

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

## **SECTION 1: Planning Applications**

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

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## **1. PLANNING APPLICATIONS**

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

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
9/2017/1222	1.1	Woodville	Woodville	5
9/2016/0882	1.2	Hartshorne	Woodville	31
9/2017/0730	1.3	Hartshorne	Woodville	52
9/2017/1262	1.4	Hartshorne	Woodville	69
9/2017/1248	1.5	Weston	Aston	80
9/2015/1108	1.6	Hatton	Hatton	91

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 Strategic Director (Service Delivery)'s report or offered in explanation at the Committee meeting require further clarification by a demonstration of condition of site.
2. Further issues of principle, other than those specified in the report of the 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.**        **9/2017/1222/MAF**

**Applicant:**  
**Mr Dave Massingham**  
**Derbyshire County Council**  
**County Hall**  
**Smedley Street**  
**Matlock**  
**DE4 3AG**

**Agent:**  
**Mr Gary Thompson**  
**Derbyshire County Council**

**Proposal:**    **CONSTRUCTION OF A SINGLE CARRIAGEWAY ROAD WITH VERGES, CYCLEWAYS AND FOOTWAYS ALONG WITH THREE NEW ROUNDABOUTS AND ASSOCIATED INFRASTRUCTURE AND THE PARTIAL DEMOLITION OF WOODHOUSE BUSINESS CENTRE (WOODVILLE REGENERATION ROUTE PHASE 2) AFFECTING DERBY ROAD, SWADLINCOTE ROAD, WOODHOUSE STREET AND KILN WAY AND ACROSS LAND AT THE FORMER DYSON SITE OCCUPATION LANE WOODVILLE SWADLINCOTE**

**Ward:**            **WOODVILLE**

**Valid Date**    **27/11/2017**

**Reason for committee determination**

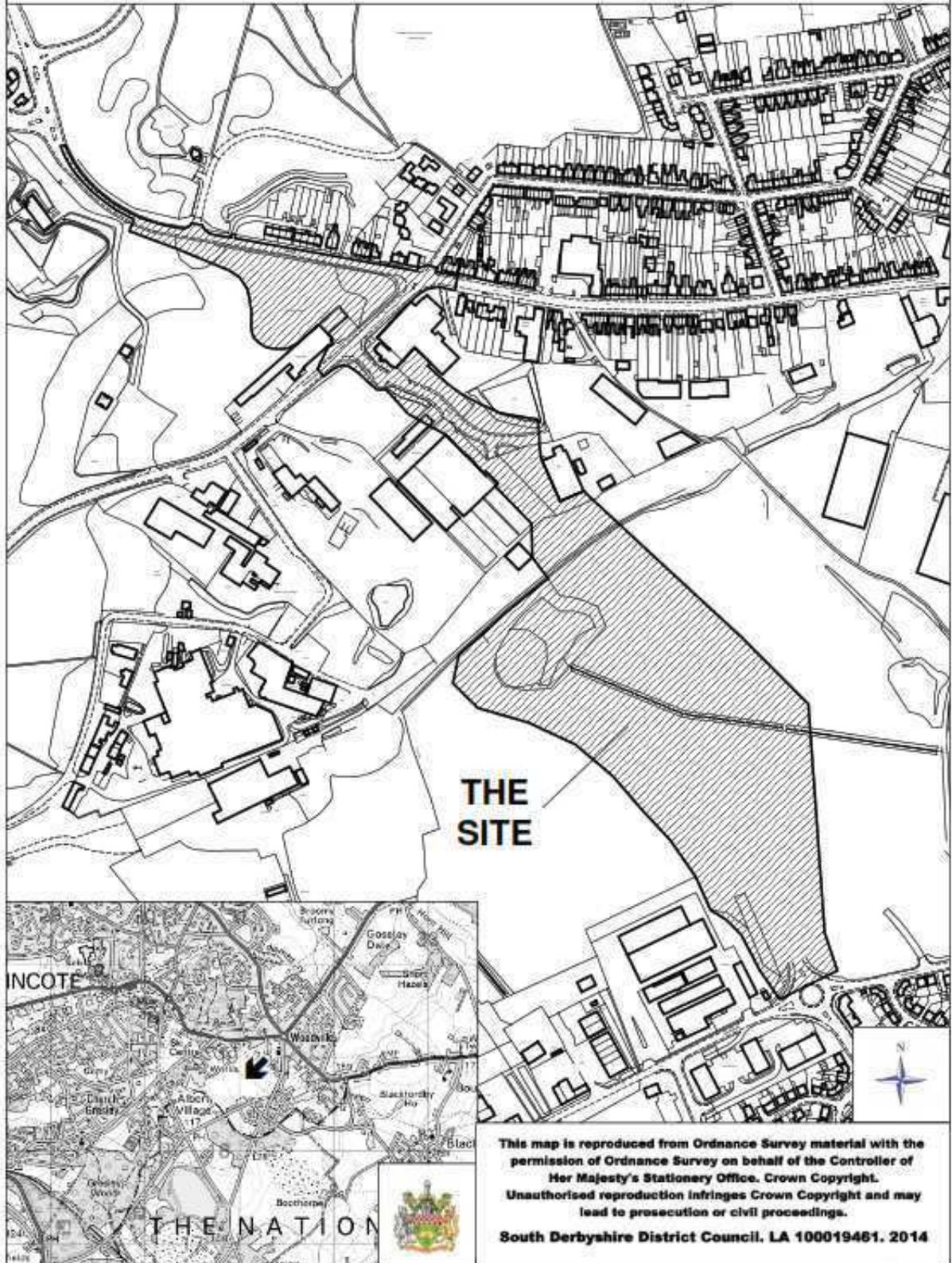
The item is presented to Committee as it is a major application subject to more than two objections.

**Site Description**

The site comprises some 10.2 hectares and spans a large expanse of open land and existing highway to the south-east of Swadlincote town centre and south of Woodville. Land use along the route comprises predominantly grassland to the southern and central sections, existing public highway (Kiln Way and Woodhouse Street), commercial and light industrial properties to the central and northern section (including the Kiln Way industrial estate and Woodhouse Business Centre), and informal open space for the northern roundabout. The wider area includes the Swadlincote Woodlands and ski-centre to the north and residential properties developed as part of the Woodville Woodlands scheme to the south, to where phase 1 of the Woodville Regeneration route runs (from the Hepworth Road junction with the A511 Ashby Road).

The site generally slopes down from the north east to the south west with elevations between 120m and 130m above Ordnance Datum (AOD). The site intersects two small drainage ditches, one flowing in a south westerly direction along the southern boundary of the existing Kiln Way industrial estate and the other flowing west

9/201/1222 - Former Dyson Site, Occupation Lane, Woodville, Swadlincote  
(DE11 8GA)



THE  
SITE

SWADLINCOTE

THE NATION



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South Derbyshire District Council. LA 100019461. 2014

towards a small pond. There are a number of public rights of way (PRoWs) which run towards and within the site, although partly impassable at the present time. The site does not contain any national or local ecological designations, designated heritage assets or landscape designations, nor is it in close proximity to such designations. The River Mease Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) are located approximately 6.5 km to the south. The site lies within the National Forest.

## **Proposal**

The Link Road would run from Derby Road, north of Woodhouse Street, to Occupation Lane to the south-east, through the Woodville Regeneration Area. The northernmost point of the new link road comprises a new roundabout and works to the existing Derby Road/Swadlincote Road. The roundabout would be situated on a currently grassed and treed area, with Derby Road and Swadlincote Road forming two arms of the circulatory, whilst the link road would provide the third. Woodhouse Street would meet the new link road as a priority T-junction, a short distance from the roundabout with a right turn restriction imposed. The vestiges of Derby Road, Swadlincote Road and Woodhouse Street would be retained to provide access to existing properties, but not form part of the through routes to the area.

The new link road then follows the route of the existing Kiln Way, past existing industrial premises. A low retaining wall would be required to one side along this stretch, along with amended accesses to existing premises. Part of the Woodhouse Business Centre would be lost as part of this development, although the remaining building would be made good and retained in its current use. The link road would then pass out onto the vacant grassland which is allocated for employment purposes, providing for culverts over existing drainage ditches, two roundabouts to serve the allocated land both sides and the resulting connection to the existing Occupation Lane roundabout.

The entire route would provide for a continuous footway to the southern side and a continuous cycleway to the northern side. A 1m verge would exist along most of its length, although omitted where ownership constraints prohibit its inclusion (mainly around the existing industrial estate), whilst a further 2m verge to the rear of the footway/cycleway would be provided. National Forest tree planting would be provided along these verges, as well as on surplus land around the Derby Road/Swadlincote Road roundabout.

## **Applicant's supporting information**

The Planning Statement notes the development is a key scheme of highway infrastructure, seeking to facilitate development of the Woodville Regeneration Area, bringing with it significant benefits in terms of employment, economic development, regeneration of a vacant site and provision of additional housing. The scheme would also alleviate some of the existing traffic congestion issues at Clock Roundabout and provide a new cycle and pedestrian route to the heart of the National Forest, Swadlincote Woodlands and towards Swadlincote town centre. The scheme is considered to have excellent sustainability credentials in accordance with the objectives of the NPPF, and is integral to many aims of the Local Plan Part 1,

including playing a role in supporting planning policies on infrastructure (policy INF4), employment and regeneration (policies S5, E1 and E6), housing (the housing element of policy E6), provision of new walking/cycling routes (policy S6) and the National Forest (policies BNE1, BNE4 and INF8). The principle of the scheme is also strongly supported by the Derbyshire Local Transport Plan, the South Derbyshire Economic Development Strategy, the D2N2 Local Enterprise Partnership Strategic Economic Plan and the South Derbyshire Cycle Strategy. The scheme is considered to be fully in line with development plan policies and strongly supported by a number of policy documents that are important material considerations.

A Transport Assessment sets out that although any future residential and employment development facilitated by the link road would need to be supported by specific planning applications, an estimate has been made of the likely trip generation and this has been 'loaded' onto the highway network in order to test the proposed link road design. Traffic surveys have been undertaken by the County Council within this study area, and these have been used to calculate the highway capacity at key junctions. This has shown that the Clock Island roundabout is the key junction, at which there is currently no spare network capacity. The proposed link road would provide an alternative route through Swadlincote to that offered by Clock Island, and thereby reduce movements through this junction, although it would still likely receive some effects from traffic associated with development adjacent to the link road. This effect can be minimised, however, by opening up the full route via Hepworth Road for through traffic routing east-west. Notwithstanding this, future development adjacent to the link road would benefit from being in close proximity to bus services, and walking and cycling links, and further detail regarding the accessibility strategy for that development would need to be developed within the Transport Assessments supporting those planning applications. Overall, the proposed link road and its adjacent development is considered to be compliant with the majority of the policy elements identified in the NPPF, and the overall scheme is contained within the latest version of the Local Transport Plan and Local Plan. As such, there should be no highway-related reason to refuse the proposed development.

An Ecological Survey has been completed to identify and assess the ecological constraints and opportunities associated with the proposed link road. The survey has confirmed that, consistent with previous baseline information, the majority of habitats are of low ecological importance. Notable habitats within the site comprise a hedgerow, pond and running water. The habitats also provide suitable potential habitat for notable fauna, including amphibians, badgers, bats, birds and reptiles. Best practice, including the implementation of stand-offs and safe working practices, are considered sufficient to protect habitats that are retained as part of the development. The losses of any notable habitats should be replaced as part of the green infrastructure (e.g. replacement hedgerow planting). The appropriate timing of works, pre-construction survey and ecological supervision are recommended to ensure legal compliance and best practice with regard to protected/notable fauna. With regard to great crested newts (GCNs) in particular, it is recommended that the need for further assessment should be reviewed when the existing baseline information exceeds 3 years in age. Opportunities for the enhancement of biodiversity may be achieved as an integral part of the proposed green infrastructure,

for example, by creating native woodland, wetland and grassland habitats that are representative of local habitat types.

Following an initial response from the Wildlife Trust, an Ecological Addendum has clarified that:

- invasive species records are outside the site boundary, and the proposed road itself would be some distance from these records, such that no further surveys are considered necessary;
- whilst some ponds identified in earlier surveys are now dry, or remain inaccessible, it is recognised that some survey work is now older than 3 years, and hence it is proposed to undertake GCN eDNA testing of the ponds on site in line with Natural England guidance to provide an up to date assessment and confirm the presence or absence of this species – undertaken from mid-April 2018. Given multiple surveys for GCNs have been undertaken on the site and surrounding areas in preceding years and it is considered that there has been no significant change in the suitability of aquatic or terrestrial habitat within the site; it would be appropriate to consider dealing with these surveys under planning condition to update existing survey information rather than determine afresh the presence or absence of this species;
- the Ecological Survey notes the presence of breeding birds on site and proposes mitigation measures to protect these species during construction, noting that the red line boundary for the scheme is a wide area and significantly in excess of the area of the road itself due to the inclusion of areas for drainage purposes, such that habitat lost as is relatively limited. It should also be noted that the land is currently grazed by cattle, which would clearly impact the use of the habitats for ground nesting birds. It is therefore considered that sufficient suitable habitats would be retained and no specific mitigation other than precautionary measures to protect these species during construction is necessary;
- it is acknowledged that the proposed road may facilitate further development proposals to cover the wider area, but these are not part of the site and would be subject to a separate planning application (with associated ecological surveys). The adjacent development parcels are also allocated in the Local Plan and have therefore already been assessed as suitable for future development;
- whilst a previous survey (in 2007) confirmed the presence of grass snake on the margins of a pond, a reptile survey was completed for the northern half of the site in 2015 and no reptiles were recorded. Whilst the southern half of the site has not been subject to an up to date survey, suitability for grass snake on the site is localised to unmanaged vegetation around the pond and the boundary ditch to the north. Habitat loss would result in very minimal loss of any areas suitable for reptiles and if deemed necessary, in addition to the previously proposed mitigation measures during site works, enhancement of habitats on site could include detailed and specific measures to benefit grass snakes;
- as requested by the Wildlife Trust, an assessment of habitat and biodiversity loss resulting from the proposals has been undertaken which shows that biodiversity loss is focused upon areas of semi-improved grassland, plantation woodland and a small area of scrub; together with circa 13m of hedgerow and

sections of dry and wet ditches where these would be culverted. The assessment metric provides an overall biodiversity value and quantity for areas of habitats lost, and these would be used to guide a scheme of habitat enhancement to ensure the overall impacts of the scheme do not result in a net loss of biodiversity; and

- to achieve a net gain for wildlife it is proposed that a Habitat Enhancement Plan (HEP) is produced (and secured under condition) so to enhance existing and retained habitats, as well as create new habitats. The focus will be improving landscape plans to benefit biodiversity through design and appropriate planting of new ditches, new attenuation ponds and margins, net gains in hedgerow, and enhancement of existing ditches and areas surrounding the pond.

