between them.

Taking into account the orientation of the farmhouse, the distance of the proposed building from the rear elevation, the intervening farm buildings, the cladding materials and tree planting, Unit 1 would not result in unacceptable harm to the living conditions of the occupiers of the dwelling. Other amenity issues, in particular noise and lighting, are controlled by the outline planning permission.

*Following the deferral of the application at the June 2018 committee, the applicant has considered the issues raised by the Committee. They note that the effect on the adjoining farmstead has been discussed at length during the course of assessment of the application, upon receipt of the concerns raised by the adjoining farmer, and assure the Committee that numerous options have been considered. To this end, they have provided correspondence which is largely reproduced word for word below.*

*St Modwen wishes to see a successful commercial development at Hilton but in order to be successful it has to represent an attractive commercial prospect to potential occupiers and not least has to be commercially viable. St Modwen advise they have extensive experience in this market and detailed knowledge of occupier requirements, and present a proposal considered to have the best chance of attracting an occupier (and their speculative investment) based on their expertise. The applicant respects and understands fully the views of Members, and the adjoining farm owner, and they do not wish to appear as confrontational or inflexible.*

*With that in mind, they set out below a brief summary of the reasons why the proposal cannot be amended as suggested by Members and the adjoining farm owner, as follows:*

- *Mirroring the building and service yard – this approach would place the service yard next to the boundary with the farm and its associated buildings. The service yard would generate the noisiest activity and would likely result in more of a nuisance from that perspective than any perceived visual impact resulting from the building. The building has been placed between the service yard and the farm building as part of a considered approach to noise mitigation as it will act as an effective barrier between the two.*
- *Reducing the depth of the service yard and/or height of the building – the proposal that has been put forward for consideration follows an institutional standard based on St Modwen’s expertise and understanding of what potential occupiers would want, and therefore what type of commercial unit would attract investment. The proposal includes a range of commercial building types and sizes but the largest of which has to be located where Unit 1 is shown as a result of the numerous on-site constraints as referenced at the previous meeting (e.g. realigned watercourse, overhead power lines, woodland, access road, etc.).*
- *Speculative approach – St Modwen would be more than happy for an occupier to come forward to inform the design of a bespoke unit. However, no such interest has been shown since outline permission was granted in 2015, or even since the outline application was submitted in 2013; and this is not unusual in more ‘secondary’ locations such as this. With this in mind, St Modwen have put forward a proposal that they consider will attract an occupier (and investment) at their own risk – showing a strong commitment to Hilton which, as previously discussed, is a difficult brownfield site with numerous constraints and a high abnormal development cost.*
- *Scale/amount/ratio – the proposal reflects St Modwen’s expertise in delivering commercial development and the applicant notes the high abnormal development cost and generous s106 package associated with the redevelopment of the former Hilton Depot. The scale, amount and ratio of the proposed commercial units, not least Unit 1, is also heavily influenced by the site’s economics which requires a scale of development and amount of floorspace sufficient to deliver the level of return needed to make the proposal viable. In this case, the viability of the Hilton Depot redevelopment is marginal meaning a reduction in size or scale would not return sufficient value, compromising delivery of this development.*

Having regard to the particular site circumstances as described above, *it remains the view that the proposal satisfies the test in Local Plan Policy SD1, to support development that does not lead to adverse impacts on the amenity of existing occupiers around proposed developments.*

## Access

Vehicular access would be gained through the existing road serving Hilton Business Park, which has a satisfactory junction with The Mease. The capability of the site and highway network, to accommodate the development, has already been assessed through the outline permission. Each unit has provision for parking and servicing and the Highway Authority has no objection. The proposal would also provide links to the nearby greenway/cycle path to facilitate opportunities for access by walking and cycling, all in accordance with Local Plan Policies S6 and INF2.

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

## **Recommendation**

**GRANT** permission subject to the following condition:

1. The development hereby permitted shall be carried out in accordance with plan/drawing ref. nos. 18006-GNA-XX-XX-DR-A-0003 Rev A and 18006\_GNA-XX-XX-DR-A-0004 received with the application, and 18006-GNA-XX-XX-DR-A-0020 Rev B, 18006-GNA-XX-XX-DR-A-0021 Rev A, 18006-GNA-XX-XX-DR-A-0022 Rev A, M16.157(a).D.001 Rev D and M16.157(a).D.002 Rev B received on 15 May 2018; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

## Informatives:

1. From representations received the adjoining farm may enjoy rights to drain to the application site and you are advised to ensure that any such matter is resolved with the landowners.

**Item**            **1.3**

**Ref. No.**       **9/2017/0816/MSO**

**Applicant:**  
**Mr Paul Shanley**  
**c/o Agent**

**Agent:**  
**Mr Tom Mills**  
**Stride Treglown**  
**Promenade House**  
**Clifton Down**  
**Clifton**  
**Bristol**  
**BS8 3NE**

**Proposal:**    **OUTLINE APPLICATION FOR THE DEVELOPMENT OF SITE FOR B2/B8 UNITS, EACH UNIT PROVIDING NO LESS THAN 15,000SQM OF FLOOR SPACE WITH ACCESS FOR APPROVAL NOW AND ALL OTHER MATTERS RESERVED FOR FUTURE APPROVAL ON LAND TO THE NORTH OF DOVE VALLEY PARK PARK AVENUE FOSTON DERBY**

**Ward:**         **Hilton**

**Valid Date**   **04/08/2017**

Members will recall resolving to grant permission on this application, subject to the completion of a legal agreement, at the Committee meeting on 1 May 2018. Since then, the applicant has been further discussing drainage matters and biodiversity mitigation with both the Lead Local Flood Authority and Derbyshire Wildlife Trust. This has resulted in a change to conditions and the recommendation before Members. Accordingly, this report remains largely as previously presented but with *changes in italics*. These changes incorporate those made verbally at the meeting in May.

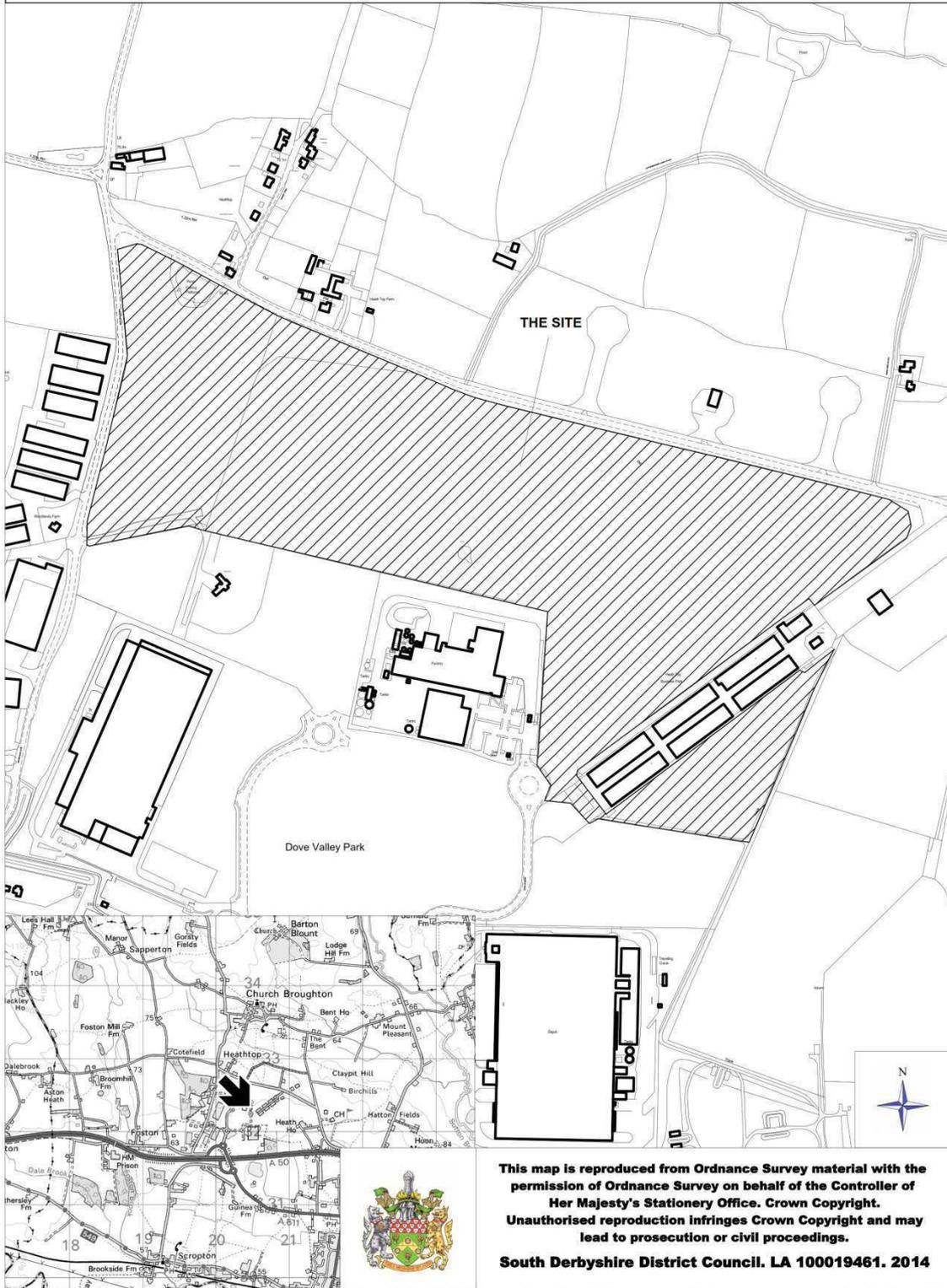
#### **Reason for committee determination**

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

#### **Site Description**

Dove Valley Park is located to the north of the A50 and is accessed via the A511 Uttoxeter Road and Pakenham Boulevard. The main estate road through the Park is Park Avenue, with the industrial estate predominantly comprised of a number of large scale business units (in storage/distribution and general industrial uses). The application site itself is to the north of the current Muller Dairy. The site occupies an area of approximately 23.5 hectares.

9/2017/0816 - Land to the north of Dove Valley Park, Foston DE65 5BG



The site is bound by an Unnamed Road to the north (from Cote Bottom Lane to Bent Lane) which serves a number of isolated residential properties, farmsteads and open fields to its northern side. The eastern edges of the site border the former military runway strip, where a set of industrial units exist, and open fields, beyond which is Bent Lane with properties at Heath House Farm and the Broughton Health Golf Club. To the west is Woodyard Lane which serves a number of commercial and industrial units along its length as it heads south towards the A50, with woodland and farmland beyond.

There are 3 footpaths affected: Foston and Scropton footpath 27 to the north-western corner of the site; footpath 28 running north to south through the site from the Unnamed Road to the existing north-eastern roundabout on Park Avenue; and Church Broughton footpath 50 which enters the site in the north-eastern corner and terminates arbitrarily a short distance into the site.

## **Proposal**

The application is made in outline with matters of layout, scale, appearance and landscaping reserved. Access is to be considered in detail. The proposal is for the erection of general industrial (use class B2) and storage and distribution (use class B8) units, with each unit no smaller than 15,000 square metres. With reference to an indicative layout plan provided, four plots are proposed (referenced P2-01 to 04 respectively) of varying sizes, all served by an extended estate road linking to the north-east roundabout on phase 1 (adjacent to the Muller Dairy premises). Plot P2-04 is indicatively shown as parking, ancillary to phase 2 as a whole, given that the relatively constrained shape of the site makes it difficult to provide the minimum floor space of 15,000 square metres. The proposed heights of buildings are likely to be similar to that of the units presently within Phase 1 and has been indicated to be no more than 15 metres, although this is a reserved matter at this stage.

Entry into Dove Valley Park, as a whole, is currently provided via Pakenham Boulevard and Park Avenue, from the A50. This would remain unchanged. The access to phase 2, however, would be formed from the two existing roundabouts within the site, located south-east and south-west of the Muller Dairy premises. A loop access road would be provided around the perimeter of those premises to serve the site, with an existing permission (ref. 9/2010/0872) including part of this access road which lies outside of this site (on plot 5500, west of the Muller Dairy). Pedestrian access would mirror those already provided within Dove Valley Park Phase 1, whilst it is proposed that, subject to grant of permission, diversions and extinguishments to the current PRowWs would be applied for – the indicative layout showing a possible alternative route linking the Unnamed Road to the proposed estate road. It is also proposed to divert the current 401 bus service, linking Burton upon Trent to Uttoxeter. This diversion would ensure the service reaches proposed bus stop(s) within the site.

Sustainable Drainage Systems (SuDS) are proposed, comprising use of roofs and roads/hardstanding for conveying water and a large detention pond for attenuation in peak rainfall events. Flows would constantly run through this pond prior to discharging to the surface water sewer. It is proposed that the foul water sewer located in the south east of the site would cater for sewage flows.

## **Applicant's supporting information**

A Planning Design & Access Statement responds to the site allocation requiring the provision of large scale Industrial and business units (B2 and B8), with a minimum gross internal floor space of 15,000 sqm. The provision of such units would provide a large number of jobs within the area which would aid an improved local economy. This application has considered, in the context of an outline planning application, the potential impacts the development would have and provides, where appropriate, details of mitigation to ensure development would be acceptable. The proposals are considered to be in accordance with both local and national planning policy and should be supported positively. It is also requested, that a period of 10 years be offered for the submission of reserved matters, given the site requires installation of services and long term site preparation. A sufficient time frame is also required to attract large international companies. Given the minimum floor space of each unit needs to provide no less than 15,000 sqm, this would suggest a very refined and bespoke set of potential occupiers who would be interested in the site, and as each potential occupier is also likely to have specific requirements, designs would require additional time to cater to their specific needs.