The Flood Risk Assessment (FRA) & Drainage Strategy finds that the flood risk to the proposed development from tidal, fluvial, sewer, groundwater and artificial sources is assessed as either low or very low. The risk posed by surface water flooding has been assessed overall as being medium and originates from two drainage ditches which intersect the proposed route (medium/high risk) which would have to be culverted; and an area along Woodhouse Street close to the junction with Derby Road (high risk), where the proposed northern roundabout and main roads have been designed to avoid this high risk area. The proposal would introduce an additional 1.58ha of impermeable surface and therefore, if unmitigated, there is potential for an increase in surface water flood risk. Mitigation is proposed in the form of the Sustainable Drainage (SuDS) strategy, which proposes to manage and attenuate surface water runoff from this additional impermeable area, together with 0.47ha of existing impermeable areas either being replaced or upgraded along the route; as well as restrict surface water runoff to greenfield rates and promote the water quality of surface water discharged. The strategy is as follows:

- the section from Occupation Lane to the first roundabout) would drain to the surface water sewer along Occupation Lane, discharging to off-site attenuation pipes and then a ditch;
- the section from the first roundabout to mid-way through the industrial estate would drain towards the River Mease catchment and will require three stages in the SuDS management train (i.e. petrol interceptors, swales and pond/wetland) prior to discharge to existing drainage ditch on site;
- the section from mid-way through the industrial estate to Derby Road would drain towards the Darklands Brook Catchment require two stages in the SuDS management train (i.e. petrol interceptors and a dry detention basin).

The proposed basins have been sized to provide storage of runoff and flow attenuation for events up to and including the 1 in 100 year plus 40% climate change event. The outfall from the proposed SuDS features would be restricted to the mean annual maximum flow rate, and as the design progresses the location and design of SuDS features will need to be developed further.

A Cultural Heritage Assessment outlines the archaeological, built heritage and historic landscape baseline for the proposed link road and the surrounding study area. It is noted there is negligible potential for the survival of archaeological remains dated to the prehistoric, Roman, early medieval and medieval periods as the area was sparsely populated, occupied or exploited during these periods. Due to significant exploitation of the area for minerals and coal from the post-medieval

period onwards, there is high potential for archaeological remains dated to the post-medieval and modern periods. These include evidence for the two Granville Collieries, a brick yard, a railway and a tramway on the line of the new link road. During the post-medieval period the study area developed as a result of intense industrial activity. The site was used for the extraction of raw materials for use in these industrial activities including clay, sandstone and coal. The land to the south of the Woodland Branch Railway was opencast mined for coal in the 1970s and then subject to landfill, removing the potential for any buried archaeological remains in this part of the site. A total of 17 listed buildings and a conservation area have been identified, but the construction and operation of the new road would not impact the setting of these buildings or their significance. It is thus recommended that a programme of archaeological trial trenching is undertaken in the areas which have not been used for opencast mining and landfill, focussing on the areas around the Woodhouse Street diversion, the Derby Road realignment and where the route of the new road crosses the Woodland Branch Railway.

A Preliminary Geotechnical Interpretative Report (PGIR) notes that made ground or fill material is present across the majority of the site and comprises two distinct materials. In the north, this is topsoil and soft to firm mottled clay with gravel of brick and concrete (referred to as Made Ground). In southern sections of the site, it is a firm brown/grey sandy/gravelly clay and as a sandy clayey gravel with variable gravel of shale, brick, coal, sandstone, mudstone, siltstone, clinker with occasional slag (referred to as Mine Waste). Weathered coal measures strata were recorded across the northern and central sections and in the far south of the site. Coal measures bedrock was encountered directly below the Made Ground in the centre of the site and below the weathered Coal Measures strata in the rest of the site. The coal seams encountered were a maximum of 0.8m thick, and no voids or broken material were noted. 14 samples of Mine Waste and 9 samples of Made Ground were tested for a suite of chemicals, with concentrations below threshold values for the proposed end use. Asbestos was noted in one of the trial pits indicating that there is some hazardous material at the site. Further tests should be carried out to confirm the chemical composition of the near surface materials and in particular to delineate the area of asbestos contamination. It is possible that other pockets of hazardous materials are present and therefore a grid of testing across the working area is recommended. Gas monitoring is strongly recommended along the route to assess the probability of hazardous gases collecting in confined spaces, such as culverts and drainage chambers, and a detailed human health and risk assessment should be carried out.

A Consultation Report confirms that two public consultation events were held, one event on Saturday 18th March 2017 and the other on Tuesday 21st March 2017. A copy of the scheme plans (overview, close-up northern and close-up southern) were displayed as well as a FAQ sheet, with staff present to answer any questions which may have arisen. Comment forms were produced to allow the public to express their thoughts about the scheme, whether positive or negative as well as to suggest improvements. Members of the public were also able to comment after the event via post or email. Approximately 75 people attended the first event and 50 people attended the second event, with 57 comments forms received in total. These are summarised in the Consultation Report.

## Planning History

The majority of the site is vacant land where there have been historic uses, but no relevant planning history. More recently, informal pre-application discussions have been held on development of the Woodville Regeneration area, but the site has not been subject to a planning application as yet.

There have been residential and industrial planning applications on Derby Road, Kiln Way and Swadlincote Road near the site, but none that are likely to affect the project. The land south of Occupation Lane surrounding the initial sections of Moira Road and Hepworth Road is the former Hepworth Pipeworks site, now known as Woodville Woodlands. This was granted outline planning permission in 2004 (ref. 9/2001/0050) and included the construction of the roundabout on Occupation Lane that connects to the proposed link road.

## Responses to Consultations

The Economic Development Manager notes the Regeneration Route will unlock a significant amount of available brownfield land within the Woodville Regeneration Area, which is crucial to the future prosperity of Swadlincote – providing much needed space for businesses and homes. It is observed that Swadlincote has seen high levels of job creation and new housing development in recent years leading to a land supply in the town which is rapidly running out and constraining further economic development. As such, the completion of the Regeneration Route and unlocking of the Woodville Regeneration Area is an economic development priority. The importance of the Regeneration Route is highlighted in the South Derbyshire Economic Development Strategy, the Derbyshire Economic Strategy Statement (Derbyshire Economic Partnership) and the D2N2 Local Enterprise Partnership's Strategic Economic Plan, as well as a range of planning and transportation strategies. The Regeneration Route would form a vital component of the strategic arterial route to the east, reducing journey times for accessing Swadlincote and also for east-west journeys between the A42/M42 and A38/A50 trunk roads. Journey times along the A511 are currently significantly constrained at the Clock Island where congestion is a frequent occurrence, particularly at peak times.

The Woodville Regeneration Area extends to 71.5 hectares, of which approximately 23 hectares is former mineral workings. A further 12 hectares is occupied by vacant and/or derelict industrial premises. Once the industrial heart of Swadlincote and home to numerous ceramics factories and coal mines, it is now a vast untapped resource. The Regeneration Route would not only unlock access to the former Dyson site, but would also greatly enhance the accessibility, connectivity and attractiveness of the wider Woodville Regeneration Area for further development. The unlocked land would still have reclamation challenges, but the new road would raise the value and reduce the risks associated with its development. Once the Regeneration Route is completed, the sites unlocked would sit alongside a new main arterial route and therefore be particularly attractive to inward investors. In addition to unlocking extensive development land and improving access, there is the opportunity to undertake tree planting and landscaping that would reflect the area's location in the 'Heart of The National Forest', together with enhancing the cycle links between the area and the Forest's attractions and facilities.

The Kiln Way section of the Regeneration Route would pass through an area of existing businesses. The Route has been designed to minimise the impact on their premises, though there would undoubtedly be some disturbance to their operations and access. However, the end result would be greatly improved access to the local road network and a much higher prominence for the businesses. Two traditional small business units will be lost at Woodhouse Business Centre, but assistance in identifying alternative premises is available to the occupants through the District Council and other organisations.

The County Highway Authority has no objections in principle to the formation of the link road as a stand-alone piece of infrastructure. Based upon the data and analysis contained in the supporting Transport Assessment, the overall effects upon the local highway network are considered to be beneficial, particularly in terms of congestion relief at the Clock Island and the approaches to it. Clearly, however, the proposals are not intended purely for the relief of the existing network but to unlock the potential for further economic growth by development of the surrounding land, and in this respect the project is also considered to offer positive benefits in the context of the NPPF. The Transport Assessment espouses a quantum of new development (150 dwellings, 5,400m<sup>2</sup> B1 (office) and 31,600m<sup>2</sup> B2 (industrial) floor area) potentially being served by the new link road. Whilst acknowledging that this does not form part of this application, it has been used as a sensitivity test to examine the performance of the link road and local network with this additional traffic generating use added. The outcomes continue to indicate an overall improvement to the performance of the local network compared to current conditions. Consideration has also been given to current collision data on the surrounding network and a comparison made to the anticipated safety performance of the proposed new route based upon its design and statistical data for this type of route. Again the outcomes are predicted to be positive in terms of an overall improvement to the safety of the network post development.

In terms of design, there are a number of features which would require further clarification and a far greater level of engineering detail before the scheme could be physically implemented. As with most projects of this scale and complexity, there is a balance to be struck between the level of engineering detail necessary to satisfy the Local Planning Authority that the planning principles of the development can be achieved and that required to physically construct the works. The scheme is considered to be achievable in principle, although if highway works are not to be promoted by the Highway Authority as a public scheme, clarification of the mechanisms by which adoption would be achieved (Sections 278, 72 and/or 38 of the Highways Act 1980) should also be explained and/or secured under a Unilateral Undertaking. In terms of general line, level and geometry the new link road and its junctions all appear to conform to national and local design criteria. An Appendix is attached to the Highway Authority's first response which identifies a range of general and specific design issues which will require resolution or clarification as part of the detailed engineering design process, and this was provided to the applicant for attention. The designs have already been revised in line with some of these points, and the Highway Authority confirms that all outstanding matters can be addressed as part of the detailed design process. Conditions are recommended in the interests of safe and efficient traffic movement.

The Coal Authority confirms the site falls within the defined high risk area where there are coal mining features and hazards which need to be considered, specifically probable shallow coal mine workings and recorded mine entries. Their records also indicate that the site has been subject to past surface mining operations. The PGIR is noted to confirm that rotary boreholes were advanced on site and all shallow coal seams were encountered intact, and that risks posed by shallow coal mine workings are low but further investigations will be required to locate a recorded mine entry (shaft) close to the road alignment and to identify any past surface mining features to enable appropriate foundation design. The Coal Authority concurs with these recommendations and that intrusive site investigation works should be undertaken in order to establish the exact situation. They therefore recommend the imposition of a planning condition to require such investigation works prior to commencement of development and, where necessary, remedial works to treat the mine entry to ensure the safety and stability of the proposed development.

The Environmental Health Officer (EHO) notes the development represents a valuable contribution to improving the transport infrastructure in Swadlincote. It is noted that the Planning Statement indicates that the overall air quality impact of the proposed development is predicted to be beneficial, given that it is predicted to lead to reduced traffic congestion on High Street, Woodville. The EHO agrees that the air quality and noise impacts of the development itself are likely to provide a net benefit through re-distribution of traffic across the network. The release of currently undeveloped land on the former Dyson site is noted, and it stated that specific technical assessments will be likely necessary so to consider the operational impacts of each of these developments as they come through the planning process. The key environmental impacts of the proposed development would be through the construction phase, although it is noted that the exact construction methods are yet to be determined and therefore the potential impact of noisy construction activities such as piling cannot be accurately quantified. It is therefore requested that conditions be added to require a construction phase noise mitigation scheme, a construction phase dust mitigation scheme and a land contamination remediation scheme.

The Environment Agency notes the site is located on a bedrock designated as a 'Secondary (A) Aquifer' whilst several unnamed surface water bodies are located on and in proximity to site. As part of the proposed route crosses land previously occupied by Dyson, as a former industrial manufacturing facility, there is potential for this former use to have generated contamination, together with several areas of made ground. Furthermore there is potential for re-mobilisation of any contaminants during this proposed regeneration. With the conclusions of the PGIR recommending further site investigation works to include the southern area as well as the northern area of the proposed route, and the sensitivity of controlled waters receptors in the area; it is considered the further investigation needs to be conditioned to protect groundwater sources. This investigation would need to include the collection and analysis of soil, leachable and groundwater samples to determine the presence of any current contamination on site, and the risk posed to controlled waters receptors.

The Lead Local Flood Authority (LLFA) notes that whilst the FRA proposes discharge rates lower than 5l/s from each of the attenuation ponds, to achieve these

greenfield runoff rates appropriate methods of sediment detention and suitable protection for the inlet and outlet structures would be required. It is also noted that FRA proposes swales in the drainage design, and there should consequently be a sufficient buffer strip in place to allow for efficient maintenance to take place. An easement of approximately 3m is recommended for swales less than 2m in width, and 4.5m for swales over 2m in width. It is also noted that any works in or nearby to an ordinary watercourse require consent under the Land Drainage Act. Overall, there is no objection subject to conditions to require a detailed design and associated management and maintenance plan of surface water drainage for the site, and that the drainage strategy accords with the drainage hierarchy of directing surface water towards the most appropriate waterbody in terms of flood risk and practicality.

Natural England has no comments to make, noting that their published Standing Advice can be used to assess impacts on protected species.

Derbyshire Wildlife Trust (DWT) notes clarification that occurrence of Himalayan Balsam and Japanese Knotweed, both invasive species, is outside of the site boundary and at some distance from the new road. They are therefore satisfied that no further surveys are required for these species and it is not necessary to append a condition requiring a method statement for their control. They note that given that multiple surveys for GCNs on the site and surrounding areas over the period 2012 to 2015 have continually confirmed their absence from the area, they consider that adequate information is available in respect of this species to enable the Council to determine the application. As a precautionary measure, however, the proposed undertaking of eDNA sampling of the accessible ponds in Spring 2018 is supported, so to confirm the continued absence of GCNs. This could be dealt with by a planning condition. It is also noted that a single pond remains inaccessible such that, as a precaution, works should be carried out in accordance with an agreed precautionary working method statement for amphibians. The retention of an existing pond is supported as this has been confirmed to support a breeding population of Common Toad, a priority species. The proposed habitat enhancement works to this retained pond are also welcomed, which should benefit the local amphibian and reptile population. However, as the new road would provide an obstacle for migrating toads, robust measures are required as part of a Common Toad mitigation strategy that should be conditioned. In relation to reptiles, further detailed reptile surveys are not considered necessary provided that the works are carried out in accordance with the mitigation measures outlined in the Ecological Survey.

The Trust notes that the route goes through an area of ideal nesting habitat for ground nesting birds, including skylark, a priority species. Whilst accepting only a proportion of this suitable grassland habitat would be lost, suitable habitat would remain available at the current time. It remains important that agreed mitigation measures are followed however during construction. DWT are also mindful that the new road may facilitate further development on the adjacent land, and future proposals would need to be mindful of the presence of skylark and the need to mitigate for the impacts on ground nesting priority bird species. If sufficient areas cannot be provided as part of future development, off-site compensation will be required. It is further recommended that the development should be carried out under a Construction Environmental Management Plan (CEMP) for biodiversity. Finally, there is some uncertainty that the proposed scheme will, as a minimum,

ensure no net loss of biodiversity and ideally achieve a net gain. It is disappointing that the Landscaping Plan shows verges and embankments to comprise amenity grass rather than wildflower seeding. Such provision would secure significant biodiversity benefits and assist in securing no net loss of biodiversity. At present there is also sufficient compensation for the loss of woodland. The Trust advises that such measures should be addressed in an Ecological Design Strategy produced in association with a revised Landscaping Plan, secured by a condition. The appropriate long-term management of all retained and created habitats should also be covered by a Landscape and Ecological Management Plan (LEMP).

The National Forest Company (NFC) welcomes the inclusion of a shared surface footpath/cycleway through the scheme, which would provide an off-road link from Swadlincote Woodlands into the heart of the Forest. The NFC would welcome the opportunity to work with the County Council to promote the use of this route as a gateway to the network of off-road cycle routes through the heart of the Forest. The NFC however notes that new road schemes should achieve well-wooded settings with planting adjoining the road and off site. Appropriate landscaping should also accompany road improvements, depending on the scale and impact of the development (policy INF8). The requirements of policy BNE1 are also noted, particularly that *“within the National Forest, new development should be encouraged to follow the National Forest Design Charter and Guide for Developers and Planners and fully reflect the Forest context”*. The NFC initially raised concern that the Landscape Planting Plan proposed insufficient trees across nearly 1km of new road. Furthermore, the proposed roundabout at the A514 requires the removal of an area of woodland which forms part of Swadlincote Woodlands. This planting was undertaken by the District Council as part of a previous programme to regenerate the area after successfully applying for NFC funding in 1997. The amendments received are generally supported, although the proposed tree species need some further thought. Recent planting along the A514 through Swadlincote undertaken by the District Council has all been Field Maple and it would make sense to continue this approach for the tree planting on the A514 around the northern roundabout. The proposed fastigate hornbeam for the remainder of the new road is acceptable although there will be a need for tree pits – particularly where the route passes along Kiln Way. It is also still not clear why landscaping is largely restricted to the highway verge when the site includes further land. With proposed trees to the attenuation ponds welcomed, further trees could be proposed to the existing pond. A condition should be imposed for further landscaping details to be agreed along with details of below ground infrastructure and maintenance of the trees. Hence, the NFC considers that whilst amendments are an improvement on the original scheme, and the correct species can be proposed; there still does not appear to be sufficient space to accommodate street trees successfully. Tree planting should not be seen as a constraint but as a fundamental and beneficial part of the scheme to regenerate the area, secure inward investment and create a character which is locally reflective.

The Open Spaces and Facilities Consultant notes there is some concern that the verge, at 1m wide, is insufficient to properly accommodate trees, whilst also being unsure as to why the whole of the site isn't detailed. The ornamental planting suggested for each of the roundabouts is also not suitable as highway planting. The idea of using three varieties to give a colour definition is acceptable, but use of ornamental grasses and perennials is not suitable – especially considering the

effects of road salt and spray. The selection of suitable species is crucial to the success of the scheme, so this needs more work, although a design scheme as suggested on the plan should be pursued to ensure there is some consistency and appropriate use of species throughout the redeveloped area.

The County Archaeologist notes the southern part of the site has been heavily impacted by opencast coal extraction, and appears very unlikely to retain any archaeological significance. North of the former Woodville Branch Railway, the road would cross the sites of the late 19<sup>th</sup>/early 20<sup>th</sup> century Granville No. 2 Colliery and the line of a former industrial tramway connecting the former Hilltop Works and other potteries/sanitary ware manufacturers in the area, with a large area of claypits to the north of Derby Road. It is likely that remains of the historic colliery and tramway survive below-ground in the northern part of the proposal site and these would be of local importance. However, this could be addressed through a conditioned scheme of archaeological recording, with archaeological monitoring during relevant phases of the development groundworks, or trial trenching of relevant areas followed by appropriate mitigation excavation.

Peak and Northern Footpaths Society initially objected due to the effect on public footpaths which cross the site, stating it is irrelevant for the purposes of the application that a section of one path is not accessible. It was noted that Defra Circular 1/09 should be followed unless there is good reason not to do so, and it specifies that PRoWs should not be routed along the footways of roads; and that the footpath should run through a wide landscaped strip away from the road as walking away from vehicular traffic is a healthy form of sustainable transport and should be encouraged. However, following further dialogue with the applicant and in view of the improved landscaping proposals, it is accepted that the proposals as they affect the public footpaths are the best which could be expected, and they hold no objection to the proposal.

## **Responses to Publicity**

Woodville Parish Council has no objections.

Three objections/letters of support have been received, raising the following concerns/points:

- a) Woodville Business Centre (WBC) has units let to a number of users, employing approximately 66 full time employees (FTEs), and at least two of the units would be lost – affecting well established businesses, resulting in their relocation and affecting 19 FTEs;
- b) it is not yet clear whether the structural integrity of the WBC would support partial demolition, or whether a full demolition would be required – such a scenario would impact up to 23 FTEs;
- c) there has been no detailed information supplied as to methodology for demolition of part, whether such a proposal is feasible and how any remaining units would be repaired afterwards;
- d) a prior notification of proposed demolition will need to be submitted;
- e) the proposals would have a severe, detrimental impact on the car parking for the remaining units;

- f) the pre-application consultation failed to include the owner of WBC meaning they have been unable to hold proactive discussions;
- g) the units which would be lost could be rebuilt to the south of the site, but this has not been explored further;
- h) concerns over the use of compulsory purchase powers and responsibility for associated costs;
- i) drawings do not show the access arrangements for individual properties (i.e. dropped kerbs and driveways);
- j) local businesses would use the disused section of Woodhouse Street for parking of company/commercial vehicles as is the case on Kiln Way during the day and night, or that illegal occupancy by travellers might occur, and some form of height and width restriction should be put into place to prevent this;
- k) residents of Occupation Lane should have been notified directly;
- l) significant work will be required to provide a stable foundation for the road and conditions should ensure that this work is conducted at times of day that do not cause a nuisance to nearby residents, nor damage to property;
- m) no contractors' vehicles or equipment should be permitted to obstruct or impede residential traffic on Occupation Lane at any time;
- n) whilst the road itself is not a vulnerable use, the housing that the road would facilitate would be, and it is questioned whether it is wise to grant permission for access to unusable land.

At the time of writing, the application is subject to consultation on minor amendments to plans and the ecological addendum. Any further responses received before the expiry of this consultation will be reported verbally to Members at the meeting.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S5 (Employment Land Need), S6 (Sustainable Access), E1 (Strategic Employment Land Allocation), E6 (Woodville Regeneration Area), 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), INF2 (Sustainable Transport), INF4 (Transport Infrastructure Improvement Schemes), INF7 (Green Infrastructure) and INF8 (The National Forest).
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), 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
- River Mease SAC Developer Contribution Strategy 2<sup>nd</sup> Edition (DCS2)

## Environmental Impact Assessment

The proposal has been screened under Regulation 8 of the Environmental Impact Assessment (EIA) Regulations 2017 for up to 400 residential units. The proposal is considered to fall within paragraph 10(f) 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 and the benefits arising;
- Highway capacity and safety and sustainable modes of transport;
- Historical uses of land and implications for the proposal;
- Drainage and water quality;
- Biodiversity impacts and enhancement; and
- Effect on living conditions for adjoining occupiers.

## Planning Assessment

### The principle of development and the benefits arising

The proposal seeks to deliver a long anticipated transport improvement scheme as well as unlock the development potential for further land around Swadlincote and Woodville, delivering key objectives of the Local Plan and numerous other plans and strategies which have informed the key policies relevant here – namely policies INF4, E6 and E1 of the LP1. Policy INF4 confirms that the Council will work with others to deliver the Woodville to Swadlincote Regeneration Route, including securing financial contributions towards mitigating the impacts of other development for use in delivering this scheme. That has already occurred at residential sites such as Broomy Farm. In determining the detailed alignment and design, regard is to be had to the following criteria:

- i) minimising the impact on the environment, heritage assets and natural features;
- ii) taking full account of recreational routes along, or affected by, the schemes;
- iii) providing for the needs of pedestrians, cyclists and people with impaired mobility; and
- iv) mitigating any potential flood risk impact.

Policy E6 confirms that the Woodville Regeneration Area is protected for employment-led redevelopment, supported by the Regeneration Route, to enable the

economic, social and environmental regeneration of the area. The policy confirms that redevelopment of the site should incorporate 12ha of employment development defined by use classes B1, B2 and B8 and up to 150 new dwellings, whilst policy E1(C) confirms the employment quantum expected but specifies further requirements – including limiting the uses to classes B1(b), B1(c), B2 and B8 of the Use Classes Order (i.e. not for offices under class B1(a)), and that provision to meet the needs of small and 'grow on' businesses in the form of premises or serviced Plots will be secured, brought forward during the course of the development either by conditions or a legal agreement.

The applicant's Planning Statement highlights the evident benefits of the scheme. This is a long awaited project which is a key component to unlocking the Regeneration area – land that might otherwise remain undeveloped given the likely effects it would otherwise have without the transport mitigation this link would provide. The employment land provision is an important component of the 53ha aspiration set by policy S5 for delivery across the Plan period. There would also be the evident benefits in terms of reducing congestion around the Clock Island, and in turn reducing air and noise pollution in these areas – particularly at peak time, and recognising that two of the approaches to that island serve schools. Domestic and logistical based traffic would be able to traverse the town, from the A444 to the A511 and A42 beyond, in a more efficient manner, reducing journey times and clawing back the financial losses associated with business traffic being caught up in congestion.

Whilst there would be impacts on existing businesses, particularly those around Kiln Way and Woodhouse Street, these impacts would be largely neutral or beneficial (for the reasons already outlined). There would be some loss of employment floorspace to facilitate the proposal, but this is relatively minor and must be balanced against the substantial benefits (and resulting gain in employment floorspace). Compensation for this loss is not a matter to be handled under this application and is for separate negotiation between the applicant and the landowner(s). With a strong presumption to support the proposal given the strategy of the LP1, attention turns to the impacts of the development and whether these are appropriately minimised and/or mitigated for.

#### Highway capacity and safety and sustainable modes of transport

The Transport Assessment has not just considered the effect of introducing the link road, and how it would benefit the wider highway network, but 'loaded' the development allocations which it would serve – namely the employment floorspace and the potential for 150 dwellings. The results are that it achieves the desired benefits the wider network, providing much needed capacity at the Clock Island as well as facilitating swifter movement across the urban area.

Whilst the County Highway Authority raises questions over the need to ensure subsequent approvals are followed, by way of a planning obligation if necessary, as part of implementation the applicant intends to advertise orders to regulate the flow, speed and parking of all motor traffic using the route using its powers under the Highways Act and would follow its standard consultation processes in so doing. For clarity, the project requires state aid funding to install the link road with the aim of

creating employment and housing, with a third party partner delivering the latter. It is not a County project funded through County budgets such that the project is unlikely to proceed without state aid support unless a private developer comes forward to deliver the road in its entirety. If that were the case, then the standard adoption processes would be the mechanism utilised. There is thus reasonable confidence that suitable controls already exist to ensure all the necessary stages are followed, without the need for this authority to impose further control. With the scheme also designed in line with national and local guidance, and it attracting no objection from the County Highway Authority, it is considered to be compliant with policy INF2 in these respects.

Policy E1 requires the proposal to take full account of recreational routes along, or affected by, the scheme; as well as provide for the needs of pedestrians, cyclists and people with impaired mobility. This is promoted under policy INF2 as well. As outlined in the description of the proposal, the route would facilitate walking and cycling along this new route where such journeys may have been more circuitous before. It would provide a desired element of the South Derbyshire Cycling Strategy. There is also connectivity to the national cycle network, albeit not achieved in a perfect fashion at the northern end of the site at Derby Road where ownership constraint prevents widening of the existing footway at the present time (although this is a matter the applicant is willing to pursue further separately under their own powers). The route would be suitable for a future bus service, although the necessity of this would need to be determined with regards to detail of the proposed development either side of the Regeneration Route and the likelihood of a service provider delivering a viable service. In the meantime, the convenience this route would generate would promote use of non-vehicular modes of movement to reach existing services (i.e. on Derby Road and Ashby Road). In terms of impacting upon recreational routes, it is intended to extinguish Woodville PRow 5 from the point at which it meets the new road. This footpath currently runs from its junction with Woodville PRow 6 towards Kiln Way, where it terminates. However, the route is presently a difficult one, traversing a ditch and undulating in nature – and with a blockage at the Kiln Way interface. The proposed road would more or less follow its alignment, although the legal line would step out into the carriageway numerous times and across one of the proposed roundabouts. Given the comparable distance of the proposed alternative footway, alongside the carriageway, and betterment in terms of gradient, drainage and lighting, it is considered to be a favourable alternative. Whilst this would require a separate application to extinguish the route, the proposal is considered to be acceptable for the purposes of this application. Existing connectivity to, and improvement of, other PRowS across the Regeneration Area would be for consideration under subsequent applications made for those sites.

#### Historical uses of land and implications for the proposal

The site has potential in terms of coal mining legacy, ground contamination risk, groundwater contamination risk and archaeology. The responses from the Coal Authority, EHO, Environment Agency and Development Control Archaeologist all indicate sufficient study work has been carried out to identify the range of constraints and actions necessary to handle these so that permission can be granted, subject to conditions. The scheme would provide scope to enhance the environmental

conditions of the site in this respect, and accord with policies E6, SD1, SD4, BNE2 and BNE10.