The Transport Assessment notes single regular bus service (no. 401) which operates everyday along the A511, providing a service towards both Burton and Uttoxeter. A number of facilities and amenities are also located within a 1.6km walking distance from the site. Towns and villages including Foston and Hatton are situated within a sustainable commute from the site for potential employees. Capacity assessments have been undertaken at seven off-site junctions as discussed with both the County and Highways England to determine the impact the development would have on them. The results illustrate most junctions operate within theoretical capacity. One junction operates over capacity now such that no mitigation is provided at this stage to negate development impact. Another begins to operate over capacity during the 2027 scenario, but this is considered to have a negligible impact upon the overall operation of the junction. Incident data highlights that there are no accident concerns within the study area. Mitigation measures are proposed which include a Travel Plan, improvements to the existing crossings situated between the A511/Packenham Boulevard roundabout upgraded with tactile paving to assist with pedestrian movement, and a minor diversion of the 401 service towards Packenham Boulevard/Park Avenue with a new bus stop positioned along the western side of Packenham Boulevard in order to reduce current walking distances to bus service provision.

A Travel Plan has been produced for the site in order to reduce dependency on the car by encouraging increased use of sustainable transport modes including walking, cycling and public transport. The main measures included are information packs, promotion of cycling to and from work, promotion of car sharing and promotion of public transport use (both bus and rail).

A Flood Risk Assessment estimates that the impermeable area of the site following completion of the development would be increased to approximately 80%. There is a low risk of fluvial flooding to the south east of the site such that it is recommended

that the ground floor level of all the buildings within the site are slightly elevated to ensure that any surface water flooding doesn't enter the new buildings. Initial investigations consider that infiltration drainage would not be a practical solution for the site, nor would discharge to a watercourse as there are no accessible watercourses close to the site. Therefore, the existing surface water sewer within the Phase 1 development would be used. It is considered that the site currently discharges runoff via a combination of infiltration, evaporation and overland flow to the south (the Phase 1 development). The site would discharge into the existing 1200mm diameter sewer to the south of the site within the Phase 1 development at a peak discharge rate of 3222l/s. Attenuation would be provided within a balancing pond, used to accommodate the storage the worst case scenario storm. It is proposed to provide a hydro-brake to restrict flows from the site, reducing the runoff from the site during higher return periods. It is considered there would be a significant reduction in runoff and the proposed solution would provide significant betterment.

The Landscape Assessment finds the site is not covered by any statutory or non-statutory designations for landscape character or quality and none of the trees within the site are covered by Tree Preservation Orders. The site has been degraded by its past use as an airfield and the runway and dispersal areas are still evident on the ground. A significant part of the former airfield has already been redeveloped for employment uses and these buildings clearly exert an influence on the character of the site. Views of the site are for the most part localised and seen within the context of existing buildings. There are some opportunities for longer distance views but these are too distant to be considered significant. Hence it is considered, subject to the provision of tree planting, appropriate ground modelling on the external boundaries of the site and assuming the new development is of a similar scale and coverage to that within Dove Valley Park; release of the land for employment development should not give rise to any significant effects on the character or quality of the surrounding landscape.

An Arboricultural Assessment finds that in order to facilitate the development a small loss of tree cover shall be required which comprised trees of a moderate to low arboricultural quality (categories B and C). None of the high quality trees assessed (boundary trees to the north-west corner of the site) are to be removed with each of these trees being retained under the proposals. The former land use and historic management has led to the sporadic distribution of tree cover which does not lend itself to the integration of a development of the type being proposed. Therefore it would be considered that no matter how sympathetically the layout is designed, the loss of tree cover is unavoidable and these losses should not be seen as a constraint to the development. The proposed development does provide an opportunity to mitigate the loss of these specimens, however, through new tree planting supplied as part of a robust supporting landscape scheme.

An Ecological Report (along with a Bird Breeding Report and a Herpetofauna Report) notes there are no sites of international conservation value within 5km of the site boundary and no sites of national significance within 2km. There are three Local Wildlife Sites (LWSs) within 1km of the site, the closest being Coneygreave and Rough Woods around 100m west to the other side of Woodyard Lane. The site is designated for ancient woodland habitat. No significant impacts to its conservation

status are anticipated. The site is dominated by species-poor grassland and arable compartments with tall herb/ruderal and scrub vegetation (both scattered and dense), the majority of which comprises species-poor habitats of limited botanical or conservation value. Tree and hedgerows within the site have some intrinsic value and should be retained where possible, although where trees/hedgerows are to be lost, native planting should be used as compensation. A series of three ponds were recorded within or within the wider business park and considered to have between 'good' and 'poor' ecological suitability. One pond is to be lost as part of the development and terrestrial habitats had some interest for amphibians in the form of grassland, ruderal, scrub and other habitats (such as rubble piles). Therefore, further aquatic surveys were undertaken during which none were recorded. As such there are no amphibian constraints at this stage. Two trees were recorded with the potential to support roosting bats but no roosts were confirmed. Linear features such as treelines and hedges were suitable for foraging and commuting bats, all of which would be retained and buffered, thereby negating any impacts. Providing good practice lighting is implemented, no further nocturnal survey is considered necessary. The trees/hedgerows and scrub/ruderal on site were considered to have value for nesting birds but no nest sites were observed. The general habitats are of some value for nesting and breeding birds and although there are no records of notable records within or directly adjacent to the site, arable species such as skylark are known to be present in the area and Hilton Gravel Pits SSSI (circa 3.5km east) is known to support this species. Therefore breeding bird surveys were undertaken during which some limited value for birds was noted and as such good practice/mitigation has been recommended. The site had varying value for reptiles with central areas of the site considered to be too homogenous/short to provide significant potential, but the mosaic of grassland/scrub/ruderal habitats considered to provide suitable to support reptile shelter and hibernation. Therefore further presence/absence surveys were undertaken and a small population of common lizard was noted. Based on this, good practice mitigation/enhancement has been recommended. No other species constraints were identified.

An Archaeological Desk Based Assessment finds the proposed development would not impact upon any designated archaeological assets. Cropmarks observed from aerial photographs to extend into the south-east of the site are representative of former post-Medieval field boundaries removed prior to the construction of Church Broughton Airfield. The site is considered to have good archaeological potential for remains associated with the airfield, but archaeological evidence is therefore considered to be of local significance. Consequently all further mitigation measures could follow planning permission secured by an appropriately worded planning condition.

Draft Heads of Terms for a section 106 agreement set out that the applicant would enter into discussions related to any highway improvements obligations that may be required to ensure impacts are acceptable. Contributions are proposed to be related to the provision of a bus shelter, as per the Transport Assessment. For this reason a contribution is proposed to bus service enhancements, specifically the addition of a new bus stop. These enhancements would include the provision of shelter provision, raised kerbs and timetable information.

## Planning History

The wider Dove Valley Park comprises two phases. Phase 1 is fairly well established, although some vacant plots still exist. There is a considerable list of applications relating to that phase, but those of note are:

- 9/590/155/O Outline application for erection of business and industrial units on approximately 83 hectares of land – Approved May 1992 and renewed under 9/0595/0170 in August 1995 and varied under 9/0897/045, 9/2005/0758 (to extend the time period to submit reserved matters) and 9/2005/1078 (to amend the limit on the floor space allowed on site)
- 9/1993/0445 Reserved matters for the formation of estate roads together with the implementation of a landscaping scheme – Approved September 1993 and amended under 9/2004/0796 in October 2004
- 9/2001/0067 Reserved matters for erection of food manufacturing building and ancillary buildings at plot 4000/4500 – Approved March 2001
- 9/2001/0306 Reserved matters for erection of manufacturing warehousing and distribution at plot 1000 – Approved May 2001
- 9/2001/0770 Reserved matters for erection of commercial facility at plot 2500 – Approved November 2001
- 9/2001/0884 Reserved matters for provision of a new community facility falling within classification B1, B2 and B8 at plot 5000 – Approved December 2001 and amended under 9/2005/0264 in May 2005
- 9/2004/1477 Reserved matters for construction of a new commercial factory and office facility in substitution of office and warehouse permitted under 9/2001/0884 – Approved December 2004
- 9/2005/0245 Reserved matters for erection of assembly and distribution facility at plot 2000 – Approved April 2005 and factory and car park extended under 9/2010/0335 in June 2010
- 9/2010/0868 Reserved matters for erection of plot 2100A – Approved November 2010
- 9/2010/0869 Reserved matters for erection of plot 2100B – Approved November 2010
- 9/2010/0870 Reserved matters for erection of plot 2050 – Approved November 2010
- 9/2010/0871 Reserved matters for erection of plot 3000 – Approved November 2010

- 9/2010/0872 Reserved matters for erection of plot 5500 – Approved November 2010
- 9/2011/0200 Construction of despatch two storey extension with associated trolley delivery canopy and single storey airlock extension at plot 4000 (Dairy Crest) – Approved June 2011
- 9/2011/0609 The erection of a milk process pipe work enclosure, a fully enclosed cream tank enclosure, forklift charging bay, engineers workshop, high level link transfer bridge and treatment enclosure – Approved September 2011 with amended scheme under 9/2011/0913 approved December 2012
- 9/2015/0499 The erection of a building for B2 (general industry)/B8 (storage & distribution) purposes – Approved August 2015
- 9/2015/0774 The erection of 5 buildings for additional warehouse use – Approved November 2015
- EA/2017/0001 Screening request for B2 and/or B8 commercial development on land to the north of dove valley park (phase 2) – Screening opinion issued March 2015 (not EIA development)

## **Responses to Consultations**

Highways England offers no objection.

The County Highway Authority, following clarification over ownership of land to facilitate access to the parking area and the completion of the loop being pursuant to an extant permission, has no objection subject to conditions to ensure acceptable impacts on the existing highway network during the construction phase, for creation of the access to Park Avenue, and provision of adequate vehicle and cycling parking facilities (determined under reserved matters) prior to each unit being occupied. They also seek that the submitted Travel Plan be adhered to with a monitoring fee of £15,000 to be secured under a planning obligation. They also advise that it is unlikely they would adopt the 'loop' created given it serves no useful purpose as public highway, and measures should be considered to ensure its long term management and maintenance.

The Economic Development Manager notes that opening up the additional land at Dove Valley Park is very much welcomed from an economic development perspective. The objectives of the Economic Development Strategy include the attraction of inward investment, promotion of the area's key sectors, such as manufacturing, and the provision of a range of sites and premises. Dove Valley Park has proven to be a very attractive business location. Development to date has shown that it is capable of successfully competing to attract national and international inward investment to South Derbyshire. This is providing growing employment in the manufacture of high quality and innovative products across a range of sectors, from automotive components, to processed agricultural products, to modular homes. The new land would encompass larger plots which are not currently on offer in the

District, broadening the range of investments that can be attracted to South Derbyshire and the ability of the site to compete with locations elsewhere. It is also noted that South Derbyshire has a rapidly growing population, with a necessity to offer an increasing number and range of employment opportunities to meet their needs.

The County Planning Officer notes the possible presence of sand and gravel at this location. However, from knowledge of other past developments in the area, it is likely that the quality of the resource here is fairly poor as is often the case in these areas more distant from the river. However, because of the size of the proposed site, it is recommended that the applicant be made aware of the presence of underlying sand and gravel and to ask for some analysis of the resource to determine its quality and quantity and whether it would be practicable to consider extraction as part of the development.

The Development Control Archaeologist notes that the site covers part of the former WWII Church Broughton airfield, which appears on the Derbyshire Historic Environment Record (HER), some features of which still survive to the north and east of the proposed development site. In addition, the HER also holds information on a series of cropmarks which occur within the south-eastern sector of the site – mainly linear and potentially related to field boundaries removed prior to the construction of the airfield, although at least some may be pre-enclosure features and possibly of Iron Age or Romano-British date. It was advised that archaeological evaluation is necessary to understand the archaeological significance of the site as required in the NPPF (paras 128/129) and this should involve geophysical survey of the site. Notwithstanding this, it was recognised that because field evaluation is a phased process it is often possible to take a flexible approach, particularly where an application is for outline consent. As such it was initially considered that any trial trenching evaluation could be deferred to a stage following outline consent, but the geophysical survey (first phase of evaluation) should be completed prior to determination. Following further consideration, it is felt that further survey works can be deferred to after a grant of outline consent, but before submission of reserved matters, although that as the staged process can take some time the field evaluation should be undertaken as soon as possible.

*The Lead Local Flood Authority (LLFA) have no objection to the proposal, subject to conditions to ensure adequate surface water attenuation on the site and a greenfield rate of discharge from it. Since the meeting on 5 May, the LLFA has withdrawn their request for surveying of a pond on phase 1 of Dove Valley Park – now being satisfied that the rate of discharge from the application site itself towards this pond would not increase the rate of flows into it.*

The Environment Agency has commented in respect of protection of Controlled Water and linked environmental receptors. They note that no significant or widespread contamination has been identified previously at the site. Hence, provided this information is representative of site conditions, the development is unlikely to present a significant risk to Controlled Water receptors. They confirm that they do not require any further works or assessment, and do not object.

Severn Trent Water has no objection subject to the inclusion of a drainage condition.