### Drainage and water quality

The concern in respect of groundwater is covered above. However, particular attention must be given to the drainage strategy for much for the road – this looking to discharge to the River Mease catchment. The SAC and SSSI require the Council to be satisfied that there would not be a significant detrimental impact on these European sites, and hence surface water drainage from the site must be treated effectively to achieve high quality upon its point of discharge. The strategy involves a multiple train of treatment, using natural water bodies to achieve this, and coupled with a greenfield rate of discharge is considered appropriate to satisfy the Council's duties under the Habitat Regulations.

In terms of flood risk, the proposal would inevitably increase the impermeable area of the site, but the FRA indicates that suitable attenuation can be provided to cater for peak rainfall events and continue to do so under climate change scenarios. The lack of objection from the LLFA is notable, and overall the proposal is considered to accord with policies E6, SD2 and SD3.

### Biodiversity impacts and enhancement

The impact on protected and priority species has been adequately assessed and, subject to mitigation and enhancement where necessary, the proposal would not cause unacceptable impacts, contrary to the Habitat Regulations and policy BNE3. Enhancement to existing and proposed habitats can also be secured to ensure a net biodiversity gain, although attention will need to be given to later stages of developing the Woodville Regeneration Area so to ensure such gains are not lost. The impact of drainage from part of the road on the River Mease SAC and SSSI has also been considered, but subject to an appropriate drainage scheme – including a sufficient number of treatment stages as set out in the Drainage Strategy; then the impact on the River Mease is likely acceptable. With this in mind, and the nature of the development proposed, a contribution under the River Mease DCS is not considered to be necessary.

The site lies within the National Forest where tree planting and landscaping of the road is an important component of its design. There is a need to mitigate the loss of some woodland around Derby Road, whilst the route itself should also provide for tree planting along its length. The applicant notes that the total number of trees has been increased from 17 to 57 during the course of the application, reflecting the aspirations of the National Forest and planning policies supporting the provision of trees in this area. The Woodville Link Road is coming forward in advance of and separately from proposals for the surrounding development land, which limits the land available for additional planting; but within the constraints of the proposal this increase in tree planting is notable. The narrow form of the fastigiate form of the native Hornbeam is well-suited to the restricted space along the verge, with a distinctive upright appearance intended to provide a strong, visually attractive and consistent linear feature along the length of the new road. Punctuating this are three specimen trees: Liquidambar, a fastigiate Field Maple and Silver Birch; all of which

offer strong autumn colours. Further wet woodland planting has been provided through native Common Alder located around the attenuation ponds but sited to avoid excessive shading. All these changes are welcome, although the width of the verge is still of some concern in terms of facilitating the long term health and retention of the Hornbeam. Nonetheless, whilst requiring further consideration and work to develop the landscaping scheme, it is considered that the basics of the landscape design are in place such that this matter could be conditioned.

#### Effect on living conditions for adjoining occupiers

Largely speaking, the proposal would affect few residents relative to the scale of the project. There are two groups – those on Occupation Lane, and those on Derby Road. Those living on Derby Road would experience some disturbance during the course of works to modify the layout of Derby Road, Swadlincote Road and Woodhouse Street. These works however, are likely to be carried out during the day – in the majority, and it is noted that (as existing highway) works could be carried out by the County or utility providers in any case. Nonetheless, the EHO seeks noise and dust mitigation plans to address any residual concerns. Those living on Occupation Lane would experience similar effects, although to a lesser degree given the limited extent of the interface with their properties. However, there is greater potential for the need to pile and compact ground to facilitate the road here, given the made ground nature of the site in this area. Notwithstanding this, the impacts would be short lived and at a reasonable distance so not to raise vibration concerns and hence the conditions requested by the EHO would be suitable in addressing the remaining impacts. The proposal is considered to satisfy policies E6 and SD1.

#### Summary

The proposal delivers a key item of infrastructure required to support the Local Plan as a whole, unlocking the delivery of employment and housing around the Swadlincote Urban Area. In particular, it would facilitate the regeneration of land immediately adjacent to the proposed route and deliver positive environment, social and economic benefits with it. In addition, the Regeneration Route would assist in alleviating pressure on the Clock Island which is at capacity during peak hours, in turn delivering economic and environmental benefits through reduced congestion. With amenity, drainage, ecological, heritage and industrial legacy impacts all acceptable subject to conditions where necessary, the proposal is considered to accord with the aforementioned policies.

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 the latest revision of plans specified in the drawing register version 2.1, and in accordance with the mitigation measures for reptiles outlined in section 5.4.6 of the Preliminary Ecological Assessment (dated November 2017), unless as otherwise required by condition attached to this permission and/or under a section 278 or s38 agreement pursuant to the Highways Act 1980, 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, and to ensure acceptable impacts on priority species and their habitat.

3. No removal of trees, hedges or 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 or 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.

4. No development, including preparatory works, shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:
  - (a) a risk assessment of potentially damaging construction activities;
  - (b) identification of biodiversity protection zones (e.g. buffers to trees and hedges or to protected wildlife habitat);
  - (c) practical measures (both physical measures and sensitive working practices, such as protective fencing, exclusion barriers and warning signs) to avoid or reduce impacts during construction (particularly in relation to works within canopy and root protection areas for hedgerows or protected trees);
  - (d) the location and timing of sensitive works to avoid harm to biodiversity features (in relation to breeding birds in particular);
  - (e) the times during construction when specialist ecologists need to be present on site to oversee works (as required);
  - (f) responsible persons and lines of communication; and
  - (g) the role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person (as necessary).

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless the

ECoW otherwise sets out alternative details which are subsequently agreed by the Local Planning Authority.

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

5. No development, including preparatory works, shall take place until an Ecological Design Strategy (EDS) addressing mitigation, compensation and enhancement to ensure the proposal does not result in a net loss of biodiversity in line with the Defra approved Biodiversity Accounting Metrics has been submitted to and approved in writing by the Local Planning Authority. The EDS shall include the following:

- a) details of retained habitats together with their enhancement; and

- b) details of newly created habitats including ponds, swales, wildflower grassland and woodland.

The EDS shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

Reason: In order to safeguard and enhance habitat on or adjacent to the site in order to secure an overall biodiversity gain.

6. No development, including preparatory works, shall commence until further eDNA sampling of accessible ponds have taken place with the results of this sampling, along with mitigation measures where necessary, have been submitted to and approved in writing by the Local Planning Authority. Where relevant, the development shall thereafter be carried out in accordance with the approved mitigation scheme.

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

7. No development, including preparatory works, shall commence until a Common Toad Mitigation Strategy (CTMS) has been submitted to and approved in writing by the Local Planning Authority. The CTMS shall deal with both mitigation for the duration of construction works, and measures to protect migrating animals during the operational phase of the development. The approved CTMS shall be adhered to throughout the construction phase and permanent measures implemented strictly in accordance with the approved details.

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

8. 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 scheme has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:

- i. The programme and methodology of site investigation and recording;

- ii. The programme for post investigation assessment;
- iii. Provision to be made for analysis of the site investigation and recording;
- iv. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
- v. Provision to be made for archive deposition of the analysis and records of the site investigation; and
- vi. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

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.

9. No development shall commence until a scheme of intrusive site investigation for coal mining legacy has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details and a report of the findings arising from the intrusive site investigations, along with any remedial works required (including a timetable for the carrying out of such works), shall be submitted to and approved in writing by the Local Planning Authority prior to any construction works commencing. The approved remedial works shall thereafter be implemented in accordance with the approved timetable.

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

10. No development, including preparatory works, shall commence until a remediation strategy and method statement to deal with the risks associated with contamination of the site has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy and method statement shall include the following components:
- i. a site investigation scheme based on the Preliminary Geotechnical Interpretative Report submitted with the application (prepared by Scott Wilson, dated October 2007) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
  - ii. the results of the site investigation and the detailed risk assessment referred to in (i) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken;
  - iii. provisions for sampling, validation and monitoring, including criteria, for both the use of imported materials and re-use of site-won materials; and

iv. a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (ii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

If during development works any contamination should be encountered which was not previously identified or is derived from a different source and/or of a different type to those considered under the approved scheme, then the Local Planning Authority shall be notified immediately and a further/updated remediation strategy and method statement shall be submitted to and approving in writing by the Local Planning Authority before any further works take place. A verification report confirming the objectives, methods, results and conclusions and demonstrating that the contamination proposals have been fully implemented and completed shall be submitted to and approved in writing by the Local Planning Authority before first use of the road between Kiln Way and Occupation Lane by the public.

Reason: To protect the health of the public and the environment, in particular controlled waters, from hazards arising from previous contamination of the site which might be brought to light by development of it; noting there is a need to assess the presence and significance of contamination to controlled water receptors, namely groundwater within the underlying Secondary 'A' Aquifer and surface water bodies.

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

Reason: To protect the amenities of nearby residents recognising that initial preparatory works could cause unacceptable impacts.

12. No construction of new hard surfaces, setting of site levels or installation of services/utilities 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 (or any revision or new guidance that may replace it). 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.

13. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site has been submitted to and approved in writing by the Local Planning Authority in accordance with:
- a) the Flood Risk Assessment & SuDS Strategy for Woodville Link Road (dated December 2017); and
  - b) DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015).

The submitted drainage system shall also ensure an appropriate number of treatment chains for surface water which is to outfall into the River Mease catchment, and provide appropriate details of how this will be achieved. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the first public use of the road between Kiln Way and Occupation Lane.

Reason: To ensure that the principles of sustainable drainage can be incorporated into the development, so to minimise flood risk and ensure adequate water quality so to minimise potential impacts on a European site, noting that initial preparatory and/or construction works may compromise the ability to mitigate harmful impacts.

14. The proposed works, the subject of the application, shall not be first taken into use until they have been laid out in accordance with the approved plans, designed and constructed, drained, lined, signposted and lit to an adoptable specification to be first submitted to and approved in writing by the Local Planning Authority. Where not adopted by the County Highway Authority, such areas shall be maintained throughout the life of the development free from any impediment to their designated use.

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

15. No development, including preparatory works, shall commence until a temporary means of access for construction traffic has been created and space has been provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, and parking and manoeuvring of employees and visitors vehicles, with the temporary access and space laid out in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. Once implemented, the approved facilities shall be retained free from any impediment to their designated use 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.

16. Prior to the first public use of the development between Occupation Lane and Kiln Way a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed;

- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period);
- g) Details of the body or organisation responsible for implementation of the plan, along with funding mechanism(s) for that body or organisation; and
- h) Ongoing monitoring and remedial measures, including where monitoring shows that conservation aims and objectives of the LEMP are not being met.

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

Reason: In order to safeguard and enhance habitat on or adjacent to the site in order to secure an overall biodiversity gain

17. Notwithstanding the submitted details and the approved plans, prior to the first public use of the development between Occupation Lane and Kiln Way a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall be developed further from the Landscape Master Plan (ref. WVL-AEC-XX-XX-DR-LA-00001 Rev B) submitted with the application and include subterranean measures to enable tree planting in verges to reach maturity. All hard landscaping shall be carried out in accordance with the approved details prior to the first public use of the road between Occupation Lane and Kiln Way, 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 public use of the road between Occupation Lane and Kiln Way 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 interest of the visual setting of the development and the surrounding area, so to ensure the National Forest character is achieved.

Informatives:

1. On the basis of information submitted and having regard to additional environmental information collected by the Local Planning Authority to inform this opinion, I can confirm that the development described within your Screening Request, and as summarised above, is captured by the criteria and thresholds set in paragraph ..... of Schedule 2 of the Regulations; but in the opinion of South Derbyshire District Council, having taken into account the criteria in Schedule 3 to the Regulations, the proposal would not likely give rise to significant effects on the environment by virtue of factors such as its

nature, size and location. In coming to the above view account has been taken of the advice contained in section 4 of the Planning Practice Guidance, in particular paragraphs 031 and 032 (screening Schedule 2 projects), and the evidence submitted alongside the proposal.

Accordingly the District Council does not consider the proposed scheme to be EIA development and will not require the submission of an Environmental Statement in support of the proposal.

2. Where development is proposed over areas of coal and past coal workings at shallow depth, The Coal Authority is of the opinion that applicants should consider wherever possible removing the remnant shallow coal. This will enable the land to be stabilised and treated by a more sustainable method; rather than by attempting to grout fill any voids and consequently unnecessarily sterilising the nation's asset.

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. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: [www.coal.gov.uk/services/permissions/index.cfm](http://www.coal.gov.uk/services/permissions/index.cfm).

3. This project has been screened to assess its impact on the River Mease SAC under the Conservation of Habitat and Species Regulations 2010. The assessment has concluded that the development would cause no significant impact and therefore an Appropriate Assessment is not required.