The Environmental Health Officer has no objection in principle, but seeks conditions to control noise during the construction and operational phases, and no burning of waste on the site.

Derbyshire Wildlife Trust notes that whilst one of two ponds would be lost to the development, it is of poor condition would be suitably compensated for by the creation of the new drainage pond. From the results of the surveys, they advise that there are unlikely to be any great crested newt issues. In order to prevent harm to the lizard population identified, and to enhance the population post-construction, a condition is recommended to control the construction phase and provide for mitigation for lost/displaced habitat. Furthermore, the Trust seeks a landscape and ecological management plan (LEMP) in the long-term in the interests of biodiversity.

They also note that an appropriate bird survey confirmed Lapwing to be breeding and Skylark possibly breeding. Both species are priority ground nesting bird species which would be lost from the site as a result of the loss of arable land. Whilst supporting the mitigation and compensation/enhancement measures proposed, the Trust advises that insufficient consideration has been given to compensation for impacts on lapwing and skylark in that no compensatory habitat has been proposed. Whilst it is noted that the applicant states that the birds are likely to be displaced onto adjacent arable farmland, which is widely available in the area; this is considered to be too vague and does not specify where this alternative habitat is located or in what sense it can be viewed as compensatory given that it is presumably outside the control of the applicant. Furthermore, the displacement to existing nearby land that may already support ground nesting bird species cannot be considered as compensatory, whilst if surrounding land is not already used, that could suggest it is unsuitable and would need to be enhanced to provide suitable habitat. The Trust remains of the view that the applicant should take responsibility for the impacts associated with the proposal and should not merely rely upon the availability of suitable nearby land outside of their control. *At the meeting on 5 May, it was reported that a resolution had been secured by way of a condition to secure an off-site scheme of management of habitat to provide for compensation. The Trust considers such a condition would address their concerns.*

Peak and Northern Footpaths comments that the site affects public footpaths and it appears two of these have been ignored in the indicative layout. They advise that the layout must accommodate these paths on their legal lines and with their legal widths, or they must be legally diverted on to suitable alternative routes. The full widths of the paths must remain open and unobstructed until such time that legal orders have been confirmed.

## **Responses to Publicity**

Foston and Scropton Parish Council make the following comments:

- i) building on the land increases risk of flooding in Scropton and elsewhere;
- ii) light pollution must be kept to a minimum;
- iii) surrounding roads are not suitable for continuous heavy traffic;

- iv) proposed screening must be implemented and completed before the site is completed; and
- v) the Parish expect to receive financial contributions.

9 objections have been received, raising the following concerns:

- a) Foston and Scropton footpath 28 passes through the site and there are no details of the layout such that it is impossible to determine if the footpath would be obstructed by any of the buildings;
- b) increased heavy traffic on the already congested [Woodyard] Lane leading up to Heath Top;
- c) surrounding roads are not capable of taking any more traffic, with it a safety issue already;
- d) lorries already park of neighbouring roads and construction vehicles would add to the danger (including by depositing material on the highway);
- e) increase in light pollution;
- f) increase in noise pollution;
- g) risk of odour pollution;
- h) construction noise, volume of traffic and general new business noise would create a risk of 'spooking' the poultry, causing smothers;
- i) operations should be restricted between the hours of 22:00 to 07:00;
- j) environmental and visual impact of further expansion of this site;
- k) it is already an eyesore;
- l) the Environmental Statement to phase 1 committed to a high quality development in a heavily landscaped setting and the northern and western boundaries would be heavily landscaped, the buildings would be low rise to reflect the location of the site within flat open countryside, and consideration would be given to woodland creation. To date, none of these commitments have been complied with, with only very sparse planting of trees to the north of phase 1;
- m) planting should take place prior to any development of the site, so that the landscaping can grow and develop whilst any construction takes place;
- n) in order to prevent any future detriment to the local community, the landscaping should be made subject of a Tree Protection Order (TPO);
- o) the planting of dense landscaping with trees would go a long way to ensuring that the impact on the local community would be kept to a minimum;
- p) effect on wildlife and their habitat, in particular the Black Redstart and frogs, toads and newts around the north-western pond;
- q) increase in litter/rubbish;
- r) the suggested location and size of the attenuation pond would attract wild birds close to a turkey business, creates a risk of Avian Influenza that is carried by some migratory birds;
- s) the development would have a severe impact on an existing agricultural business and the welfare of poultry;
- t) loss of agricultural land when brownfield opportunities exist; and
- u) devaluation of property.

5 representations in support have been received, raising the following comments:

- a) this is a well thought-out plan developing a scruffy looking area, with the landscaping vastly improving the area;
- b) this is an obvious extension of the site
- c) it would bring employment and economic benefits to the area;
- d) Dove Valley Park has, over the years, created extensive and good employment on what was the site of a derelict old airfield;
- e) the site is ideally located adjacent to the A50 and as a consequence has little impact on the surrounding area;
- f) the area has a substantial area of reclaimed runway with limited agricultural value; and
- g) it is identified in the Local Plan for employment growth.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S5 (Employment Land Need), S6 (Sustainable Access), E1 (Strategic Employment Land Allocation), E5 (Safeguarded Employment Sites Dove Valley Park), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), SD5 (Minerals Safeguarding), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport) and INF7 (Green Infrastructure)
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage)

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide SPD

## **Environmental Impact Assessment**

The proposal was screened under Regulation 5 of the Environmental Impact Assessment (EIA) Regulations 2011, following the submission of a request in March 2017. The proposal is considered to fall within paragraph 10(a) of Schedule 2 to those Regulations, being an infrastructure project. However having taken into account the criteria of Schedule 3 to the Regulations, the proposal is not considered to give rise to significant environmental effects in the context and purpose of EIA. Accordingly the application is not accompanied by an Environmental Statement.

## Planning Considerations

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

- The principle of development;
- Matters of access and highway capacity/safety;
- Effect on public rights of way;
- Cultural heritage;
- Drainage;
- Landscaping and visual impact;
- Biodiversity impacts;
- Effect on neighbouring amenity; and
- Section 106 obligations and length of permission.

## Planning Assessment

### The principle of development

Whilst the site lies outside of a settlement boundary, and thus within the rural area of the District; the principle of this development is supported by LP1 policies S5, E1 and E5. Policy S5 sets out that across the Plan period, provision will be made across a range of sites, including allocations, for a minimum of 53 hectares (net) for industrial and business development in support of the Economic Strategies of the Council and the D2N2 Local Enterprise Partnership. Policy E1 identifies 19.27 hectares of committed land at Dove Valley Park (phase 1) whilst policy E5 allocates a further 28.3 hectares to the north of phase 1 for the development of large scale industrial and business units, in use classes B2 and B8. The policy makes clear that the minimum gross internal floor area per unit shall be 15,000 square metres, so to recognise the demand for units of an exceptionally large scale for businesses in the manufacturing and logistic sectors, particularly along the A50 corridor. The proposed development would inevitably attract key inward investors and key employers to the area, assisting in driving further economic development elsewhere in the District. Significant weight is afforded to the delivery of this proposal as a result.

The potential sterilisation of minerals has been considered. The likelihood of suitable reserves being present at the site is somewhat questionable with the County recognising that the quality of the resource is likely to be fairly poor. This affects the overall viability of extraction in any case. The historical records also indicate that the site may have been used for landfilling prior to its use as a military airbase, suggesting that minerals may have already been extracted here. Furthermore, whilst a large area, its shape and proximity to residential receptors would limit the area in which workings could take place. The applicant notes policy MP17 of the County's Minerals Local Plan which states that proposals for development which would sterilise or prejudice the future working of important economically workable mineral deposits will be resisted except where there is an overriding need for the development. The above paragraph is considered to demonstrate the overriding need in this circumstance, and the County Planning Officer has indicated that they would not contest this matter further.

### Matters of access and highway capacity/safety

The access arrangements build on the existing single point of access to the A511 and A50. The existing estate roads would provide for two routes into this site, connecting to provide a loop over time – although this is for consideration under the the layout reserved matter. The capacity of the roundabouts and wider strategic network to accommodate the additional movements is noted, but it is not of concern to either Highways England or the County Highway Authority; whilst it is notable that no direct vehicular access to the local road network (Unnamed Road, Bent Lane and Woodyard Lane) are proposed. As a consequence, and when considering the modal choices of movement to and from the site, HGV traffic is likely to originate from the A50 and depart along that route. Employee vehicles would similarly arrive and depart along the same route, albeit there would be a number of movements along the A511 and surrounding network from employees living more locally. Nonetheless, this impact is not a cause for concern.

It is notable that part D of LP1 policy INF2 requires adequate provision for service vehicle access, manoeuvring and off-street parking. There is no concern that this would be achieved, with the indicative layout demonstrating suitable space around the units to accommodate parking. The quantum of this can be set with regards to the County's guidance at the reserved matters stage. Policy INF2(D) also protects land the south-east of the A50 and A511 junction for the development of a roadside lorry park including lorry parking, refuelling and driver facilities (the former permission having expired). Whilst not providing for refuelling and driver facilities, it is of some merit that there could be some informal provision within Dove Valley Park.

Policy INF2 also requires that car travel generated by the development is minimised. The Applicant proposes the establishment of a new bus stop on Pakenham Boulevard and an extension of the existing 401 service to enter the site and use this new facility. Further negotiations have agreed the principle of funding the service for 12 months, so to allow the operator to 'test the market' for a permanently extended service through the site. The timing of this provision would be deferred to a later stage of the development when occupancy rates have risen to an optimum level, although the exact time of this trigger is still under consideration. This trigger would also command the installation of a bus stop(s) on the estate roads – noting that it may be necessary to look at further stops around 'the loop' so to make the service as attractive as possible (noting walking distances from phase 2 to Pakenham Boulevard). Consideration would also need to be given to the running of the service outside of the usual AM lunchtime and PM peaks for employment parks, given modern shift patterns particularly in regard to 24 hour operations. These objectives could be secured by way of financial contributions, whilst they would be promoted through a Travel Plan (to be monitored on the back of financial contributions).

### Effect on public rights of way (PRoW)

The proposal would have a range of impacts on existing PRoWs. Foston and Scropton footpath 27 crosses the north-western corner of the site, from the Unnamed Road to Woodyard Lane. The indicative layout suggests this route would be maintained, although it is noted that layout remains a reserved matter. Foston and Scropton footpath 28 presently runs roughly north to south through the centre of

the site, from the Unnamed Road to the existing north-eastern roundabout on Park Avenue. The indicative layout provides scope for this route to be maintained, although it would likely need to be diverted. Given the route is not presently direct; this could represent an improvement on the existing situation. Church Broughton footpath 50 enters the site in the north-eastern corner and terminates arbitrarily a short distance into the site. The extinguishment of this route is unlikely to be detrimental, given it provides for no through route. Notwithstanding this discussion, any alteration to the legal alignment of these PRowS will require separate approval at a later stage. Given the application is made in outline with layout reserved, it is appropriate to defer that action until a later date.

### Cultural heritage

The response of the County Archaeologist is noted. It is understood that their preference, notwithstanding their comments, is for a geophysical study and scheme of trial trenching to be carried out prior to determination. Both LP1 policy BNE2 and LP2 policy BNE10 rest on the principles of paragraph 128 of the NPPF:

“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. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation”.

Policy BNE10 requires the proposal to be accompanied by an archaeological evaluation of the site and a statement demonstrating how it is intended to overcome any archaeological constraints. It goes on to state that development will be resisted where it would result in the loss of or substantial harm to archaeological sites which are of equivalent significance to Scheduled Monuments (echoing paragraph 139 of the NPPF). It also confirms that development affecting non-designated archaeological sites will be assessed having regard to the scale of any harm and the significance of the site, with measures undertaken to minimise impact and, where possible, to preserve the site in situ.

The issue with the applicant’s submission is that whilst the desk based assessment appears to be adequate, it indicates the need for a geo-physical survey given elevated potential for the site to harbour interest. The survey is intended to inform a scheme of trial trenching, if found to be proportionate. This survey has not been provided however. The County Archaeologist therefore previously expressed concerns that in the absence of information, it is not possible to determine the significance of any heritage assets affected and that paragraph 128 does not stop at just requiring an appropriate desk-based assessment in these circumstances – it seeks, where necessary, a field evaluation. This is considered to be such a circumstance.

In seeking to address this conflict, consideration has been given to the manner of application made, as well as the likely significance of any finds – relative to the policy position as set out above. The site is not felt likely to hold interest which would be comparable to a scheduled monument status, and this must have been a consideration at the time the site was allocated in the LP1. In addition, there is some indication of former working of the land with subsequent infilling, which would likely have led to the loss of pre-war interest. Accordingly, policy BNE10 does not point towards resisting the proposal in principle, but accommodating and/or recording any interest, proportionate to its significance. In short, if further survey work did reveal interest, it is already unlikely to result in sterilisation of the site, or parts of it. Even if there was a need to retain in-situ, as the application is made in outline with layout reserved there remains scope to do so. The requirement for work to be carried out before a layout is 'set' is thus proportionate and allows the proposal to accord with policies BNE2 and BNE10.

### Drainage

*The updated position of the LLFA is set out above.* The applicant relies on the FRA and the scope of the original 1993 Drainage Strategy to justify use of the existing storm sewer system on phase 1, and the subsequent rate of discharge proposed. The applicant's stance is also noted – that the 1993 Strategy states a rate of 530l/s from the total site of 83ha, which equates to 6.4l/s per hectare, which is similar to greenfield runoff rate of 5l/s. However, the LLFA notes correspondence in the 1993 report states that full attenuation does not have to be provided on day one, but instead as a phased programme of construction; whilst it also states that the storm water retention volume required at any time is that associated with the particular phase of development under construction. This therefore does not give certainty that the full attenuation system modelled at that time has been constructed under phase 1, and subsequently there may not be enough storage in the downstream network. The applicant, in response, highlights the Sewer Capacity Assessment (SCA) carried out by Severn Trent Water (as part of the FRA) which finds that capacity improvements for surface water are not likely to be required. Nonetheless this same SCA confirms that, irrespectively, "the developer will need to seek the approval from the Local Lead Flood Authority (LLFA) for the discharge rate as the surface water sewer discharges immediately to a pond and watercourse". It thus *remained* necessary to secure the LLFA's acceptance of the proposed discharge rate, but efforts to resolve this by having Severn Trent Water update and 're-run' the SCA have not been fruitful (Severn Trent Water not presently progressing such Assessments whilst it addresses its new obligations to fund its own modelling works).

The key is to ensure sufficient attenuation within phase 2, and phase 1 if feasible and appropriate (given much of this land remains in the control of the applicant). As with the archaeological matter above, it remains possible to provide greater open attenuation as part of the detail of layout (including swales, as recognised by the applicant in updating the FRA), and it could also be possible to provide below ground storage, such as chambers and oversized pipes. With use of hydro-brakes to control the release of water from these features to the existing phase 1 sewer network, there appears to be scope to suitably drain the site at an appropriate rate. This approach

could be secured by way of a 'Grampian' condition, timed to ensure that the design of the surface water drainage scheme informs the layout at reserved matters and does not exceed greenfield rate without adequate justification. Given the known surface water flooding issues downstream, this is a wholly appropriate stance given the residual uncertainty at this point in time.

*At the meeting, it was verbally reported that the LLFA required the pond on phase 1 to be surveyed in respect of its capacity to receive flows from phase 2, noting the above comments as to its construction and potential for change since its original construction. An addition to what is now condition 18 was accepted as part of the Committee's resolution which required an assessment of the existing balancing pond within Phase 1 and any remedial works to that pond to be outlined prior to development commencing. The applicant has raised concerns with this condition, it burdening them with additional works which may potentially be unnecessary. Following further negotiation with the LLFA, the LLFA now accept that the outfall from the site (the red line) would be to expected standards – equivalent to any other site discharging to, say, a watercourse or sewer. Accordingly, they have withdrawn their request for the surveying on the phase 1 pond and condition 18 is amended as set out below.*

In terms of foul water drainage, there appears to be a suitable connection point and capacity within the sewer network to receive flows. In any case, it is not necessary from a planning perspective to know how foul flows will be dealt with. Drainage companies have an obligation under section 94 of the Water Industry Act 1991 to effectually drain their area. Whilst it is apparent neither the developer nor Severn Trent Water knows the nature of any works required, it will fall on Severn Trent Water under their statutory duties to identify and implement a solution that discharges their statutory obligations.

#### Landscaping and visual impact

The surrounding landscape is characterised by a gently undulating landform with pockets of deciduous woodland and established field hedgerows. The former airfield itself is largely open save for the occasional patch of scrub and belt of tree planting. To the south of the site, the existing phase 1 development along with the A50 and A511 are prominent features of the local landscape. The site gently slopes from north-west to south-east with the total difference being around 8 metres. To the south of the site the land gently falls towards the River Dove before rising again on the opposite side of the valley where long distance views of the existing and proposed sites are possible. To the north of the site the land gently rises to a ridgeline before falling away to Church Broughton. This assists in screening the site to some degree from PRoWs to the north, although the gentle topography means structures at height would be visible. Evidently, the PRoWs crossing the site provide for unfettered views of phase 1 and the proposed development area.

On site, a distinction can be made between the former airfield and surrounding landscape, with the former airfield already partially redeveloped for employment uses and in those areas that have not, the runways and dispersal areas are either still evident or have been assimilated into the agricultural use of the site. Beyond the airfield, the landscape has a more rural quality and comprises a mix of pasture and

arable farmland. Conygree Wood and Rough Wood, which lie immediately to the west of Woodyard Lane, are prominent features. The boundary with Woodyard Lane comprises established and continuous hedgerow, which contains established trees. On the opposite side of the lane are a number of agricultural sheds which abut Conygree Wood. The northern boundary follows the Unnamed Road and is relatively open save for a cluster of trees by a pond in the north-west corner of the site. The eastern boundary follows the northern edge of the former runway, which in-part carries a line of trees adjacent to agricultural buildings, before abutting the northern boundary of phase 1. This southern boundary is, for the most part, formed by a landscaped bund which partially screens the industrial units. Further east, views from Bent Lane are largely unabated, with a combination of tightly trimmed or absent hedgerow allowing clear aspects back towards the site.

As a consequence of the above, near and middle distance views of the site are mostly confined to the north and east. Longer distance views are available from the southern slope of the Dove valley, but these are not considered significant. The proposed development would also sit in context with the existing phase 1 development on the A50 corridor. With this in mind, the impact on national and local landscape character is not considered to be significant, whilst the more localised visual impacts can be minimised by way of appropriate buffer planting. It is noted that a previous implemented permission (ref: 9/2004/0796) provides scope for a landscaping bund to surround the external perimeter of the wider site (i.e. including the northern and eastern boundaries). The purpose of that application, amongst other things, was to provide a long-term screen for the wider site and included a tree and planting schedule, to further mitigate future impacts of development. To date this has not been carried out along the Unnamed Road and it is recognised that the mitigation intended to date has not been achieved. To this end, it would be appropriate for the timing of landscaping provision, following approval of reserved matters (which provides the scope to revise the detail of the buffer), to be brought forward so that it is implemented prior to the first occupation of a unit on phase 2.

### Biodiversity impacts

The Phase 1 Habitat Survey identifies the site to comprise a mixture of semi-natural habitats including scrub, trees, hedgerows, tall ruderal vegetation, semi-improved grassland, arable land, ponds and ditches. In terms of impact on protected species, there is little concern here subject to appropriate mitigation and enhancement. The main focus is on ground nesting birds – namely Lapwing and Skylark. The concerns of the Wildlife Trust are noted and it seems that it is not possible to provide for compensatory land to secure equivalent habitat. Nonetheless, it must be remembered that the essence of this site being developed for employment purposes is enshrined in the LP1. It is not a protected ecological designation in the same way that similar arable land elsewhere in the District can provide for suitable ground nesting bird habitat, but it can be altered at any time. This site is partly put to pasture, limiting the desirability of its use by breeding birds, whilst the arable parts are routinely ploughed and cropped when having regard to aerial photography. Whilst the loss of habitat is not ideal, it is not considered that a refusal could turn on this point – particularly when the NPPF requires impacts on biodiversity to be minimised (i.e. not ameliorated) and only commands refusal if significant harm results from a development. It also notes that planning permission should only be

refused when development results in the loss or deterioration of irreplaceable habitats, unless the need for, and benefits of, the development in that location clearly outweighs the loss. This stance aligns with LP1 policy BNE3 which also specifies the need to achieve significant harm in order to warrant refusal. It is not considered that this level of harm is achieved.

Notwithstanding the above position, *at the time of writing the previous report*, dialogue with the Trust was continuing with a view to securing off-site compensation if this is feasible. *By the meeting, it had been established this could be through securing mitigation as part of crop rotation by a willing farmer in the locality, or possibly by securing a financial contribution for the Trust to purchase agricultural land so they may provide the compensatory habitat. This was felt to address the degree of harm identified and was secured by way of an additional condition under the Committee's resolution (now condition 10). However, the applicant has since identified the likely costs of such mitigation – it presenting a significant viability concern. This is particularly so when there are new biodiversity gains to be delivered around the site (such as the attenuation pond(s) and landscaping buffers). The applicant's ecologist has provided further comment:*

*“The breeding bird surveys identified a single pair of lapwing with young during the second survey in May 2017. A pair of lapwing was also noted during the April and June surveys, which are presumed to be the same birds as those that were recorded in May. An additional individual on site and a bird flying over bring the maximum number of adult birds noted on any survey occasion to four.*

*It is accepted that given the lack of scope to mitigate for the loss of this territory within the proposals, this pair may be lost in the event that suitable habitat is not available for them elsewhere within the local vicinity. Although it is accepted that this loss will result in an adverse impact, it is not considered that the loss of a single lapwing pair from the local breeding population will have a significant impact upon the integrity of that population. It is therefore considered that the provision of off-site compensatory habitats for a single pair of lapwing would be disproportionate to the minor adverse impacts resulting from the scheme.*

*The surveys also identified up to eight pairs of skylark, a species that was classified as a probable breeder within the arable field compartments across the site. The number of skylark recorded showed variability between surveys, with very few territories noted as being occupied consistently across all surveys and no confirmed breeding activity, indicating that a proportion of the birds recorded were foraging or using the site for purposes other than breeding. As is the case for lapwing, the site proposals will not be able to accommodate these birds and it is considered these territories will be lost if pairs cannot relocate to suitable habitat within the wider surrounding area. Skylark is a common resident and passage migrant in Derbyshire, and is considered to be common and widespread within the area local to the site given the availability of extensive agricultural habitat. As a result, the loss of up to eight, but likely fewer, breeding pairs of skylark is not considered likely to significantly affect the integrity of local skylark populations. As a result, the*

*provision of compensatory habitats for skylark is considered to be disproportionate to the minor adverse impacts resulting from the scheme”.*

*The above comments highlight a key consideration – does the number of birds identified as breeding (a single pair) and the number of probable breeders (up to 8 birds at best) require a 100% offsetting of the land compartments available to such species – noting that much of this land is evidently without breeding activity. With the Trust seeking a sum equivalent to 10 hectares (circa 42% of the site area), it is recognised this may not be a proportionate offsetting given the relatively limited use by ground nesting birds. Furthermore, biodiversity offsetting does not necessarily have to be ‘like for like’ habitats, and the increased tree cover, for instance, could be seen to mitigate some of the biodiversity loss on site. The key, in policy terms is to secure no net loss and, where possible, a net gain.*

*Again, at the time of writing, dialogue on this matter continues and any further update shall be reported to Members at the meeting. In the interim, however, it is recognised that the site area upon which the off-site compensatory scheme is to be calculated, if any, is under question and thus some flexibility to the wording of the condition is required, as set out in the amendment to condition 10 below.*

#### Effect on neighbouring amenity

The site would result in B2 and B8 units being sited closer to residential properties than might already exist. This is not a wholly new concept however, given the site’s inclusion within the Local Plan. Whilst layout, scale, appearance and landscaping are reserved matters, the indicative layout points towards two of the three likely units either turning their back on the Unnamed Road or being at some distance from nearby residential properties along that route. The north-western unit indicates the potential for loading areas on its northern and southern sides, although this could be considered further as part of the layout reserved matter.

In any case, a landscaping bund along the northern edge of the site along with appropriate noise control measures for each unit, secured by condition, are considered to suitably reduce noise and disturbance concerns. Lighting of the site can be subject to conditional approval, and noise from the construction phase can also be appropriately controlled.

#### Section 106 obligations and length of permission

It is noted that the Parish expect to receive financial contributions from the development. However, any such contributions must arise from a direct impact on their infrastructure. As an employment site, the only likely perceived effects would be to the highway network for which there is no objection from the County Highway Authority (the correct party to receive such sums if they were to be levied). Section 106 contributions cannot be arbitrarily gained given the CIL Regulations, such that the Parish’s request cannot be sustained.

The provision of a bus service to the site however is a matter which requires an obligation to be secured. The provision of stops on the existing and proposed estate roads would also be a necessary component of this. Given their provision rests on

the timing of (initially) a trial extension to the bus route, it is logical to link such a trigger to the point in time where that service is delivered. However, the service should not be extended too early as the operator is less likely to continue the extended service if there is not sufficient 'critical mass' to sustain it. There will also be a need to enshrine the promotion of the availability of this service to existing and proposed tenants once it is available, and this should form part of the Travel Plan as and when – a Travel Plan to also be monitored by the County Council pursuant to a financial contribution to also be secured under Section 106.

It is noted that the applicant requests a period of 10 years for the submission of reserved matters. This is argued on the basis of extended site preparation and also a sufficient time frame to attract large international companies – potential occupiers who are likely to have specific requirements. These points are appreciated although the lifetime of the Local Plan must be recognised. In order to achieve its objectives, the floorspace should be provided before 2028. Offering 10 years would present a risk of this objective being missed. With the usual requirement for implementation of reserved matters being 2 years from the latest approval, a period of 8 years would be acceptable instead. It is also noted that the preparatory works would bring about the material to create the landscaped bund, and this is a feature which requires early delivery to mitigate the impact of development. Reducing the timeframe for submission of reserved matters also assists in realising this objective.

### Summary

The starting point for this application is the allocation of the site in the LP1. The very fact it benefits from this presumption in support of the development indicates that the sustainability appraisal that informed the Local Plan has already considered that the 'in principle' effects on archaeology, drainage and biodiversity would be acceptable, subject to conditions and/or obligations. That remains the view now. Hence, whilst there are less than ideal outcomes in respect of these matters, it appears likely that a positive resolution to these residual points could be addressed by condition and/or obligations, with continued efforts ongoing at the time of writing this report. With the significant employment and investment benefits of the proposal firmly in mind, and all other matters being considered acceptable, the low risk of limited harms do not weigh heavily in the balance when considering the primary point raised above.