10/04/2018

**Item** 1.2

**Ref. No.** 9/2016/0882/BM

**Applicant:**  
**Mr Paul Burton**  
**Hallam Land Management Ltd**  
**Banner Cross Hall**  
**Ecclesall Road South**  
**Sheffield**  
**S11 9PD**

**Agent:**  
**Mr Guy Longley**  
**Pegasus Planning Group**  
**4 The Courtyard**  
**Church Street**  
**Lockington**  
**Derby**  
**DE74 2SL**

**Proposal:** THE VARIATION OF CONDITION 19 OF PERMISSION REF. 9/2014/0740 (RELATING TO OUTLINE PERMISSION (ALL MATTERS RESERVED EXCEPT FOR ACCESS) FOR UP TO 400 DWELLINGS AND PROVISION OF NEW SCHOOL PICK UP/DROP OFF AREA, TOGETHER WITH ASSOCIATED HIGHWAY WORKS, PUBLIC OPEN SPACE, LANDSCAPING, PARKING AND ATTENUATION FACILITIES) ON LAND AT BROOMY FARM WOODVILLE ROAD HARTSHORNE SWADLINCOTE

**Ward:** WOODVILLE

**Valid Date** 24/08/2016

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

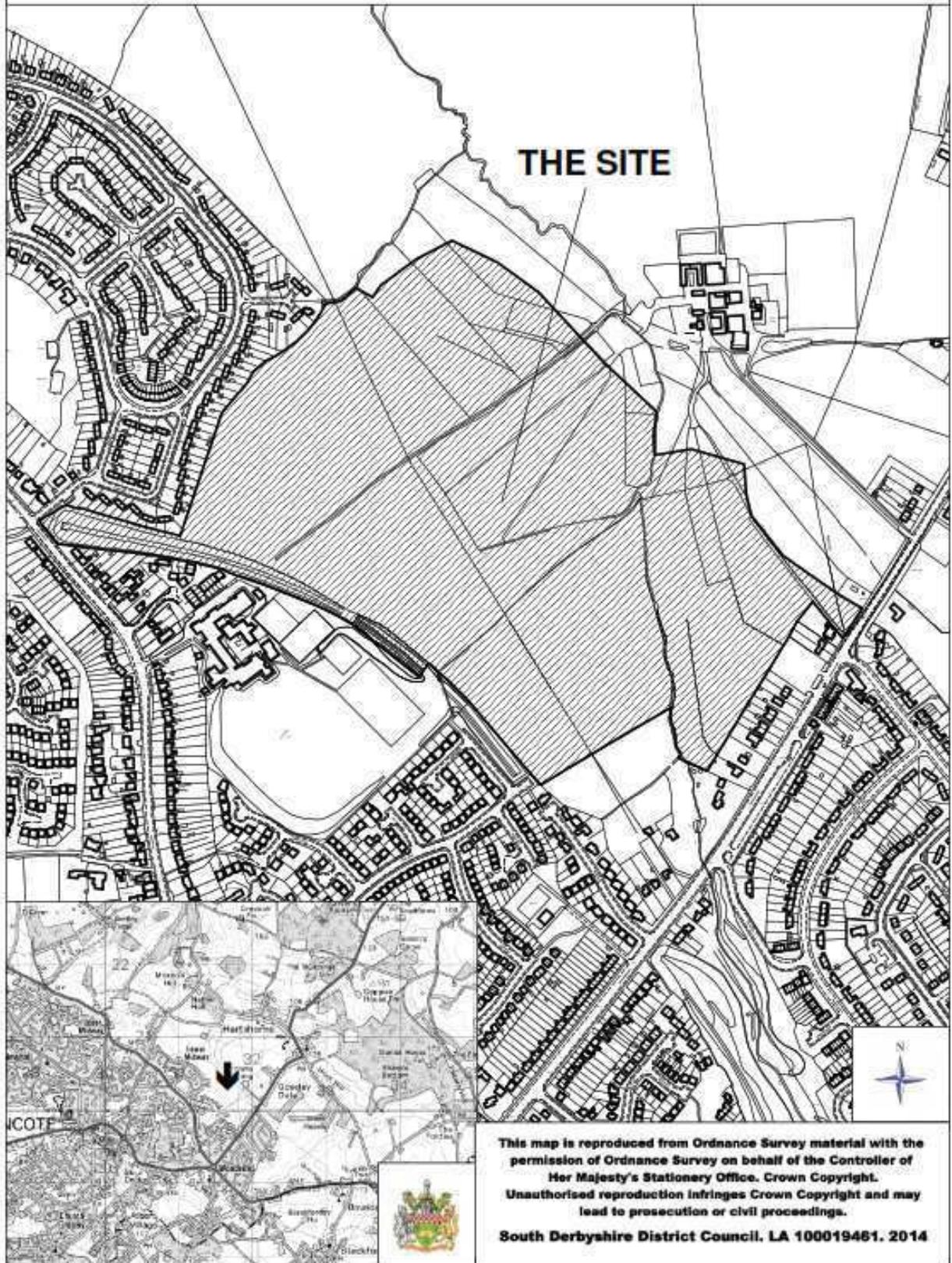
The item is presented to Committee because this is a major development subject to more than two objections.

#### **Site Description**

The site comprises some 27.5 hectares of agricultural land on the northern edge of Swadlincote, to the west of the A514 Hartshorne Road/Woodville Road and Goseley Estate, beyond existing housing along the A511 Burton Road, Granville Academy and housing off Sorrell Drive to the south, and to the east of housing on Lincoln Way/Salisbury Drive. The southern boundary is defined by a disused railway cutting (leading to the Midway tunnel) and embankment, whilst Broomy Farm itself and associated buildings lie to the north of the site boundary.

The site comprises pasture grassland and arable fields crossed by a number of public rights of way (PRoW). Hedgerows and fences represent field boundaries within the site and along its boundaries with several trees within the site and along these boundaries. Those trees along the line of the former railway line are protected

9/2016/0882 - Land at Broomy Farm, Woodville Road, Hartshorne,  
Swadlincote DE11 7EY



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South Derbyshire District Council. LA 100019481. 2014

by a Tree Preservation Order (TPO), although under provisions of the existing outline conditions some of these have been felled in preparation to commence works. The land slopes from south to north, falling some 27m from the highest to lowest points. There are a series of drainage ditches and small watercourses crossing the site at the low points.

## **Proposal**

Members may recall granting outline permission for the development of the site at the meeting on 27 October 2015. It is proposed to vary condition 19 to allow for occupation of dwellings before the filling of the railway cutting and tunnel is complete. As part of this application, other conditions would be adjusted in their wording to reflect phasing of the site, whilst the Section 106 agreement would also be adjusted to reflect the same.

The outline permission allows for the erection of up to 400 dwellings and associated infrastructure. Housing would be in a mix of 1 to 5 bedroom dwellings incorporating a mix of types, styles and sizes. A new link road would connect Burton Road to Woodville Road running, in part, along the railway cutting, which would be filled. A pickup/drop off area for Granville Academy would be secured just off this link road. Public open space (POS) and play equipment, along with sustainable drainage systems (SuDS) and green infrastructure would also be secured – including a considerable degree of National Forest woodland planting to the north of the site.

## **Applicant's supporting information**

A Covering Letter identifies that condition 19 prevents development involving the creation of the Burton road access or the filling of the Midway Tunnel and/or railway cutting until a method statement for such works has been approved by the Council. The condition then goes on to require the filling works to be carried out prior to the first occupation of a dwelling. The reason for the condition is in the interests of land stability and to minimise the risk of subsidence to infrastructure. Attention is drawn to paragraph 206 of the NPPF which advises that planning conditions should only be imposed where they are necessary, relevant to planning and the development to be permitted, enforceable, precise and reasonable in all other respects. It is considered that condition 19 as worded is insufficiently precise and not reasonable. The condition seeks to control development involving the creation of the Burton Road access to the site, but it is not then clear whether the final sentence relates to the first occupation of a dwelling on the whole site or in relation to development on that part of the site. A requirement for the filling works to be carried out prior to first occupation of a dwelling on the whole site is considered to be unreasonable as it places a disproportionate burden on the developer.

A Transport Technical Note (TTN) notes that condition 3 of the existing outline permission requires a site wide Phasing Programme to be implemented, while condition 5 requires the Woodville Road and Burton Road junctions to be constructed in accordance with this Phasing Programme. The applicant would prefer to construct the Woodville Road access first, then build-out a significant section of the spine road and associated residential development, before delivering the Burton Road junction and the final section of spine road towards the end of the phasing

programme for the site; the key factor being the cost associated with filling in the railway cutting – a process that would need to be undertaken before the Burton Road junction could be constructed.

The Transport Assessment supporting the existing outline permission only considered the impact of the fully developed site, with both access junctions in place. The TTN therefore considers the implications of a single point of access onto Woodville Road, and more specifically to provide guidance on how many dwellings could realistically be served from this single access point before the need for the Burton Road junction. The TTN assumes that the Regeneration Route would not be delivered prior to completion of the proposed 400-dwelling development, and does not examine any Regeneration Route influenced traffic flow scenarios.

The TTN establishes that the Woodville Road access itself would not be subject to capacity limitations if required to serve 400 dwellings, it being suitably designed to accommodate such a quantum with 'headroom'. The main constraint on local highway network capacity is the Clock Island, which is known to operate at capacity at present, and is forecast to operate significantly over capacity by 2026 (irrespective of the consented development). It is argued that, under such a situation it is difficult to establish at what point the lack of a Burton Road site access could cause a severe cumulative impact on the highway network. It is also noted that paragraph 32 of the NPPF indicates that developments should only be refused where there would be a severe residual cumulative impact. As such, any short-term impacts arising from dwellings being constructed before the Burton Road access are arguably not an immediate trigger for delivery of that access. Notwithstanding the above, having considered capacity models for the Clock Island (with varying levels of development in place), it is considered that it would be reasonable for occupation of 250 dwellings to trigger delivery of the Burton Road site access. It is further considered that the local highway authority should be able to give their 'in-principle' support for such a trigger point.

## **Planning History**

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

## **Responses to Consultations**

The County Highway Authority notes that the basis for condition 19 was "*in the interests of land stability and to minimise the risk of subsidence to infrastructure*", and not requested by them for highway capacity reasons. It is recognised that the works to fill the tunnel and cutting will be onerous and costly, but the Highway Authority was initially concerned that the proposed variation would not only remove the obligation to carry out the fill works but also would remove an obligation/time scale for the submission and approval of details of the works. This may then result in a delay or reluctance to construct the link road through the site, which is essential to the acceptability and successful operation of the development in highway terms. It is

however noted that the need to carry out the works is not the same as a condition requiring the link road to be completed prior to first occupation. Nonetheless, once the works have been carried out, development of the western end of the site would be more attractive.

It is noted that the original Transport Assessment demonstrated that the link road was essential to the successful function of the highway network. Original modelling indicated that the creation of a link would encourage existing traffic to divert through the site rather than having to travel via the congested Clock Island. Clearly, construction of a through connection between Burton Road and Hartshorne Road would both provide access into the Broomy Farm site and would provide some relief to the wider highway network. To provide sufficient capacity at the Clock Island, the provision of the link road and contributions towards the Regeneration Route were agreed. It was on this basis that the County Highway Authority concluded that this combination could provide adequate mitigation of the impact. The provision of the link through the site was also a material consideration in the County's responses regarding Broomy Farm in the Local Plan. The TTN now considers the impact of development taken from a single access off Woodville Road, and undertakes a capacity analysis of the Clock Island under a number of scenarios. The consequences are, inevitably, increases in queuing and delays at the Island. The County Highway Authority therefore does not consider the proposed occupation of 250 dwellings to be supported by evidence., with it noted that the TTN finds that *"the main constraint on the local highway network capacity is the Clock roundabout which is known to operate at capacity at present..."*.

The Highway Authority therefore supports the inclusion of condition 19 in the original consent and has concerns regarding the potential impacts upon the wider highway network in the event of its removal; but as the condition was not included for highway safety reasons it is considered that an objection could be difficult to sustain on highway safety grounds. Notwithstanding these observations, the Highway Authority notes it did recommend a condition requiring the submission of a phasing program for works to ensure that the road was delivered in a timely fashion. The current reserved matters application (ref. 9/2017/0730) includes a revised phasing program which provides for the filling of the tunnel and cutting during the initial building of phase 1 (access taken from Woodville Road), thus allowing material from within the site to be used as fill rather than material being imported into the site, and the construction of the junction onto Burton Road during the second half of the first phase. Hence, whilst not an absolute guarantee of provision, as long as implementation of the proposed phasing program remains controlled by condition, the program gives sufficient reassurance that the development would deliver the link road, and that the impact of the development would be mitigated and the aspirations of the Local Plan would not be compromised.

## **Responses to Publicity**

Hartshorne Parish Council raises concern of problems that would be created if the cutting is not filled in, from parents and children going to Eureka School.

Councillor Taylor (Woodville Ward) notes from the applicant's case that condition 19 is not reasonable. It is contended that the condition is intended to ensure that full

access to the site is provided prior to development, with one of his primary concerns being the potential traffic impact – in particular on Hartshorne Road and the Tollgate Island which is already defined as beyond capacity. It is doubted that 250 dwellings could be delivered before a severe cumulative residual impact could be expected. With the benefit of local knowledge, Councillor Taylor is confident that a significant proportion of the future residents would be travelling towards the A511 from their homes, with such assumptions based on the employment profiles of recent new residents. The flow of traffic towards Derby is much less than other options. From Woodville there is the potential to exit in 5 directions, and if split equally 80% of the traffic from the development would use Hartshorne Road without accessing Burton Road. It is concluded that development to the extent anticipated by the developer without the Burton Road access would be unacceptable, and therefore he objects to the application.

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

- a) this site is agricultural land and does not need to be redeveloped;
- b) occupation of dwelling prior to completing the road would create even more of an undue strain on existing roads, and ultimately increasing the risk of incidents;
- c) congestion at the proposed at Lincoln Way junction onto the A511;
- d) Manchester Lane is already a rat run;
- e) wherever and whenever you go into Swadlincote, there is congestion;
- f) sort the traffic, pot holes and congestion before this goes ahead;
- g) there could potentially be an extra 800+ cars on the roads;
- h) the proposed new road by the school would become a car park;
- i) traffic lights at the old junction to Lincoln Way would cause standing traffic and more pollution, and it would be the same at Woodville Road;
- j) there are current housing developments still in progress in the area which have already caused a great increase in strain on local services and traffic;
- k) whilst a large number of trees are to be felled, there appears to be very little proposed by way of compensatory planting;
- l) whether landscaping of redundant highway around Lincoln Way will take place;
- m) residents were told there would be a tree lined area at the back of Truro Close;
- n) loss of privacy;
- o) it would contribute to a significant deterioration of quality of life for existing residents
- p) potential disruption caused during the construction process with innumerable large and heavy vehicles;
- q) there is no mention of dust, fumes and noise suppression;
- r) the embankment should be filled and completed before any homes are occupied due to current drainage and erosion issues affecting existing dwellings ;
- s) subsidence of the fill affecting the new road and utilities;
- t) part of the railway embankment to the cutting was rebuilt in 1999 after a collapse in 1993, and works now could cause further damage to adjoining property;

- u) the effect of vibro-compaction on the structural condition of adjoining properties;
- v) no evidence of how a satisfactory drainage system could be installed to deal with water in the cutting;
- w) increase in off-site waterlogging/flooding;
- x) there are not enough amenities now;
- y) what provision for a GP and dentist is being made;
- z) will the schools be both primary and secondary education;
- aa) a boundary hedge that backs onto the site gets felled, so this would increase the risk of damage or injury to others (and liability for this);
- bb) increased risk of trespass on adjacent land to the detriment of animal welfare;

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), H4 (Land at Broomy Farm, Woodville), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport)
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development)

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide SPD
- Section 106 Agreements – Guidance for Developers.

## **Environmental Impact Assessment**

The proposal has been screened under Regulation 8 of the Environmental Impact Assessment (EIA) Regulations 2017 for up to 400 residential units. The proposal is considered to fall within paragraph 10(b) 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 site, since the grant of the existing outline permission, is a strategic allocation in the LP1. It is also now drawn within the settlement confines for the Swadlincote Urban Area (LP2 policy SDT1). With the principle of development established and the outline permission extant, the main focus is on the effect of the requested

variation to condition 19. Matters relating to the impact on local services and facilities, ecology, flood risk and amenity have all been previously considered acceptable, subject to conditions and/or obligations. However, it has been requested that all previous conditions and obligations, whilst to be carried forward, are adjusted so to consistently allow for phasing of the site (some presently do not and require all detail to be provided in advance), and that the obligations are similarly reviewed in this light.

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

- The effects of varying condition 19; and
- Adjustments to the section 106 agreement and other conditions

## Planning Assessment

### The effects of varying condition 19

Condition 19 states *“No development involving the creation of the Burton Road access, the filling of the Midway Tunnel and/or former railway cutting shall commence until a method statement for the filling of the Midway Tunnel and/or former railway cutting has been submitted to and approved in writing by the Local Planning Authority. The method statement shall include details of proposed drainage methods and measures to prevent surface and groundwater erosion of the fill, as well as any vibro-compaction methods. The filling works shall be carried out prior to first occupation of a dwelling”*.

The reason for the condition is given as being *“in the interests of land stability and to minimise the risk of subsidence to infrastructure”*. It is therefore important to recognise that this condition is not intended to mitigate the traffic impacts of the development on the wider network (although it does invariably lead to that mitigation being realised). Instead, the highway mitigation is secured by way of conditions 3 and 5:

3. *“...each application for reserved matters approval shall incorporate, in so far as relevant to that/those matter(s) and/or phase of development, the following specific detail/requirements...:  
...(e) a site wide Phasing Programme including details of the proposed sequence of development across the site, strategic drainage and SuDS infrastructure, the extent and location of individual development phases or sub-phases and the associated access arrangements, programme and methodology for infilling of the former railway cutting, and timescales for implementation thereof...” [emphasis added].*
5. *“The junctions to Woodville Road and Burton Road shall be constructed in accordance with the Phasing Programme referred to in condition 3 above...”*

There are two key points to draw from the above. Firstly, the condition is not one requested by the Highway Authority to mitigate the effect of the development on surrounding roads. With the continued existence of alternative conditions to control

the timing and overall delivery of the link road, the time to focus on the acceptability of a certain quantum of housing being occupied is when a relevant reserved matters application is considered. Accordingly there is no objection from the County Highway Authority, and this is a very important position to note. Secondly, even if varied, the condition would still require the submission of a methodology to outline how the tunnel and cutting would be filled, so to ensure appropriate provision for structural integrity of the eventual road, footways and utilities, and adjoining property; and for appropriate means of drainage and the approach to use of vibro-compaction methods. Coupled with conditions 7 (hours of construction), 8 (prohibition on burning of waste), 9 (prohibition on use of generators without prior approval), 11 (construction routeing), 14 (dust mitigation) and 15 (noise and vibration control); it is considered that the condition would remain wholly effective in minimising impacts during the works.

The NPPF and PPG set out policy and guidance on the use of conditions. Members will be familiar with the six tests which must be considered when applying each and every condition:

1. necessary (will it be appropriate to refuse planning permission without the requirements imposed by the condition?);
2. relevant to planning (does the condition relate to planning objectives and is it within the scope of the permission to which it is to be attached?);
3. to the development to be permitted (does the condition fairly and reasonably relate to the development to be permitted?);
4. enforceable (would it be practicably possible to enforce the condition?);
5. precise (is the condition written in a way that makes it clear to the applicant and others what must be done to comply with it?); and
6. reasonable in all other respects (is the condition reasonable?).

The PPG makes clear that *“conditions which place unjustifiable and disproportionate financial burdens on an applicant will fail the test of reasonableness”* [ID: 21a-005].

The requirement to submit and receive approval for the matters set out in the first parts of condition 19 is not considered to be unreasonable, and is certainly considered necessary and precise in ensuring that the works carried out result in a suitable solution to enable the construction of the road and its future use. However, it is recognised that requiring this and the carrying out and completion of the filling activities prior to any dwellings being occupied would place an unjustifiable and disproportionate financial burden on the applicant. As mentioned, this condition does not require the provision of the link road, nor the Burton Road access. Nowhere in its text does this feature such that there is no obligation under this condition to provide the final stage to the works as might be viewed by a third party – that is, the creation of the carriageway and footways.

It is also notable that much of the material to provide for the filling of the cutting would be won from the site itself, through creation of SuDS basins and creating plateaus for development parcels. Without some dwellings being constructed and occupied, the cost of ‘preparing’ the whole site in advance would represent a considerable financial burden – it not being ‘assisted’ by any revenue stream. This effect on cashflow in the early stages could threaten deliverability of the site, as well

as the prospects of securing a house-builder. Hence, it should be considered that a refusal of permission could not only jeopardise the timely delivery of this site, but it could consequently affect the Council's 5 year housing supply – it being notable that 2 developer 'flags' are presently likely with build rates likely lead to the majority of dwellings being provided within 5 years. Any alternative would also likely lead to a renegotiation of the Section 106 package for the site, so as to offset the additional early costs and reclaim 'lost ground' in cashflow terms – potentially reducing the provision of affordable housing further (it is already at 18%), along with the secured contributions towards schools, healthcare, built and sports facilities and the Regeneration Route. Members should be wholly cognisant of these implications.

Whilst the applicant seeks complete removal of the last sentence of the condition ("*the filling works shall be carried out prior to first occupation of a dwelling*"); it is considered to be more reasonable to link these filling works back to the approved phasing programme as required under condition 3, noting the emphasis included above. Accordingly, the varied condition is set out below.

#### Adjustments to the Section 106 agreement and other conditions

Further to varying condition 19, it is necessary to consider all other conditions under the above tests. An application to discharge conditions 10 (tree protection measures) and 17, in part (surface water drainage), has been approved. Those conditions will require updating to reflect this current status. It has also been requested by the potential developer that other conditions are reviewed to address a contention in many where details can be provided as part of a phase or sub-phase of the development, yet the approved details for the whole site must be approved before development can commence. This is clearly not the intention, given the scope under condition 3 for a phased delivery and thus the remaining conditions set out below have been adjusted accordingly.

The Section 106 agreement presently sets out the scope of contributions expected and requires these to be paid at various stages, based on percentage occupation of the site. These thresholds arose from the original viability work and the inputs provided for cashflow purposes. However, they no longer reflect the anticipated phasing of the site and could, in the event of two developers building out the development, result in an unequal share of these contributions (e.g. in the event of two developers constructing 200 dwellings (50%) each, thresholds of 33% and 66% occupation for the second and third education payments would allow scope for one developer to push the liability for the final payment solely to the other). To address this, it is intended to link the contribution amount to each particular phase (calculated with reference to the reserved matters for that phase) and it being paid in line with similar thresholds as before. This way, the developer can have certainty over their complete liabilities for contributions irrespective of how many other developers might be on the site, and the build stage at which those developers are at. Overall, the amounts previously secured remain consistent and the assessment made under the CIL regulations previously remains applicable to this proposal.

#### Conclusion

The variation of condition 19 seeks to allow the occupation of some dwellings without committing the developer(s) to the full costs of undertaking the filling of the tunnel and cutting prior to any dwellings being sold/occupied. Presently, this wording is prohibitive in allowing the development to proceed and is recognised to be contrary to the rules for using conditions as set out in the NPPF and PPG. In reaching the recommendation as set out above, Members should consider that the condition was not imposed on highway grounds, with its current wording still not reaching far enough to require the provision of the link road. That is the purpose of conditions 3 and 5, and the time to consider the timing of the link road is under a reserved matters decision. The need to facilitate the delivery of this allocation is important, and an increasingly urgent one so to support the Council's 5 year housing supply. Significant weight should be given to this point, noting the direction of travel in the emerging revised NPPF which places greater emphasis on measuring actual delivery of housing and the implications of failing to achieve the aims of Local Plans.

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 Deed of Variation to the Section 106 Agreement to secure amendments as set out in the report, along with any incidental changes required; and
- B.** Subject to B, **GRANT** permission subject to the following conditions:
  - 1. This permission is granted in outline under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015, and the further approval of the Local Planning Authority is required (before any development is commenced) with respect to the following reserved matters:
    - (a) appearance;
    - (b) landscaping;
    - (c) layout; and
    - (d) scale.

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

- 2. (a) Application for approval of the remaining reserved matters listed at condition 1 shall be made to the Local Planning Authority on or before 25 July 2021; 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 Sections 73 and 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: EMS.2383-009C) and Design and Access Statement, and each application for reserved matters approval shall incorporate, in so far as relevant to that/those matter(s) and/or phase of development, the following specific detail/requirements:
  - (a) undeveloped areas of green infrastructure adjacent to the watercourse and on the northern edge of the site, and that any specific works required with the potential to impact upon the watercourse and its banks be informed by an appropriate ecological survey which shall set out any required mitigation;
  - (b) except where to the rear of existing dwellings, retained hedgerows and trees shall, as far as practicable, not form boundaries to proposed dwellinghouses and be incorporated into public spaces/green infrastructure;
  - (c) at least one of the balancing ponds be designed to permanently hold water;
  - (d) a Landscape and Ecological Management Plan (LEMP) for all retained and created habitats outside of private areas, including grassland creation where feasible to mitigate for the loss of suitable habitat for ground nesting birds 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;
  - (e) a site wide Phasing Programme including details of the proposed sequence of development across the site, strategic drainage and SuDS infrastructure, the extent and location of individual development phases or sub-phases and the associated access arrangements, programme and methodology for infilling of the former railway cutting, and timescales for implementation thereof;
  - (f) a Framework Travel Plan, including Travel Plan targets (relating to each phase or sub-phase where relevant) comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car;
  - (g) detailed designs for the residential estate streets, accesses thereto and garaging, car parking and manoeuvring space;
  - (h) detailed design for the provision of bin stores within private land at the highway end of private shared accesses to prevent refuse bins and collection vehicles standing on the residential street for longer than necessary causing an obstruction or inconvenience for other road users;
  - (i) a scheme, including a programme for implementation, for the disposal of highway surface water;

- (j) details and specifications of improvements (to an adoptable standard of at least 2 metres width) of the existing footpaths within the site;
- (k) details of subterranean tree and hedgerow root protection/facilitation measures;
- (l) details of at least 8.1 hectares of woodland planting to be delivered on the site, inclusive of the blue land (as defined on the site location plan submitted with this application), including the mix of species, planting methodology, timetable for planting and maintenance arrangements thereafter; and
- (m) a landscaping buffer to the rear of existing residential properties on Woodville Road.

Reason: For the avoidance of doubt and in order to secure an appropriate detailed design which accords with best design principles under Building for Life criteria and Secured by Design, in the interest of highway safety and drainage, and in the interest of biodiversity conservation and enhancement.

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

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

5. The junctions to Woodville Road and Burton Road shall be constructed in accordance with the Phasing Programme referred to in condition 3 above and generally in accordance with the schemes shown on submitted plans ref: F11034/03D and F11034/51, but more specifically in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt the developer will need to enter into an Agreement under Section 278 of the Highways Act 1980 in order to comply with the requirements of this condition.

Reason: In the interests of highway safety.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any Statutory Instrument amending, revoking and/or replacing it; the garage accommodation/parking space provided pursuant to reserved matters approval shall not be used other than for the garaging and parking of vehicles except with the prior permission of the Local Planning Authority granted on an application made in that regard.

Reason: To ensure an appropriate level of parking provision is provided and thereafter maintained for the life of the development, in the interests of highway safety.

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

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

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

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

9. 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.

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

### Pre-commencement

10. No development of a phase or sub-phase shall commence until the tree and hedgerow protection measures for that phase or sub-phase, as set out in the Tree Protection Details (Arboricultural Method Statement) dated January 2018 with Figure 3 updated by way of plans ref. 5005-A-04 Rev A and 5005-A-05 Rev A (as approved under condition 10 of outline permission ref. 9/2014/0740) have been implemented in full. The protection measures in so far as relevant to that phase or sub-phase shall thereafter retained until a time where vehicles or mechanical equipment cannot interfere with such hedgerow or trees, or completion of the phase or sub-phase, whichever occurs first.

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

11. No development of a phase or sub-phase shall commence until a scheme has been submitted to and approved in writing by the Local Planning Authority for that phase or sub-phase indicating:
  - i) a construction traffic routing plan
  - ii) the proposed temporary means of construction access
  - iii) site accommodation
  - iv) storage of plant and materials
  - v) areas for parking and manoeuvring of site operatives' and visitors' vehicles
  - vi) loading, unloading and manoeuvring of goods vehicles
  - vii) hours of operation; and
  - viii) method of prevention of debris being carried onto the highway.

Before any other operations are commenced the scheme shall be fully implemented in accordance with the approved details in so far as relevant to that phase or sub-phase and be retained/followed as such throughout the construction period of that phase or sub-phase.

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

12. (a) No development of or other operations on a phase or sub-phase shall take place until a Written Scheme of Investigation (WSI) for archaeological work in

for that phase or sub-phase has been submitted to and approved in writing by the Local Planning Authority, and until any pre-start element of the approved WSI has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and

- i) the programme and methodology of site investigation and recording;
- ii) the programme for post investigation assessment;
- iii) provision to be made for analysis of the site investigation and recording;
- iv) provision to be made for publication and dissemination of the analysis and records of the site investigation;
- v) provision to be made for archive deposition of the analysis and records of the site investigation; and
- vi) nomination of a competent person or persons/organization to undertake the works set out within the WSI.

(b) No development within that phase or sub-phase shall take place other than in accordance with the archaeological WSI approved under (a).

(c) The development within that phase or sub-phase shall not be occupied until the site investigation and post investigation assessment for that phase or sub-phase has been completed in accordance with the programme set out in the archaeological WSI approved under (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

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

13. (a) No development of a phase or sub-phase shall commence until a scheme to identify and control any contamination of land, or pollution of controlled waters within that phase or sub-phase has been submitted to and approved in writing by the Local Planning Authority; and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of Section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the Local Planning Authority dispenses with any such requirement specifically and in writing.