*The applicant provides some commentary to further focus the consideration of the planning balance, noting the strategic importance of this site to support the delivery of the Council's economic growth and employment strategy, as set out in the relatively new adopted Local Plan. It is stated that it is important to note that the phase 2 proposals would include the establishment of a new primary electricity substation, with a potential capital cost in excess of £12m. This would provide enough supply for Dove Valley Park and also allow Western Power to export power back to Hatton (which is short of power supply) through the existing infrastructure. In light of these costs, together with indicative requirements for biodiversity offsetting, there is a risk that the project becomes overburdened to the extent that viability is in question.*

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

## Recommendation

**A.** Grant delegated authority to the Planning Services Manager to negotiate the bus service provisions as set out in the report and subsequently complete a Section 106 Agreement to secure the agreed scheme and associated financial contribution, and the Travel Plan monitoring and (if possible) biodiversity offsetting contributions; and

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

1. This permission is granted in outline under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015, and 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. (a) Application for approval of the remaining reserved matters listed at condition 1 shall be made to the Local Planning Authority before the expiration of eight years from the date of this permission; and

(b) The development hereby permitted shall be begun before the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

3. The reserved matters listed at condition 1 shall broadly be in accordance with the illustrative masterplan (ref. 150630-STL-XX-XX-DR-A-XXXX-S8001 Revision P01) and the design principles of paragraphs 3.4 to 3.6 of the Planning Design & Access Statement (ref. 150630 Revision A, dated July 2017). Notwithstanding these parameters, 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) where applicable, details of measures to support hard landscaping within any root protection areas of retained trees or hedgerows;

(b) a geophysical archaeological survey of the site along with an initial evaluation report to establish the significance, if any, of archaeological interest on the site, along with the results of trial intrusive investigation should initial evaluation report survey indicate the need for such works;

(c) evidence to demonstrate that the sustainable drainage system detention basin has been designed to provide sufficient capacity to drain the site in accordance with conditions 16, 17 & 18 of this permission, and to demonstrate that the outfall from the site is no greater than greenfield rates;

(d) 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) and Manual for Streets issued by the Department for Transport and Environment and Local Government (or any subsequent revision/replacement of that guidance);

(e) the details of landscaping shall include suitable provision for the retention of lizard habitat on the site;

(f) 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 twenty-five 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; and

(g) details of secure cycle parking facilities for the employees of, and visitors to, the employment premises.

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, and in the interests of highway safety, sustainable drainage and reducing flood risk, biodiversity and the cultural heritage of the District.

4. 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.

5. No site preparation or construction works pursuant to this permission shall take place on the site other than between 0800 to 1800 hours Monday to Friday, and 0800 to 1300 hours on Saturdays. There shall be no construction works (except for works to address an emergency) on Sundays or Public Holidays.

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

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

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

7. No generators shall be used on the site during the construction phase without details having first been submitted to and approved in writing by the Local Planning Authority. Thereafter, only those approved generators shall be used.

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

8. No development, including preparatory works, shall commence until a mitigation strategy and working method statement in for common lizard has been submitted to and approved in writing by the Local Planning Authority. The submitted mitigation strategy and working method statement shall provide for the management of any refuge areas both during and after construction. The development shall be carried out in accordance with the approved mitigation strategy and working method statement.

Reason: In order to safeguard protected species from undue disturbance and impacts, noting that initial preparatory works could have unacceptable impacts.

9. 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.

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.

10. No development, including preparatory works, shall commence until a scheme ('the offsetting scheme') for the offsetting of biodiversity impacts at the site has been submitted to and agreed in writing by the Local Planning Authority. Where on-site mitigation is inadequate to deliver no net loss of biodiversity, the offsetting scheme shall 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);
- 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 in perpetuity).

Reason: To ensure there is no net loss of biodiversity arising as a result of the proposed development.

11. a) No development, including preparatory works, shall commence until a Written Scheme of Investigation for archaeological monitoring (WSI) has been submitted to and approved in writing by the Local Planning Authority, and until any pre-commencement element of the approved WSI has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:
- i) the programme and methodology of site investigation and recording;
  - ii) the programme and provision to be made for post investigation analysis and reporting;
  - iii) provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - iv) provision to be made for archive deposition of the analysis and records of the site investigation; and nomination of a competent person or persons/organisation to undertake the works set out within the WSI.
- b) 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.

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

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

13. No development shall take place until a Construction Management Plan (CMP) or Construction Method Statement (CMS) has been submitted to and been approved in writing by the Local Planning Authority. The CMP/CMS shall provide details of space 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, method of prevention of debris being carried onto highway and any proposed temporary traffic restrictions. The CMP/CMS 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.

14. No development or other operations, including preparatory works, shall commence until a temporary access for construction purposes has been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The detailed design shall include measures for warning other highway users of construction traffic entering or emerging from the access. The access shall be retained in accordance with the approved scheme throughout the construction period free from any impediment to its designated use until it is replaced/completed pursuant to the requirements of condition 15.

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.

15. Prior to any other works commencing on site, the new access shall be formed to Park Avenue generally in accordance with plan/drawing ref. 22847\_03\_020\_01 Revision A, constructed to base course and the entire site frontage fronting the traffic island cleared of all obstructions greater than 1m in height (600mm in the case of vegetation) above carriageway channel level for a distance of 2.4m into the site from the carriageway edge.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety, recognising that construction works without suitable access provision could bring about unacceptable impacts.

16. 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.

17. 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.

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.

18. 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 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 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.

19. 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 a suitably qualified independent engineer 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 18. 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.

20. Prior to the construction of a building or the setting out of external storage or yard areas, a scheme for the control and mitigation of noise emanating from the site/building shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the use hereby permitted commences and thereafter operated in accordance with it with any mitigation maintained in situ/in working order.

Reason: To protect the amenities of occupiers of adjoining and proposed residential properties.

21. Prior to the first occupation of each employment premises/land hereby permitted, the new estate road 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 standard specification.

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

22. Where the new estate road is not to be adopted as public highway, a scheme for the ongoing management and maintenance of this route so to ensure it remains open to public use at all times shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of a premises. Thereafter the approved management and maintenance scheme shall be implemented at all times.

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

23. Prior to a premises being occupied, an amended Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall incorporate methods in which to review the Travel Plan to respond to any creation or extension of bus services to Dove Valley Park (all phases) so to promote the use of sustainable transport options. The approved Travel Plan shall be implemented in accordance with the timescales specified therein, to include those parts identified as being implemented prior to occupation and following occupation, and shall be operated for no less than 10 years from first occupation of a premises. The Approved Travel Plan shall be monitored and reviewed in accordance with the agreed Travel Plan targets.

Reason: In the interests of encouraging sustainable modes of transport.

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

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

#### Informatives:

1. This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.
2. 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 and windows/openings reveals details;
  - surfacing materials and patterns;
  - boundary treatments (including materials thereof); and

- if applicable, details of a management and maintenance strategy for highways not adopted under an agreement pursuant to section 38 of the Highways Act 1980.

You should also ensure that the reserved matters ensure that the open aspects of the footpath routes and proposed links are not compromised by any landscaping sited between footpath and the development.

3. The application site is affected by a Public Right of Way (Footpath/ Bridleway numbers 28 & 50 (Foston) 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 advice can be obtained by calling 01629 533262.
  - Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.
  - If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 01629 533190 for further information and an application form.
  - If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order.
  - Any development insofar as it will permanently affect a public right of way must not commence until a diversion order (obtainable from the planning authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.
  - To avoid delays, where there is reasonable expectation that planning permission will be forthcoming, the proposals for any permanent stopping up or diversion of a public right of way can be considered concurrently with the application for proposed development rather than await the granting of permission.
4. 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](mailto: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.
5. 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.

6. For the use or re-use of sewer connections, either direct or indirect to the public sewerage system, the developer/owner will be required to make a formal application to Severn Trent Water Ltd under Section 106 of the Water Industry Act 1991. Copies of current guidance notes and the application form may be obtained from [www.stwater.co.uk](http://www.stwater.co.uk) or by contacting the New Connections Team on 0800 707 6600.
7. The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.
8. The developer is strongly encouraged, as part of the delivery of properties on the site, to provide full fibre broadband connections (i.e. from streetside cabinet to the property). Further details of initiatives to support the provision of full fibre connections as part of broadband installation at the site can be obtained from Digital Derbyshire on [broadband@derbyshire.gov.uk](mailto:broadband@derbyshire.gov.uk) or 01629 538243.
9. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk)) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:
  - Type A: on classified (A, B and C) roads, at junctions with classified roads, and at the commencement of local distributor roads (roads acting as through routes within developments);
  - Type B: intermediate name plates along local distributor roads, on collector roads (roads which run within a development providing access and linking small access roads and access ways), on access roads (roads serving a small number of houses which may also have a surface shared by pedestrians and vehicles), and access ways which have a different name from their access road; all unless at a junction with a classified road (where Type A will be expected instead).Further advice can be found online at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk) or by calling (01283) 228706.
10. The applicant should be aware that the roads shall remain private and the Highway Authority advise that they should be constructed to an industrial standard and a management company appointed to oversee the future maintenance.
11. The applicant should contact Derbyshire County Council's Public Transport section with regards new bus stop(s) being provided on Pakenham Boulevard/Park Avenue.

12. Effective monitoring is an essential requirement of a successful Travel Plan. The Highway Authority recommends the use of the STARSFor Travel plan toolkit: [www.starsfor.org](http://www.starsfor.org), although other monitoring methods are available. Use of this system ensures a consistency of quality and puts in place a straightforward system for subsequent updating and monitoring. Fees are levied for the use of this system. Contact: [sustainable.travel@derbyshire.gov.uk](mailto:sustainable.travel@derbyshire.gov.uk) for more details.
13. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.

**Item**            **1.4**

**Ref. No.**        **9/2017/0062/SMD**

**Applicant:**  
**Mr H Holmes**  
**22 Venture Homes Midlands Ltd**  
**Chestnut Way**  
**Repton**  
**DE65 6FQ**

**Agent:**  
**Mr Martin Sansom**  
**Sansom Hamilton & Co**  
**The Estate Office**  
**Barns Heath Farm**  
**Appleby Magna**  
**Swadlincote**  
**DE12 7AJ**

**Proposal:**    **THE ERECTION OF 14 DWELLINGS WITH ACCESS, PARKING AND TURNING AREAS AND ASSOCIATED WORKS ON LAND TO THE REAR OF 33 TO 59 COURT STREET WOODVILLE SWADLINCOTE**

**Ward:**         **Woodville**

**Valid Date**   **01/02/2018**

**Reason for committee determination**

The item is presented to Committee as it is a major application subject to more than 2 objections.

**Site Description**

The site comprises an area of undeveloped land to the rear of numbers 33 to 59 Court Street, with access proposed in-between numbers 43 and 49. Whilst the dwellings either side of the access are detached there is a mix of terraced, semi-detached and detached dwellings along the length of Court Street. To the north of the site is an area of Council owned public open space (POS), to the east is an open area associated with 80 Granville Street, and to the west is an existing access track. The land rises from Court Street to a high point at the northern end of the site just short of the existing hedgerow (outside the site) which bounds the POS beyond. There is then a substantial slope back to the highway and existing dwellings on Court Street. The rear gardens to those dwellings on Court Street have depths of around 25 metres, and are bordered by a mix of traditional coping and brick topped walls and timber fencing, both to heights of between 1.2 and 2 metres.

**Proposal**

It is proposed to erect 14 dwellings comprising a mix of dwelling types and sizes – these being 5 detached dwellings, 3 pairs of semi-detached dwellings (6 dwellings) and a terrace of 3 dwellings. This would provide a mix of one 4-bed dwelling, ten 3-bed dwellings and three 2-bed dwellings, all in two-storey form. Vehicular and

9/2017/0062 - Land to rear of 33 to 59 Court Street, Woodville DE11 7JJ



pedestrian access to the site would be from Court Street, with pedestrian access provided to the existing area of POS to the north.

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

The Planning Statement notes that the site lies within the settlement boundary as identified within the Local Plan, where the broad principle of developing housing in this sustainable location is considered acceptable in terms of Local plan Policy H1 and the NPPF. The proposals provide a type of housing for which there is a particular demand across the district and which would broaden the range of housing in the immediate area. The site is considered to be well related to the built form of the existing settlement, the proposals would therefore be viewed in the context of existing built development. The design and layout of the proposed dwellings is such that the proposals would contribute positively towards the character and appearance of the surrounding area, and the proposals would not harm the amenities enjoyed by the occupiers of neighbouring dwellings and would not prejudice the safe or efficient use of the highway network.

The Design & Access Statement sets out the background to the proposals, describes the site context and history. The Layout is dictated by the point of access in to the site which sits centrally, the access then forms a 'hammerhead' junction with dwellings proposed facing the POS. The dwellings are designed to reflect the traditional brick and tile character of the surrounding area. Landscaping is considered to be an integral part of the scheme with ample tree planting, together with low level planting. Different surfacing materials are proposed which would complement the drainage strategy for the site. The site is considered to be accessible with good access to public transport facilities and local services.

A Drainage Strategy has been submitted, which considers it possible to provide a sustainable drainage system for the site. The plots to the north west area and to the right of the access road are to partially discharge the roof water into soakaways located in the rear gardens. The gutter to the front of the properties would discharge into the permeable subbase of the block paving proposed. The area to the west of the access road would have permeable paving throughout however this would be used as a full storage system with an outlet to the drain running down the centre of the access road. The discharge from the various areas of storage would be attenuated to allow the combined discharge into the public sewer to be 5 l/sec/ha.