(b) Prior to first occupation of the phase or sub-phase an independent verification report must be submitted, which meets the requirements given in Box 2 of Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

(c) In the event that it is proposed to import soil onto site in connection with the phase or sub-phase, this should be done to comply with the specifications given in Box 3 of Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

(d) If required by the conceptual site model, no development shall take place on the phase or sub-phase until monitoring on the site for the presence of ground gas and a subsequent risk assessment has been completed in accordance with a scheme to be first agreed in writing with the Local Planning

Authority, which meets the requirements given in Box 4, Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination on or off the site which might be brought to light by development of it, noting that initial ground works have the potential to open up a new pathway to a receptor or mobilise contaminated material around or off the site.

14. No development of a phase or sub-phase shall commence until a dust mitigation strategy for that phase or sub-phase has been submitted to and approved in writing by the Local Planning Authority. The strategy shall take into account national practice guidance and highlight details of the likely resultant dust levels from activities during the construction phase at the nearest residential premises as well as those dwellings which may be occupied as part of the development (or adjoining development), and set out measures to reduce the impact of dust on those residential premises. The approved strategy shall then be implemented throughout the course of construction of that phase or sub-phase.

Reason: To protect the amenities of occupiers of adjoining and proposed residential properties, noting that initial ground works could give rise to unacceptable impacts.

15. No development of a phase or sub-phase shall commence until a scheme of noise and vibration control for that phase or sub-phase has been submitted to and approved in writing by the Local Planning Authority. The scheme should consider construction phase noise and vibration arising from the development, and the mitigation measures recommended in the noise report reference 13/4262/R1-0 submitted by the applicant in support of the application. The approved scheme shall then be implemented throughout the course of construction of that phase or sub-phase.

Reason: To protect the amenities of occupiers of adjoining and proposed residential properties, noting that initial ground works could give rise to unacceptable impacts.

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

Reason: To ensure that the visual impact of the development is minimised as far as possible and to ensure acceptable impacts on adjoining residential property, recognising that site levels across the site as a whole are crucial to establishing infrastructure routing/positions (i.e. roads, drainage, SuDS, etc.).

17. No development of a phase or sub-phase shall commence until a detailed surface water drainage scheme for that phase or sub-phase, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and

approved in writing by the Local Planning Authority. The scheme shall account for the likely drainage requirements for the wider site as well as any committed drainage infrastructure approved under previous phases or sub-phases, so to ensure connectivity and adequate capacity across the wider system when completed. The scheme to be submitted shall also demonstrate:

- Surface water drainage system(s) designed in accordance with CIRIA C697 and C687 or the National SuDS Standards, should the latter be in force when the detailed design of the surface water drainage system is undertaken;
- Limiting the discharge rate generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm ideally to greenfield rates for the site but as a minimum so that it will not exceed the run-off from the undeveloped site and will not increase the risk of flooding off-site;
- Detailed design (plans, levels/cross sections, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods;
- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

The surface water drainage system must deal with the surface water run-off from the site up to the critical 1% Annual Probability of Flooding (or 1 in a 100-year flood) event, including an allowance for climate change (i.e. for the lifetime of the development). Drainage calculations must be included to demonstrate this (e.g. MicroDrainage or similar sewer modelling package calculations which include the necessary attenuation volume). The approved scheme shall subsequently be implemented in accordance with the approved details and in accordance with a timetable first submitted for approval in writing by the Local Planning Authority prior to phase or sub-phase commencing.

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

18. No development involving works to or within the vicinity of the watercourse shall take place until such time as a scheme to demonstrate compensatory provision is made for any changes to the watercourse has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall ensure that the overall linear length of open watercourse is replicated, fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme.

Reason: To ensure the Water Framework Directive status of the watercourse does not deteriorate.

19. No development involving the creation of the Burton Road access, the filling of the Midway Tunnel and/or former railway cutting shall commence until a method statement for the filling of the Midway Tunnel and/or former railway cutting has been submitted to and approved in writing by the Local Planning Authority. The method statement shall include details of proposed drainage methods and measures to prevent surface and groundwater erosion of the fill, as well as any vibro-compaction methods. The filling works shall be carried out in accordance with the Phasing Programme approved pursuant to condition 3.

Reason: In the interests of land stability and to minimise the risk of subsidence to infrastructure.

20. No development on a phase or sub-phase involving the construction of a road or a dwelling shall commence until details of a scheme for the disposal of foul water from that phase or sub-phase has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the phase or sub-phase is first occupied.

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

21. No development on a phase or sub-phase involving the construction of a street until details of the proposed arrangements for future management and maintenance of the proposed street(s) (within the phase or sub-phase where relevant) have been submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and maintenance company has been established.

Reason: In the interests of highway safety and long term maintenance.

#### Other

22. If during development of a phase or sub-phase any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant/developer 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 2A and appropriate remediation proposals, and shall be submitted to the Local Planning Authority without delay. The approved remediation scheme shall be implemented to the satisfaction of the Local Planning Authority.

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 its development.

23. All planting, seeding or turfing comprised in the approved details of landscaping for that phase or sub-phase shall be carried out in the first planting and seeding seasons following the first occupation of the dwellings on that phase or sub-phase or the completion of the phase or sub-phase, whichever is the sooner, or in accordance with an approved timetable pursuant to a reserved matters submission and/or conditions attached thereto;

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. The publically landscaped areas shall be maintained as such until these areas are transferred to the Local Authority or nominated maintenance company whilst any footpaths created or safeguarded within those spaces shall be kept free of obstruction.

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

Informatives:

- a. This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990 (see outline permission ref. 9/2014/0740, as supplemented by a deed of variation under this permission).
- b. The Environment Agency does not consider oversized pipes or box culverts as sustainable drainage. Should infiltration not be feasible at the site, alternative sustainable drainage should be used, with a preference for above ground solutions.
- c. For further assistance in complying with planning conditions and other legal requirements applicants should consult 'Developing Land within Derbyshire – Guidance on submitting applications for land that may be contaminated'. This document has been produced by local authorities in Derbyshire to assist developers, and is available from [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk). Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the Environmental Protection Officer (contaminated land) in the Environmental Health Department.

Further guidance can be obtained from the following:

- 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.
- d. Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Economy, Transport and Environment Department at County Hall, Matlock. The applicant is advised to allow at least 12 weeks in any programme of works to obtain a Section 278 Agreement

- e. Pursuant to Section 38 of the Highways Act 1980, and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Economy, Transport and Environment Department at County Hall, Matlock.
- f. The application site is affected by Public Rights of Way (as shown on the Derbyshire Definitive Map). These route must remain unobstructed on their legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further information can be obtained from the Rights of Way Duty Officer in the Economy, Transport and Environment Department at County Hall, Matlock. You are also advised:
- the granting of planning permission is not consent to divert or obstruct a public right of way; and
  - 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 08456 058 058 for further information and an application form.
- g. The Crime Prevention Design Adviser advises that in submitting details under a reserved matters application, that (1) all exposed housing elevations are well treated to allow a view between interiors and external space; (2) where housing is set in blocks of more than two properties rear garden access should originate within the view of associated houses either by using gated undercroft alleyways, through plot access where practical, or by breaking up housing blocks into two or less; (3) that enclosed parking courtyards would be best gated or overlooked; and that (4) the open aspects of the footpath route and proposed links are not compromised by any landscaping sited between footpath and the development.
- h. The National Forest Company advocates the creation of a National Forest character throughout the scheme at reserved matters stage, including the use of retained trees and hedgerows as features, the creation of tree lined roads, significant amounts of specimen tree planting within areas of open space and the design of balancing ponds as ecological features.
- i. You are advised, as part of the application for approval of reserved matters, to provide details of the following (so to avoid the need for additional conditions at a later stage):
- facing materials, eaves and verge details, and cill and lintel details;
  - surfacing materials; and
  - boundary treatments (including materials thereof).
- j. New housing should be designed to addresses safety and the needs of vulnerable people. Domestic sprinkler systems are exceptionally effective through their ability to control a fire and help prevent loss of life. As a minimum, new residential development should incorporate a 32mm mains water riser which will enable the installation of domestic sprinkler systems, and ideally should incorporate the sprinkler systems themselves. The cost of

installing a 32mm mains water riser is approximately £26 per dwelling and the cost of a domestic sprinkler system is approximately £1500. Derbyshire Fire and Rescue Service can advise further on such provisions.

- k. 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.
- l. 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.

10/04/2018

**Item**            **1.3**

**Ref. No.**        **9/2017/0730/MAR**

**Applicant:**  
**Mr Paul Burton**  
**Hallam Land Management**  
**Banner Cross Hall**  
**Ecclesall Road South**  
**Sheffield**  
**S119PD**

**Agent:**  
**Mrs Michelle Galloway**  
**Pegasus Group**  
**4 The Courtyard**  
**Church Street**  
**Lockington**  
**Derby**  
**DE74 2SL**

**Proposal:**    **APPROVAL OF RESERVED MATTERS (IN SO FAR AS LAYOUT & APPEARANCE FOR THE SPINE ROAD FOR THE WHOLE SITE AND LAYOUT & LANDSCAPING OF PUBLIC OPEN SPACE AREAS FOR PHASE 1 ONLY) PURSUANT TO PLANNING PERMISSION REF: 9/2014/0740 ON BROOMY FARM WOODVILLE ROAD HARTSHORNE SWADLINCOTE**

**Ward:**         **WOODVILLE**

**Valid Date**    **19/07/2017**

**Reason for committee determination**

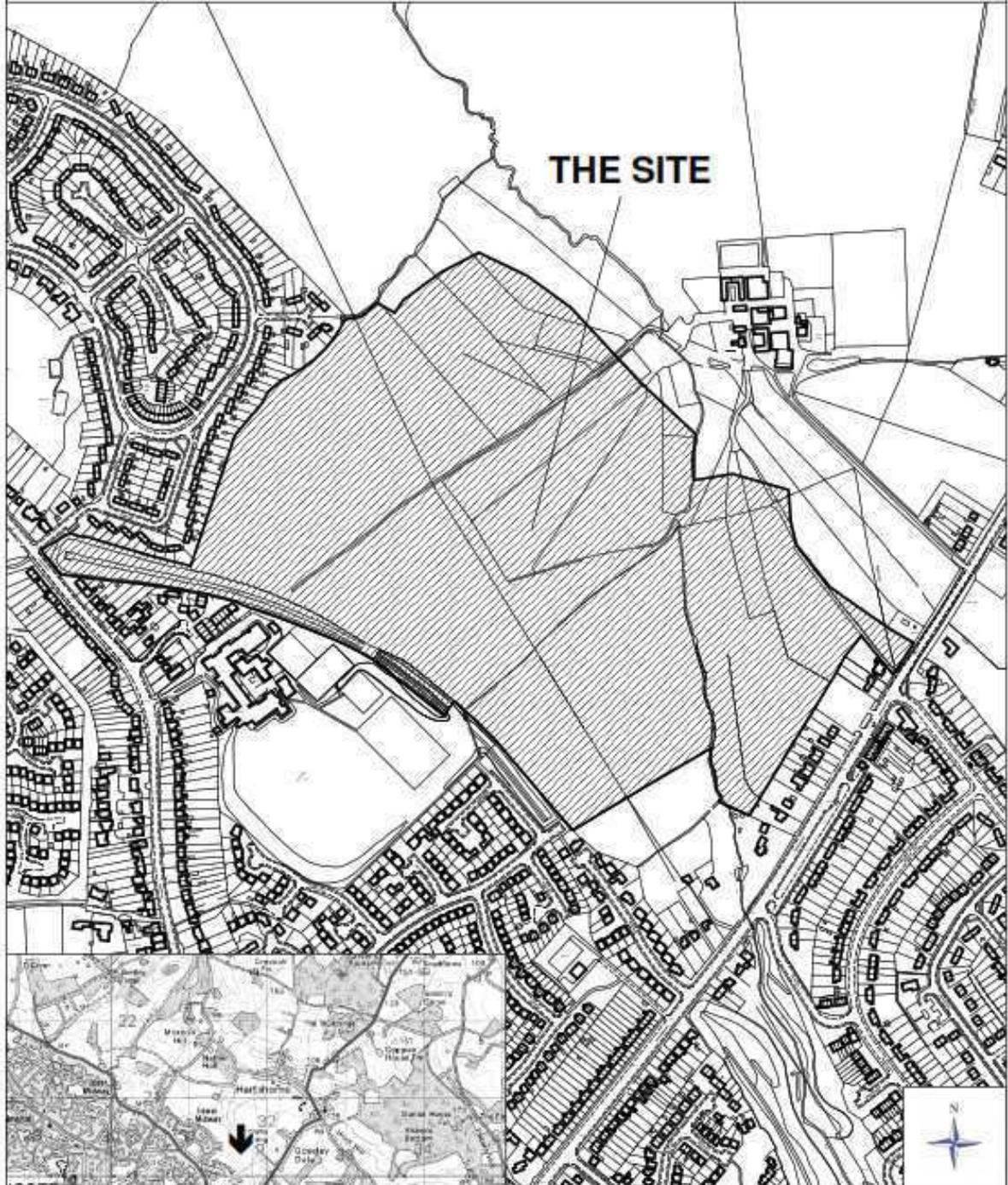
The item is presented to Committee at the discretion of the Planning Services Manager.

**Site Description**

The site comprises some 27.5 hectares of agricultural land on the northern edge of Swadlincote, to the west of the A514 Hartshorne Road/Woodville Road and Goseley Estate, beyond existing housing along the A511 Burton Road, Granville Academy and housing off Sorrell Drive to the south, and to the east of housing on Lincoln Way/Salisbury Drive. The southern boundary is defined by a disused railway cutting (leading to the Midway tunnel) and embankment, whilst Broomy Farm itself and associated buildings lie to the north of the site boundary.

The site comprises pasture grassland and arable fields crossed by a number of public rights of way (PRoW). Hedgerows and fences represent field boundaries within the site and along its boundaries with several trees within the site and along these boundaries. Those trees along the line of the former railway line are protected by a Tree Preservation Order (TPO), although under provisions of the existing outline conditions some of these have been felled in preparation to commence

9/2017/0730 - Land at Broomy Farm, Woodville Road, Hartshorne,  
Swadlincote DE11 7EY



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works. The land slopes from south to north, falling some 27m from the highest to lowest points. There are a series of drainage ditches and small watercourses crossing the site at the low points.

## **Proposal**

Members will recall granting outline permission for the development of the site at the meeting on 27 October 2015. This application represents the first application for approval of reserved matters, related to the provision of the link road through the site along with strategic green infrastructure and associated sustainable drainage (SuDS).