An Extended Phase 1 Habitat Survey identifies a number of locally designated sites in close proximity to the site, with Swadlincote Woods located to the west of the site. The site being comprised of improved grassland is considered to be of low ecological value. The site is not considered to support any protected species, although the vegetation on-site provides for a suitable nesting habitat and as such any vegetation clearance should take place outside the nesting season.

The Coal Mining Risk Assessment acknowledges that the site is located within a Development High Risk area, due to probable shallow unrecorded workings beneath the site. As such the report recommends that the site be investigated with rotary boreholes to confirm the thickness of the underlying stone and determine whether

the site is underlain by shallow coal seams. The level of risk can then be reassessed and suitable recommendations made.

## **Planning History**

9/2013/0715	Approval of reserved matters of application 9/2007/0823 for residential development (14 dwellings). Approved 29/10/13
9/2010/0535	Application to extend the time limit for implementation of Outline application 9/2007/0823 (all matters except means of access to be reserved) for residential development. Approved 13/09/10
9/2007/0823	Outline application (all matters except means of access to be reserved) for residential development. Approved 30/10/07
9/2006/0700	Approval of Reserved Matters for the erection of five detached bungalows. Approved 03/08/06
9/2003/0495	Outline application (all matters to be reserved except for means of access) for residential development. 12/06/03
9/2002/1267	Outline application (all matters to be reserved except for means of access) for residential development. Refused 21/01/03

## **Responses to Consultations**

The Highway Authority has no objection to the proposed development subject to conditions relating to the provision of the access, parking spaces and a restriction on the location of any gates.

The Lead Local Flood Authority notes the mix of drainage solutions proposed including soakaways and restricted discharge to the public surface water sewer, and as such there are no objections to the proposed development subject to conditions relating to the submission of a detailed scheme for the drainage of the site and its associated management.

The County Planning Policy Officer comments that the proposed development would generate the need to provide an additional 1 infant, 2 junior and 2 secondary school pupils. As Woodville Infant School is projected to have insufficient capacity to accommodate the additional pupils generated by the development a contribution of £11,399.01 is requested in order to facilitate the provision of 'Project B' an additional classroom. Woodville CE Junior School is also projected to have insufficient capacity and a contribution of £22,798.02 is requested in order to contribute towards 'Project B' internal remodelling to create additional capacity. In terms of secondary provision, the development falls within the normal area of Granville Sports College. The school is projected to have sufficient capacity to accommodate the additional pupils generated by the development and as such no contributions are requested.

The Southern Derbyshire CCG does not require a contribution for health for a development of this size.

The Development Control Archaeologist does not consider that the proposal has any archaeological implications.

The Coal Authority has no objection to the scheme, subject to the undertaking of intrusive site investigations and any necessary mitigation and/or remediation acknowledging the potential for the coal mining legacy of the area to present a risk to the development.

Derbyshire Wildlife Trust is content that the existing site is species-poor semi-improved grassland of limited interest, with no evidence of protected species using the site. Subject to conditions relating to the timing of works and a biodiversity enhancement scheme there are no objections to the scheme.

The Environmental Health Manager has considered the proposed development in relation to air quality, noise, odour, land contamination and environmental lighting impact and considers that the development would be acceptable subject to conditions relating to noise (during construction) and contaminated land.

Woodville Parish Council has no objections.

### **Responses to Publicity**

10 representations have been received from 5 addresses, raising the following concerns/points:

- a) Increased pressure on car parking on Court Street;
- b) Impact on access for emergency vehicles;
- c) Impact on the existing classic car business adjacent to the site;
- d) Will the new roads be adopted for bin collections?
- e) This could compound existing sewerage issues in Court Street;
- f) Will new street lights be provided?
- g) Concern at the impact of the proposed bin store on the existing rights of access across this part of the site;
- h) Could existing dwellings be given access to the rear of their dwellings for parking?
- i) Will the development impact on the water table due to a new soakaway? And would adjacent properties be at risk from flooding?
- j) Loss of privacy due to overlooking;
- k) Concern at delivery vehicles and impact during construction;
- l) Would the rear boundary wall be taken down and re-built? Who will pay for this?
- m) Is this Council housing? Will this devalue my property?
- n) Impact of the scheme on an existing right of access.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), SD1 (Amenity and Environmental Quality), SD2 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF6 (Community Facilities), INF8 (The National Forest), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE10 (Heritage)

### **National Guidance**

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

### **Local Guidance**

- South Derbyshire Design Guide SPD (Design SPD)
- Section 106 Agreements – A Guide for Developers (2010)

### **Planning Considerations**

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

- Principle of development;
- Siting and design;
- Highway safety;
- Section 106 contributions; and
- Other matters.

### **Planning Assessment**

#### Principle of development

The application site is located within the Swadlincote Urban Area as defined in the Local Plan, and is an area of currently undeveloped land, laid to grass. Within the urban area there is no limit to the quantum of development appropriate and as such the principle of developing the site for residential purposes is considered to be acceptable and complies with the requirements of policies H1 and SDT1. In addition, the principle of residential development on the site including the means of access from Court Street has previously been deemed suitable with various outline and reserved matters approvals for the site, as detailed above within the planning history section.

## Siting and design

The proposed layout and number of dwellings has been the subject of a number of iterations since submission of the application. The layout of the site is somewhat dictated by the position of the site access from Court Street, as the access road effectively splits the site in two, with a hammer head proposed at the end of the access road. The dwellings have been orientated in order to provide an active frontage to the POS to the north of the site, and also to provide frontages to the internal access road. This represents an improvement on the previous, now expired, permission, and works towards a wider aspiration to improve access to, and use of, the POS.

The layout is considered to be appropriate for the site given its shape, with a mixture of parking solutions proposed (garages and driveway spaces). The scale of the dwellings proposed is characteristic of the predominant two-storey housing in the area. The character of the dwellings is traditional, and reflective of the area with stone cills and arched brick lintels.

The layout of the development provides private amenity spaces to the rear of dwellings, with prominent boundaries proposed as brick walls including to the existing access track to the POS and private land to the west. The northern boundary, proposed with metal railings and hedge planting, includes for pedestrian access to Council owned land beyond, which would provide for access to open space for both existing and prospective residents. The siting of the dwellings fronting this area would also help to improve the attractiveness of this area for existing residents (supplemented by the financial contributions discussed below). The position of bin stores within the site have been re-located in order to allow for an existing right of access to be unfettered along the boundary to 43 Court Street.

The site layout has been developed in order to ensure that the impact of the development on existing residents is minimised. Where the proposed dwellings are located in close proximity to existing residents the separation standards outlined in the South Derbyshire Design SPD are achieved and as such the development is not considered to result in significant overlooking or overshadowing. The finer detail of the boundary treatments including those shared rear boundaries would be suitably secured by condition.

An indicative hard and soft landscaping scheme indicates areas of hedging, shrub planting and trees throughout the site with block paving and gravel finished to the access road and private drives. Overall, general principles of good urban design have been followed in creating an attractive, functional and sustainable development and as such the proposal is considered to comply with the requirements of policy BNE1 and the guidance contained within the Design SPD.

## Highway safety:

Generally by virtue of the location within the urban area of Swadlincote, the site is considered to be a sustainable and accessible location, with services, public transport, education and employment areas within reasonable walking distance. Vehicular access is proposed from Court Street in-between No's 49 and 43 and

remains acceptable from a highway safety perspective, having been previously deemed suitable. The layout is considered suitable to allow for free circulation and turning, with garages where provided of a suitable size to allow for their comfortable use. Each 2 and 3 bed dwelling is provided with a minimum of two parking spaces with the 4 bed dwelling proposed provided with 3 spaces (including the garage). This would provide a sufficient level of parking in convenient places to ensure that the dedicated spaces are used appropriately. The concern of residents in terms of existing parking problems in the area are noted but as the development is considered to provide for sufficient parking spaces which, when coupled with the location of the housing away from Court Street itself, would be unlikely to contribute to existing parking concerns in the area.

The request to consider access for existing properties is noted, but this is not a matter which can be imposed by way of condition as it is not relevant to the development proposed, or necessary for it to be made acceptable. It is however a matter which the existing residents and applicant would need to discuss and come to an agreement outside the remit of this application.

The development is proposed with areas of block paving for road surfacing, in order to provide for areas of pedestrian priority creating a calmed and more attractive streetscape. Where this is proposed it is considered appropriate for the provision of lower 25mm kerb lines. The County Highway Authority raises no objections to the layout which appears to accord with their design guidance, and suitable provision for bin collection is made. Given the foregoing, and lack of objection from the County Highway Authority, the proposal is considered to accord with policy INF2 and provisions of the NPPF.

### Section 106 contributions

Paragraphs 203 to 205 of the NPPF relate specifically to planning obligations and advise that these should only be sought where they meet all the following tests:

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 addition the CIL Regulations places controls on the use of planning obligations for financial contributions to no more than 5 contributions per infrastructure type or project.

Policies INF1, INF6 and H21 expect new residential development to be adequately supported by infrastructure and, where necessary, the impacts mitigated. Whilst additional strain on existing roads and sewers is inevitable with any new housing development, there is no substantive evidence to withhold permission on these grounds, especially given no objections have been received from the LLFA or Highway Authority. It should be noted that the impact of this development on the Clock Island has been accepted for many years, and prior to the Highway Authority's present position that further significant development requires mitigation. With no material change in terms of traffic impacts between this proposal and the recently

expired permission, which did not attract the need for mitigation; it is not considered that an obligation would fulfil the tests set out above.

However, education capacity in the area is of concern and for this reason contributions to mitigate the impact are sought by the County. Due to the size of the site, the provision of public open space, built or sports facilities within the site is not considered appropriate and financial contributions are preferred, as follows:

- Built Facilities Contributions - £4,912 towards improvements to the pool area at Greenbank Leisure Centre;
- Open Space Contributions - £14,920 towards provision of play equipment for the Frederick Street Public Open Space (directly to the north of the site);
- Outdoor Sports Contributions - £8,800 towards facilities at Swadlincote Woodlands.

The County requires contributions for education provision in order for local schools to be able to accommodate the projected increase in pupil numbers as a result of the development:

- £11,399.01 towards the provision of 1 infant place, which would be achieved through 'Project B' the provision of an additional classroom at Woodville Infant School; and
- £22,798.025 towards the provision of 2 junior school at Woodville CE Junior School, which would be directed towards 'Project B' a scheme of works for internal remodelling to create additional capacity.

As Granville Sports College currently has sufficient capacity to accommodate the additional 2 pupils generated by the development no contributions towards secondary education is necessary.

All the above sums have been reviewed against existing committed sums from other developments, and are compliant with the CIL Regulations.

### Other matters

Some disturbance and inconvenience from construction activities is inevitable for a short time. In order to ensure this is minimised, a condition requiring the submission of a Construction Management Plan is considered to be appropriate in addition to a restriction on working hours.

The comment raised about the impact of the development on an existing business directly adjacent to the boundary has been considered, but as a result of the existing noise and hours of operation restrictions in place on the existing business the residential development of the site is not considered to be likely to compromise this existing business or amenity for new residents.

Drainage, coal mining legacy and drainage matters can be addressed by way of conditions, in accordance with policies SD2, SD3 and SD4. With the site having a low potential for protected species and only a few small self-set trees being removed to facilitate the development (whilst new planting can mitigate for this loss), it is

considered biodiversity is both adequately safeguarded and enhanced in accordance with policy BNE3.

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

## **Recommendation**

**A.** Grant delegated authority to the Planning Services Manager to complete a Section 106 Agreement to secure the contributions and obligations as set out in the report; and

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

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

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

2. The development hereby permitted shall be carried out in accordance with amended drawing numbers 03 Rev A, 04 Rev A, 05 Rev A, 06 Rev A and 07; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

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

Reason: To protect the amenities of adjoining properties and the locality generally, acknowledging the need to ensure appropriate levels are agreed prior to building works commencing.

4. 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, pedestrian and cyclist protection and any proposed temporary traffic restrictions.

Reason: In the interests of highway safety, recognising that initial works to clear and prepare the site could give rise to unacceptable impacts.

5. No site machinery or plant shall be operated, no process shall be carried out and no demolition or construction related deliveries received or dispatched from the site except between the hours of 08:00 - 18:00 Monday to Saturday and 08:00 - 13:00 on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby.

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

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

7. Prior to the construction of a dwelling, a scheme of biodiversity enhancement (namely the incorporation of bat roost features and bird boxes for house sparrow and swifts within the development) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of the dwellings and retained thereafter.

Reason: In the interests of safeguarding against harm to protected species, acknowledging that initial ground works could impact upon features of conservation interest.

8. Before any other works are commenced on site the vehicular and pedestrian access to Court Street shall be laid out, constructed and provided with 2.4m x 4.3m visibility splays in accordance with the application drawings.

Reason: In the interests of highway safety and to ensure that safe access to the site is provided for the construction phase of the development.

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

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

10. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority to demonstrate that the proposed destination for surface water accords with the hierarchy in paragraph 80 of the planning practice guidance, and, if relevant, to obtain a full understanding of any springs within the site and any associated mitigation requirements.

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

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

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

11. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with the principles outlined within:
  - a. Drainage Strategy for new residential development at Land to the rear of court street Woodville Swadlincote - P-DER-1000 (March 2018 Aspect Consulting Engineers LTD
  - b. and DEFRA Non-statutory technical standards for sustainable drainage systems (March 2015),

have been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the first occupation of a dwelling.

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

12. 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.

13. The development hereby permitted shall not begin until a scheme to deal with contamination of land has been submitted to and approved in writing by the local planning authority. The scheme shall include all of the following measures, unless the local planning authority dispenses with any such requirement specifically in writing:

i) A Phase I site investigation report carried out by a competent person to include a desk study, site walkover, the production of a site conceptual model and a human health and environmental risk assessment, undertaken in accordance with BS 10175: 2011 Investigation of Potentially Contaminated Sites - Code of Practice.

ii) A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites - Code of Practice. The report shall include a detailed quantitative human health and environmental risk assessment.

iii). A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.

iv). If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be submitted to and approved in writing by the local planning authority.

v). A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to first occupation of the development. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To protect the health of future occupiers of the site from any possible effects of contaminated land.

14. No development shall commence until a scheme of intrusive site investigations has been submitted to and approved in writing by the Local Planning Authority. Prior to any construction works commencing, the approved scheme of intrusive site investigations shall be carried out and a report of findings arising along with a scheme of remedial works (if necessary) shall be submitted to and approved in writing by the Local Planning Authority. Any remedial works approved shall be completed in accordance with the approved recommendations prior to the first occupation of a dwelling.

Reason: To protect the health of the public and the environment from hazards arising from the coal mining legacy of the site which might be brought to light by any construction or ground works commencing on the site.

15. Prior to the first use of the development hereby permitted, space shall be provided within the application site in accordance with the application drawings for the parking and manoeuvring of residents, visitors and service and delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.  
Reason: To ensure that adequate parking/garaging provision is available.
16. No gates shall be erected within 10m of the existing highway boundary or within 5m of the proposed highway boundary and any gates elsewhere shall open inwards only.  
Reason: In the interests of highway safety.
17. Prior to the commencement of building works on-site, a scheme of hard landscaping shall be submitted to and approved by the Local Planning Authority. The scheme shall include kerb heights to a maximum of 25mm for the internal roads.  
Reason: In the interests of the appearance of the area.
18. Prior to the first use of the development a scheme of landscaping shall be submitted to and approved by the Local Planning Authority.  
Reason: In the interests of the appearance of the area.
19. All hard landscaping shall be carried out in accordance with the approved details prior to occupation of each respective dwelling or first use of the shared or public area, 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 trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.  
Reason: In the interests of the appearance of the area.
20. A sample of both the roof tile and the brick shall be submitted for approval in writing by the Local Planning Authority before works to construct external surfaces of the development commence.  
Reason: To ensure the building/extension is in keeping with its surrounding in the interest of the character and visual amenity of the area.
21. Notwithstanding the submitted details, prior to their provision, further details of the following building elements shall be submitted to and approved in writing by the Local Planning Authority:
  - (a) the windows and doors including the reveal, material and finish;
  - (b) the eaves and verges (which shall not utilise a dry/cloaking verge or fascias placed over corbelling);
  - (c) rainwater goods including their method of fixing; and
  - (d) any retaining structures.

These elements shall be provided in accordance with the approved details and maintained as approved throughout the lifetime of the development.

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

22. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatments shall be completed in accordance with the approved details before the respective dwelling(s)/building(s) to which they serve is/are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter, no further boundary treatments shall thereafter be erected between those approved and the proposed highway, shared driveways or public open space(s).

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

23. 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.

#### Informatives:

1. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk)) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:
- Type A: on classified (A, B and C) roads, at junctions with classified roads, and at the commencement of local distributor roads (roads acting as through routes within developments);
  - Type B: intermediate name plates along local distributor roads, on collector roads (roads which run within a development providing access and linking small access roads and access ways), on access roads (roads serving a small number of houses which may also have a surface shared by pedestrians and vehicles), and access ways which have a different name from

their access road; all unless at a junction with a classified road (where Type A will be expected instead).

Further advice can be found online at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk) or by calling (01283) 228706.

2. The developer is strongly encouraged, as part of the delivery of properties on the site, to provide full fibre broadband connections (i.e. from streetside cabinet to the property). Further details of initiatives to support the provision of full fibre connections as part of broadband installation at the site can be obtained from Digital Derbyshire on [broadband@derbyshire.gov.uk](mailto:broadband@derbyshire.gov.uk) or 01629 538243.
3. Sustainable Heating; If practicable, we would encourage the use of ground source or air source heat pumps as a sustainable energy solution for the provision of heating to the proposed residential units of the development.  
Smoke from construction site fires; During the period of construction there should be no clearance of vegetation by burning, or disposal of other materials by burning owing to the proximity of neighbouring sensitive receptors.  
Electric Vehicle Recharge Points; Recharge points for electric vehicles should be provided within the development. 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.  
Solid Fuel Appliances; The applicant is advised not to install solid fuel combustion appliances within any of the residential units of the development.
4. The County Council do not adopt any private SuDS schemes. As such, it should be confirmed prior to commencement of works which organisation will be responsible for SuDS maintenance once the development is completed. Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council (e.g. an outfall that encroaches into the profile of the watercourse, etc) to make an application for any works please contact [Flood.Team@derbyshire.gov.uk](mailto:Flood.Team@derbyshire.gov.uk).  
The Local Planning Authority should be mindful to obtain all the relevant information pertaining to the proposed discharge in land that is not within the control of the applicant, which is fundamental to allow the drainage of the proposed development site.  
The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water in line with Table 4.3 of the CIRIA SuDS Manual C753. This type of development usually requires >2 treatment stages before outfall into surface water body/system which may help towards attainment of the downstream receiving watercourse's Water Framework Directive good ecological status. The County Council would prefer the applicant to utilise existing landform to manage surface water in mini/sub-catchments. The applicant is advised to contact the County Council's Flood Risk Management team should any guidance on the drainage strategy for the proposed development be required.
5. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport and Communities at County Hall, Matlock

regarding access works within the highway. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk), email [Highways.Hub@derbyshire.gov.uk](mailto:Highways.Hub@derbyshire.gov.uk) or telephone 01629 533190.

6. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.
7. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
8. 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.

**Item**            **1.5**

**Ref. No.**        **9/2018/0314/FO**

**Applicant:**  
**Mr & Mrs Andrews**  
**c/o S G Design Studio Ltd**

**Agent:**  
**Mr Stephen Greaves**  
**S G Design Studio Limited**  
**202 Woodville Road**  
**Hartshorne**  
**Swadlincote**  
**DE11 7EX**

**Proposal:**    **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS AND SCALE TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF TWO DWELLINGS TO THE REAR OF 705 BURTON ROAD MIDWAY SWADLINCOTE**

**Ward:**            **Midway**

**Valid Date**    **27/03/2018**

**Reason for committee determination**

The item is presented to Committee at the request of Councillor Wilkins as there are unusual site circumstances which should be considered by Committee.

**Site Description**

The application site is part of the rear garden area of 705 Burton Road, Midway. The area is fairly flat, grassed and enclosed by 2m high hedging. Neighbouring properties to the south-east and north-west have 6m high trees within their gardens. Two metre high hedging provides screening on the Burton Road frontage and the property has a 9m wide grassed verge adjacent to the road. Number 705 itself, its neighbours and those on Copse Rise to the rear are two-storey dwellings.

**Proposal**

Outline permission is sought including access and scale for two single storey dwellings. The illustrative layout shows two linear style properties set 23 metres from the rear of No. 705 with parking and turning to the front. The existing access would be utilised albeit widened with a driveway of 4m in width proposed in between No. 705 and 703 Burton Road. An 11m rear garden would be retained for the existing property.

9/2018/0314 - Rear of 705 Burton Road, Midway DE11 0DL



## **Applicant's supporting information**

The Coal Mining Risk Assessment concludes that the risk posed by recorded mine workings and mine gas migration is negligible and risk from unrecorded shallow mine workings to be low. It recommends intrusive site investigation.

## **Planning History**

None relevant to this site.

## **Responses to Consultations**

The Contaminated Land Officer has no objection subject to land contamination and ground gas prevention conditions.

The Coal Authority has no objection subject to an intrusive ground investigation condition.

The Highway Authority has no objection and recommends conditions relating to the access, parking and gates.

## **Responses to Publicity**

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

- a) The proposal due to its proximity and height would overshadow 14 Copse Rise and would run the full length of their rear boundary.
- b) The proposal would be overbearing being adjacent to the rear boundary of their property.
- c) The proposal would have an impact any future extension plans to their property.
- d) If the proposal is allowed then hours of construction and construction vehicle parking.
- e) The proposed site is on an incline from south to north of approximately 1.33 and as such the proposed dwellings would be 200mm higher than first envisaged.
- f) The proposed property has lounge patio doors at the rear which is a noise concern for No.10 Copse Rise.
- g) What would prevent conversion of roofspaces in the future.
- h) How would the ground level be controlled.
- i) There may be flooding/ drainage issues that would affect their property.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1, S2, H1, SD1, SD4, BNE1, BNE4 and INF2
- 2017 Local Plan Part 2 (LP2): SDT1, BNE7

## 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 development,
- Design and residential amenity, and
- Highway safety

## Planning Assessment

### Principle of development

The site is located within the urban area of Midway where LP1 policy H1 considers development of all sizes within the settlement boundaries to be appropriate. The use of residential gardens within urban areas is for the Council to consider on the merits of each case. With a similar development allowed nearby, and policy support for the proposal; the principle of development is therefore acceptable.

### Design and residential amenity

LP1 policy BNE1 requires development to consider local character and respond to its context. The proposed development would not be highly visible in the street scene and a precedent for 'tandem' development has been established at No. 699 to the south-east (permission ref. 9/2011/0139). Existing properties surround the site to the north-west, south-west, and to the rear; and hence properties in the position indicated are not considered out of keeping with pattern of development in the area.

LP1 policies SD1 and BNE1 require the impacts of the development on residential amenity of neighbouring properties to be assessed. Both layout and appearance are reserved matters and shall be assessed at a later date. The need for removal of permitted development rights in terms of alterations and extensions, including loft conversions, can be considered under any reserved matters application. However, the illustrative layout, elevation and floorplans indicate single storey dwellings of a linear form. The nearest properties are 8 and 14 Copse Rise to the north-west and rear boundaries. A blank elevation (no habitable windows) is indicated on the layout approximately 1m from the boundary with 14 Copse Rise, and this property has bedroom and lounge windows facing this boundary. The Design Guide states that *"in order to protect existing dwellings from overbearing and to protect outlook, the blank/non-habitable elevation of a proposed two-storey property should not breach the minimum distance within the sector of view from the relevant ground floor"*

*primary windows of the existing property.*” The illustrative layout indicates a distance of 12m from the nearest primary window, which meets the guidelines.

Scale is to be agreed at this outline stage and thus an eaves height of 2.25m and ridge height of 4.3m has been indicated. In terms of single storey dwellings, the Design Guide states they “*will be considered in terms of the effect on existing dwellings, on their merits*”. No. 8 has a blank gable adjacent to the boundary where a distance of 12m is indicated in line with the guidelines; whilst in respect of No. 10 Copse Rise and No. 707 Burton Road, distance guidelines can be met. The side elevation of No. 709 has a blank gable adjacent to where the driveway is proposed, and as such the impact on the amenity of this property in terms of increased use by vehicles is not considered significant. Therefore, given that it has been demonstrated that minimum distance guidelines can be achieved, the proposal is not considered to have an adverse impact on the residential amenity of neighbouring properties. Nonetheless, in the interests of preserving the dominant frontage character of properties facing the public highways (Burton Road and Copse Rise), the dwellings should be limited in terms of height. This is achieved by way of condition 3. As a consequence of the above, the proposal is considered to accord with policies SD1 and BNE1, as well as the SPD.

#### Highway safety

The proposal would utilise the existing access where there is a 9m wide grassed verge providing for adequate visibility. The Highway Authority requires the access and driveway to be widened to 4m, as shown on the submitted drawing. Two spaces for the existing dwelling and two spaces each for the proposed dwellings can be accommodated within the site together with adequate manoeuvring areas. The Highway Authority has no objection in terms of highway safety, thus the proposal accords with LP1 policy INF2 and NPPF paragraph 32.

#### Other matters

LP1 policy BNE4 and LP2 policy BNE7 relate to retention of key landscape features such as trees and hedgerows. The site is enclosed by existing 2m high hedgerows and there are garden trees in neighbouring gardens all of which are not visible from the road. These do not represent a constraint to development and would be dealt with when the landscaping reserved matter is submitted.

#### Summary

To conclude the proposal sits within the Swadlincote Urban Area, where similar development has been granted in close proximity, thus it is considered acceptable in principle. The illustrative layout has demonstrated that single storey development can be accommodated on site without significant impacts on the amenity of neighbouring properties, or be detrimental to the character of the area. Adequate access, parking and manoeuvring space can be achieved ensuring appropriate provision without detriment to highway safety.

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

## **Recommendation**

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

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.  
  
(b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

2. Approval of the details of the appearance, landscaping and layout (the reserved matters) shall be obtained from the Local Planning Authority in writing upon an application made in that regard before any development is commenced.

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

3. The access shall be implemented in accordance with drawing 218-14.03A whilst the scale of the dwellings hereby approved shall have eaves heights no greater than 2.25m and ridge height no greater than 4.31m (as shown on drawing 218-14.03A).

Reason: To ensure the access to and scale of the development is appropriately accommodated in the final details of layout, appearance and landscaping.

4. Prior to commencement of development a scheme of intrusive site investigation followed by a report of the findings arising from the intrusive site investigations and any remedial works required, along with a timetable for their completion/installation, shall be submitted and approved in writing by the Local Planning Authority. The remedial works shall be implemented in accordance with the approved details.

Reason: To protect the health of the public and the environment from hazards arising from previous mining work on the site which might be brought to light by development of it and recognising the Council's opinion that this element of the development could lead to unacceptable impacts even at the initial stages of works on site.

5. No development shall take place until a suitable scheme for the prevention of ground gas ingress has been submitted to and approved in writing by the Local Planning Authority. Alternatively, the site shall be monitored for the presence of ground gas and a subsequent risk assessment completed in accordance with a scheme to be agreed with the Local Planning Authority,

which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'. Upon completion of either, verification of the correct installation of gas prevention measures (if any) shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development hereby permitted.

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.

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

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

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

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

8. Before any works involving the construction of any dwelling commences the existing access shall be widened in accordance with the approved drawing(s), laid out, constructed and maintained in perpetuity free from any impediment to its designated use.

Reason: In the interests of highway safety.

9. Prior to the occupation of any dwelling space shall be provided within the application site in accordance with the application drawings for the parking of 2 vehicles per dwelling and manoeuvring of residents vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

## Informatives:

1. For assistance in complying with planning condition 5 and other legal requirements applicants should consult 'Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated'. This document has been produced by local authorities in Derbyshire to assist developers, and is available from [www.south-derbys.gov.uk/environment/pollution/contaminated\\_land/default.asp](http://www.south-derbys.gov.uk/environment/pollution/contaminated_land/default.asp). The administration of this application may be expedited if completion or verification evidence is also submitted to the Environmental Health Department: [john.mills@south-derbys.gov.uk](mailto:john.mills@south-derbys.gov.uk).  
Further guidance can be obtained from the following:
  - CIRIA C665: Assessing the risks posed by hazardous ground gases into buildings
  - CLR 11: Model Procedures for the Management of Contaminated Land.
  - CLR guidance notes on Soil Guideline Values, DEFRA and EA.
  - Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
  - Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
  - Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency. ISBN 0113101775.
  - BS 8576:2013 Guidance on investigations for ground gas. Permanent gases and Volatile Organic Compounds (VOCs).
  - BS 8485:2015 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings.
2. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport and Communities at County Hall, Matlock regarding access works within the highway. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk), email [Highways.Hub@derbyshire.gov.uk](mailto:Highways.Hub@derbyshire.gov.uk) or telephone 01629 533190.
3. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.
4. 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.
5. Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior

written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: [www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property](http://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property)

6. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk)) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:
  - Type A: on classified (A, B and C) roads, at junctions with classified roads, and at the commencement of local distributor roads (roads acting as through routes within developments);
  - Type B: intermediate name plates along local distributor roads, on collector roads (roads which run within a development providing access and linking small access roads and access ways), on access roads (roads serving a small number of houses which may also have a surface shared by pedestrians and vehicles), and access ways which have a different name from their access road; all unless at a junction with a classified road (where Type A will be expected instead).Further advice can be found online at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk) or by calling (01283) 228706.
7. The developer is strongly encouraged, as part of the delivery of properties on the site, to provide full fibre broadband connections (i.e. from streetside cabinet to the property). Further details of initiatives to support the provision of full fibre connections as part of broadband installation at the site can be obtained from Digital Derbyshire on [broadband@derbyshire.gov.uk](mailto:broadband@derbyshire.gov.uk) or 01629 538243.
8. The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.

## **2. PLANNING AND OTHER APPEALS**

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

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/Delegated</b>
9/2017/0968	Sturges Lane, Thulston	Aston	Dismissed	Delegated
9/2017/1170	High Street, Ticknall	Repton	Dismissed	Delegated



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## Appeal Decision

Site visit made on 15 May 2018

**by Roger Catchpole DipHort BSc(hons) PhD MCIEEM**

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

**Decision date: 07/06/2018**

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**Appeal Ref: APP/TPO/F1040/6549**

**4 Sturges Lane, Thulston, Derby, Derbyshire DE72 3WD**

- The appeal is made under Regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake work to trees protected by a Tree Preservation Order.
  - The appeal is made by Mr J Powner against the decision of South Derbyshire District Council.
  - The application Ref: 9/2017/0968, dated 5 September 2017, was refused by notice dated 31 October 2017.
  - The work proposed is the removal of two sycamore trees.
  - The relevant Tree Preservation Order (TPO) is Tree Preservation Order No. 9 Trees at Grove Close, Elvaston, which was confirmed on 28 July 1976.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The appellant is of the opinion that the TPO is out of date and should be reviewed. However, an appeal made under Regulation 19(1) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 can only be against a refusal of consent, the imposition of conditions or a failure to determine an application in relation to a TPO that has already been granted. As a result, this matter is beyond the scope of this appeal and does not fall to be considered.

### Main Issues

3. The main issues are the effect of the removal of two sycamore trees on the character and appearance of the area and whether sufficient justification has been demonstrated for the proposed felling.

### Reasons

4. Turning to the first issue, the trees are situated in the rear garden of the host property and are part of a belt of woodland separating it from the open parkland of Elvaston Castle. The house and garden occupy a large plot of land with the trees located towards its western boundary, some distance from the rear elevation of the house and adjacent patio.
5. Although the trees make a significant contribution to visual amenity by forming an extensive, leafy backdrop to private gardens they are not visible from the public domain to any significant extent and only glimpsed from a nearby footpath. Consequently, their removal would not have a significant negative

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- impact on the local environment and its enjoyment by the public and this would, in any event, be mitigated by the close proximity of other mature woodland trees. Given the above, the loss of the trees would not result in significant harm to the character and appearance of the wider area but would nevertheless diminish the leafy character of the private domain, as viewed from nearby properties.
6. I now turn to the justification for the proposed felling. Bearing in mind the, albeit limited, amenity value of the protected trees the reasons given to justify their removal need to be proportionate and safeguard the woodland as a whole. There is nothing before me to suggest that the trees are in poor health or vigour or that they are suffering from pests, disease or decay. This was confirmed by my own observations during my site visit. Overall, I saw nothing to suggest that the trees were unstable or dangerous or that they would not live for many more years.
  7. The appellant has suggested that their removal would make the management of the garden easier because this would increase light levels and also reduce the problems associated with leaf litter, honeydew deposits and self-sown seedlings. I observed from my site visit that the garden was well kept and that the boarder plants and lawn nearest the trees are in good condition and not unduly affected by shade. Whilst of significant stature, the separation distance from the house and size of the garden is such that I do not find the extent of shading significant. In any event, the close proximity of other trees is such that their removal would not greatly alter the existing situation either in the appellant's garden or the neighbouring garden. This would also be the case for the other issues that have been identified.
  8. I acknowledge that the appellant and his wife are of advanced years and have mobility issues. However, it is unclear why alternatives to felling, such as gutter brushes, weed matting, shade tolerant garden plants and the seasonal use of a garden contractor, would not be viable alternatives in this particular instance. I also acknowledge the suggestion that four field maples could be planted to mitigate the loss of the trees. Whilst this could be secured through an appropriate condition, it would take many years for the replacements to reach a significant stature and achieve a comparable amenity value. Additionally, the fact that the garden is laid out in a particular manner which the appellant feels is now at odds with the trees is not sufficient justification for their removal.
  9. Notwithstanding the issues that have been raised, the fact remains that the presence of large trees near residential properties is not unusual, particularly in an area defined by a mature landscape, such as Elvaston Castle. The inconvenience of effects, such as shading and leaf litter, are not uncommon in an area where mature trees create an attractive place for local communities to live and work. Moreover, a balancing exercise must be undertaken in relation to any application to fell protected trees. Consequently, the essential need for trees to be removed must be weighed against the resultant loss of visual amenity. Whilst the visual amenity is primarily limited to views from nearby properties, the justification is not sufficient to outweigh this loss and is also not directly related to woodland management. I am therefore satisfied that there is insufficient evidence before me to justify the removal of these healthy, protected trees at the current time.

### **Other Matters**

10. The appellant referred to a couple of issues on appeal that were not raised in the original application. These related to uneven paving and slippery surfaces resulting from soil shrinkage and the growth of moss and algae. However, the nature of a fast track appeal is such that only information that was submitted at the application stage falls to be considered. Neither of these matters were raised at this stage and they have not consequently formed part of my deliberations.
11. The appellant has drawn my attention to a successful application to fell trees in a nearby garden at No 51 Grove Close (Ref: 9/2017/0434). Whilst I accept there are some similarities, I do not have the full facts before me to determine whether the circumstances were the same in all respects. Consequently, this matter only carries limited weight in favour of the appeal.
12. I note the previous application for more extensive works at the host property and the alleged damage caused by squirrels to nearby trees. However, neither of these weigh in favour of the appeal because each application is determined on its individual merits and whether or not squirrels would cause future damage to the trees is, in any event, a hypothetical situation.

### **Conclusion**

13. For the above reasons and having regard to all other matters raised, I conclude that the loss of the trees would result in harm to the leafy character of the private domain and that insufficient justification has been provided to fell the trees. I therefore find that the appeal should be dismissed.

*Roger Catchpole*

INSPECTOR



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## Appeal Decision

Site visit made on 15 May 2018

**by Roger Catchpole DipHort BSc(hons) PhD MCIEEM**

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

**Decision date: 07 June 2018**

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### **Appeal Ref: APP/TPO/F1040/6630**

### **24 Pine Lodge, High Street, Ticknall, South Derbyshire DE73 7JH**

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake work to a tree protected by a Tree Preservation Order.
  - The appeal is made by Mrs BM Arnold against the decision of South Derbyshire District Council.
  - The application Ref: 9/2017/1170, dated 27 October 2017, was refused by notice dated 18 December 2017.
  - The work proposed is the removal of a Corsican pine.
  - The relevant Tree Preservation Order (TPO) is the South Derbyshire District (Land off High Street, Main Street, Chapel Street and Ashby Road, Ticknall) Tree Preservation Order No. 77 (1988), which was confirmed on 19 October 1989.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matter**

2. As the tree is in a conservation area I have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

### **Main Issues**

3. The main issues are the effect of the removal of the Corsican pine tree on the character and appearance of the area, bearing in mind the special attention that should be paid to the desirability of preserving or enhancing the character or appearance of the Ticknall Conservation Area, and whether sufficient justification has been demonstrated for the proposed felling.

### **Reasons**

4. Turning to the first issue, the tree is situated in the front garden of the host property next to a retaining wall that abuts an adjacent walkway. The tree is a highly visible feature that can be seen from a significant distance along High Street. As a result, it has a high degree of visual prominence.
5. It is one of a number of iconic, mature trees that were planted by the Harpur-Crewe Estate in 1876 to commemorate the marriage of Sir Vauncey Harpur-Crewe. This not only gives the tree significant historical value but its association with other trees of the same age and species along the roads of the village is such that it makes a significant contribution to the character and appearance of the Ticknall Conservation Area as a whole.

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6. I note the willingness of the appellant to plant a replacement and that this could be secured through an appropriate condition. However, it would take many years for the replacement to reach a similar stature and achieve a comparable amenity value. Consequently, the loss of the tree would result in considerable harm to the character and appearance of the Ticknall Conservation Area to the detriment of this designated heritage asset.
7. I now turn to the justification for the proposed works. Bearing in mind the amenity value of the protected tree, any reasons given to justify its removal need to be compelling. There is nothing before me to suggest that the tree is in poor health or vigour or that it is suffering from pests, disease or decay. This was confirmed by my own observations during my site visit as well as an arboricultural report that has been submitted as supporting evidence.
8. The appellant has suggested that a slight lean towards the road and nearby buildings justifies removal. Whilst I acknowledge the appellant's concern, the arboricultural report clearly states that this is due to a normal growth pattern and I agree. The fact that it moves during strong wind is a natural adaptation that allows trees to flex in response to mechanical wind pressure. Overall, I saw nothing to suggest that the tree was unstable or dangerous or that it would not live for many more years.
9. Notwithstanding the issues that have been raised, the fact remains that the presence of large trees near residential properties is not unusual, particularly in an area defined by a mature street scene, such as Ticknall. A balancing exercise must be undertaken in relation to any application to fell a protected tree. Consequently, the essential need for a tree to be removed must be weighed against the resultant loss of visual amenity to the wider area. In this case I am satisfied that there is insufficient evidence before me to justify the removal of the protected tree given the visual harm that would clearly be caused.

#### **Other Matters**

10. I note the unsubstantiated assertion that the roots are undermining the foundations of a nearby listed building. However, the Planning Practice Guidance 2014 (as amended) advises that claims that trees are damaging structures need to be supported by appropriate technical evidence from a relevant engineer, building or drainage surveyor or other appropriate expert. No such evidence is before me and therefore other causes cannot be ruled out. Consequently, I give this matter negligible weight in the balance of this appeal.
11. I note that the appellant referred to a further two issues at appeal that were not raised in the original application. These related to shade and pigeon droppings. However, the nature of a fast track appeal is such that only information that was submitted at the application stage falls to be considered. As neither of these matters were raised previously they have not formed part of my deliberations.

#### **Conclusion**

12. For the above reasons and having regard to all other matters raised, I conclude that the loss of the tree would result in significant harm to the character of the area and that insufficient justification has been provided to fell the tree. I therefore find that the appeal should be dismissed.

*Roger Catchpole*

INSPECTOR