The link road would comprise of a 7m wide carriageway with a standard 2m wide footway to the northern side, and a 3m wide shared footway and cycleway to the southern side – facilitating a strategic cycle link through the site from end to end. 2m wide verges would be provided between the carriageway and footways/cycleway for avenue tree planting, in line with the design vision at the outline stage. The exception to this would be along the cutting where tree planting would be placed behind the footway and cycleway, which would sit adjacent to the carriageway along this section. Where existing public rights of way (PRoWs) cross this route, crossing points would be provided; whilst a number of priority T-junctions would be provided along its route to facilitate access to the residential development parcels. The Woodville Road and Burton Road junctions would be provided in line with the approved layouts under condition 5 of the outline permission.

A number of green corridors would be provided across the site, in line with the outline masterplan, although this application only seeks to detail some of these, along with the position of SuDS within some – comprising a mixture of permanently wet and seasonally dry detention basins, swales and open watercourses (the latter pre-existing). National Forest tree planting would be focussed on this green infrastructure which would percolate up to the edges of the spine road and provide connectivity towards the woodland block planting to the northern edge of the site, over rolled hoggin footpaths.

The wider site is to be delivered in two broader phases – 1 and 2. Phase 1 is covered by this application in so far as the link road and green infrastructure only. Phase 2 is covered in so far as the link road only. The remaining parts of the site, across both phases, remain subject to future reserved matters applications and are therefore not part of the following assessment.

## **Applicant's supporting information**

A Transport Technical Note (TTN) notes that condition 3 of the existing outline permission requires a site wide Phasing Programme to be implemented, while condition 5 requires the Woodville Road and Burton Road junctions to be constructed in accordance with this Phasing Programme. The applicant would prefer to construct the Woodville Road access first, then build-out a significant section of the spine road and associated residential development, before delivering the Burton Road junction and the final section of spine road towards the end of the phasing programme for the site; the key factor being the cost associated with filling in the

railway cutting – a process that would need to be undertaken before the Burton Road junction could be constructed.

The Transport Assessment supporting the existing outline permission only considered the impact of the fully developed site, with both access junctions in place. The TTN therefore considers the implications of a single point of access onto Woodville Road, and more specifically to provide guidance on how many dwellings could realistically be served from this single access point before the need for the Burton Road junction. The TTN assumes that the Regeneration Route would not be delivered prior to completion of the proposed 400-dwelling development, and does not examine any Regeneration Route influenced traffic flow scenarios.

The TTN establishes that the Woodville Road access itself would not be subject to capacity limitations if required to serve 400 dwellings, it being suitably designed to accommodate such a quantum with 'headroom'. The main constraint on local highway network capacity is the Clock Island, which is known to operate at capacity at present, and is forecast to operate significantly over capacity by 2026 (irrespective of the consented development). It is argued that, under such a situation it is difficult to establish at what point the lack of a Burton Road site access could cause a severe cumulative impact on the highway network. It is also noted that paragraph 32 of the NPPF indicates that developments should only be refused where there would be a severe residual cumulative impact. As such, any short-term impacts arising from dwellings being constructed before the Burton Road access are arguably not an immediate trigger for delivery of that access. Notwithstanding the above, having considered capacity models for the Clock Island (with varying levels of development in place), it is considered that it would be reasonable for occupation of 250 dwellings to trigger delivery of the Burton Road site access. It is further considered that the local highway authority should be able to give their 'in-principle' support for such a trigger point.

A Phasing Technical Note (PTN) provides a revised phasing scheme and plan to that originally submitted with the application. This sets out the following phasing timeline:

- Phase 1a: On completion of the 100<sup>th</sup> residential unit, the railway tunnel and cutting are to have been filled. The Woodville Road access and link road through this sub-phase would have also been completed;
- Phase 1b: On completion of the 200<sup>th</sup> residential unit, the link road junction with Burton Road is to have been constructed, along with the link road along the length of the cutting and a section of the western end of the link road within phase 2 to serve 50 units on phase 2a;
- Phase 2a: On completion of the 250<sup>th</sup> residential unit, the entire link road would have been completed allowing all traffic generated and surrounding flows to use the route through the site;
- Phase 2b: The balance of the site would be developed.

It is considered that by conforming to the phasing strategy outlined in the PTN, the works would be carried out to an agreeable timescale. It is highlighted that utilising site-won material generated by the initial phases of development, as opposed to importing fill from off-site, would provide a more sustainable means of filling the railway cutting. It is also noted that the earthworks volumes are based upon a

preliminary levelling design and it may be possible that more arisings are generated so that the cutting may be filled sooner.

A Drainage Strategy notes most of the site is presently greenfield. Sewer records indicate a network of public foul and combined sewers crossing the site, meeting at a point within the site and then heading north-west. It is likely that some of these sewers will need to be diverted via agreement with Severn Trent Water to facilitate the proposed development. Severn Trent Water stated that an assessment would be required to establish whether the sewer network had the capacity to accept foul flows from the proposed 400 dwellings (overall site). This work has been completed and Severn Trent Water has confirmed that network capacity improvements are not required. However, the capacity assessment does indicate that the Milton Sewage Treatment Works does not currently have capacity to accommodate the flows, although Severn Trent Water has confirmed that capacity will be made available as and when necessary. As part of the link road construction, foul networks that provide connections through the site to serve the development parcels have been considered, with the intention that they will outfall into the network of existing combined water sewers.

In terms of surface water, there are a series of drainage ditches and small watercourses crossing the site roughly producing four drainage areas. The fields drain via a combination of infiltration, run off into the drainage ditches/watercourses and evapotranspiration. Site investigation works have found the ground to consist of clay and mudstone over coal formation. Due to these conditions it is unlikely that infiltration would be a feasible method of surface water disposal in itself. Therefore, it is proposed development to dispose of surface water via discharge to watercourses. It is proposed that a surface water disposal network for the site be designed utilising SuDS features such as tanked permeable paved driveways and roads (where these are to remain private), swales and filter drains, etc. where possible. The proposed layout should give consideration to providing swales along the side of roads and/or providing swale corridors where feasible. Although swales have a very limited impact on the distribution of surface water, they contribute to the improvement of water quality. Surface water discharge would be restricted to existing greenfield run off rates. Surface water over and above that would need attenuating such that four surface water detention basins, located within the areas allocated as Public Open Space (POS) are proposed.

A Hydraulic Modelling (Culvert Design) Report supports the design of three culverts within the wider site. The model was run for the existing and post-development conditions during the 20-year, 100-year, 100-year plus climate change and 1000-year flood events. In line with standard highway design requirements, the effect of the climate change was modelled as a 20% increase in peak flow, although climate change allowances of 30% and 50% were also tested in line with the latest Environment Agency's guidance. Hydraulic modelling results show that the capacity of the existing brick culvert at the upstream end of the western ditch is exceeded during the 1,000-year flood event. For events up to and including the 100-year with (30%) climate change event, fluvial flows remain in-bank. During the post-development scenario, the new culverts would be designed to accommodate the 100-year plus 20% flows. As a result, the culverts located along the eastern and western ditches would be able to accommodate the 1,000-year flow without

surcharging. In conclusion, the proposed culverts and culvert removals would reduce flood risk within the site boundary without increasing flood risk off-site.

An Ecological Appraisal Update identifies two areas where conditions have changed sufficiently since the original appraisal was undertaken, to warrant additional survey work or mitigation to that originally recommended. It is noted that badgers have moved and whilst their habitat is sufficiently distant from the proposed development for there to not be an impact, this situation should be reassessed by way of a badger survey immediately prior to the commencement of works. In addition, the original appraisal did not include an assessment of compliance with the Water Framework Directive (WFD). The updated assessment has concluded that specific mitigation will need to be in place to ensure that development of the proposed road is compliant with the WFD, with this set out as mitigation. The assessment has also highlighted potential impacts that could result upon Repton Brook, such that it has identified the required mitigation to address these impacts. It is considered that the requirements of outline planning condition 3(a) have been met.

A Landscape and Ecological Management Plan (LEMP) accompanies the application, setting out the management and the maintenance regimes for the public open space, including the structural landscape areas to primary highways, the linear green routes for pedestrian and cycle use, open space associated with the children's play area, the existing riparian corridors and proposed attenuation areas, existing retained field boundary trees and hedgerows, and the areas of proposed National Forest planting, within the site and in the area to be known as Jessie's Wood. The procedures set out in this management plan are based on an initial five-year period, to enable the establishment of the landscape elements. In the long term, these procedures should be utilised and adjusted (where appropriate) to help provide ongoing maintenance methods, that would serve to protect and enhance the landscape for years to come. The management procedures would also be monitored in terms of their success in delivering the 'desired status' within the various landscape and ecological management areas, and if necessary alternative measures adopted/considered as part of an annual review of the LEMP.

## **Planning History**

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

## **Responses to Consultations**

The County Highway Authority initially confirmed that the layout of the link road was considered to be acceptable although it may in the future need to be modified to accommodate the development it will serve either side. However, serious concerns were raised regarding the proposed phasing of development and the likelihood of the link being completed in a timely manner, and the resulting negative impact on the highway network which would result. It notes the PTN provided and the phasing programme therein.

The Highway Authority maintains that the development of the land at Broomy Farm was only deemed acceptable in highway terms on the basis that the link road would help to alleviate the congestion at the Clock Island and failure to provide the link at an early stage would only exacerbate the situation. However, it is acknowledged that the tunnel and cutting will take time to fill and that the use of on-site material generated by the initial stage of development would reduce the number of HGV movements generated relative to importing material. The inclusion of the construction of the Burton Road junction in Phase 1 provides an element of reassurance that the link would be delivered. Hence, whilst the proposed phasing is not ideal, the Highway Authority considers that an objection would be difficult to sustain providing that the road is delivered in accordance with the Phasing Programme as laid out, and subject to conditions.

The Lead Local Flood Authority (LLFA) notes that the drainage strategy is to discharge surface water through the combined use of detention basins and swales, before discharging into the watercourse – consistent with the principles of the outline application and considered acceptable. The LLFA does have some comments, noting that at the detailed design stage they will require further details on the impermeable area of the development and a breakdown of the area that each feature serves; that swales are provided with a sufficient buffer strip to allow for efficient maintenance (recommend easement of approx. 3m, increasing to 4.5m for swales over 2m in width); how the SuDS shall be maintained and managed after completion and for the lifetime of the development; and that the use of a 10% allowance for urban creep should be included within calculations as per current technical guidance.

The National Forest Company (NFC) initially raised concerns but the majority of those have been addressed by way of amendments. There remain a few points that require further clarification including whether highway verge planting would be in the verge or in the front gardens to dwellings, since a development of this scale should have a tree lined verge and positioning trees within front gardens would not achieve an avenue appearance with regular spacing – particularly when considering driveway positions and longevity of the trees being at the whim of the homeowner; whether the PRoWs are to be accommodated in tree-lined corridors through the development so to encourage use; and there should be use of a broader range of standard tree species.

Derbyshire Wildlife Trust (DWT) advises that the details submitted are broadly in accordance with the illustrative masterplan and the requirements of condition 3 of the outline permission. They welcome the strong green infrastructure provision of a mixture of habitats including woodland, grassland, hedgerows, running water, standing water and shrub planting. Pursuant to the requirements of condition 3, an Ecological Appraisal Update has been submitted which presents the results of an updated ecology survey. The update includes a specific survey of the Repton Brook given that it would be crossed by the proposed access road, and it is advised that the series of measures outlined would adequately mitigate the impacts resulting from the culverting a short section to accommodate the road crossing. In addition, the loss of the pond within the old railway cutting would be adequately compensated for by the creation of attenuation ponds within the scheme, which addresses part (c) of

condition 3. Overall, the updated Ecological Appraisal meets the requirement of part (a) of condition 3. The details provided in the LEMP are also acceptable for the purposes of part (d) of condition 3.

Peak and Northern Footpaths notes that the existing PRowWs are to be retained on their legal lines running through green corridors largely separate from the new estate roads. This is welcome. However, it seems that both Hartshorne footpaths 13 and 14 would cross the road at an angle. A better arrangement would be to legally divert short sections of the paths so that they use the same proposed crossing at right angles to the road. This crossing and that of Woodville footpath 3 should be delineated from the road surface so that drivers are aware of the need for caution. The footbridge where Hartshorne FP 15 crosses the stream should be improved as necessary, and the existing PRowWs should also be provided with a durable surface and be at least 2 metres wide, and 3-4 metres wide if they are to be used by cyclists. Such cycling use could be permissive or they could be legally upgraded to cycle tracks. It also seems from the planting proposals that new fences might be installed across the footpaths. Gaps should be left where these routes pass through the fences, or, if necessary for the safety of the users of the paths, pedestrian gates may be installed with the authority of the County Council. Any deviation, even very slight, from the legal line of the PRowWs must be legally authorised by means of a diversion order.

## **Responses to Publicity**

Woodville Parish Council objects to this application, stating it is imperative that the Burton Road access is completed prior to any development since the Clock Island does not have capacity to cope with any increase.

Hartshorne Parish Council initially objected noting that the link road should be calmed by introducing give way junctions similar to the Hay Wain Lane/Springwood Farm Road junction at Upper Midway where Springwood Farm Road ends in a cul-de-sac. It is also opined that where PRowWs would not run through landscaped areas, it would be advisable to follow the new estate roads as opposed to being to the rear of new housing which can be intimidating to users, cause anti-social behaviour problems and have maintenance implications. It was also commented that it is not clear if a safe route is provided to Eureka School while the latter stages of the development take place. The Parish Council also supports the detailed submission of one of the objectors. Following reconsultation on amendments, the Parish Council reported no objections, with the proposed landscaping of the site acceptable. However, it is not clear if their initial comments were overcome.

Three objections and/or representations have been received, raising the following concerns/points:

- a) a landscaping buffer was to be included to the rear of the properties along Woodville Road under condition 3(m) of the outline permission (and shown on the illustrative masterplan), and this is (in part) missing under the proposals;
- b) the existing landscaping shown is outside of the site and therefore should not be considered as part of the proposals, as the applicants have no control over these trees/hedges; and

- c) part of the railway embankment to the cutting was rebuilt in 1999 after a collapse in 1993, and works now could cause further damage to adjoining property.

## Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), H4 (Land at Broomy Farm, Woodville), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity), INF2 (Sustainable Transport), INF7 (Green Infrastructure), INF8 (The National Forest) and INF9 (Open Space, Sport and Recreation).
- 2017 Local Plan Part 2 (LP2): BNE7 (Trees, Woodland and Hedgerows).

## National Guidance

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

## Local Guidance

- South Derbyshire Design Guide SPD

## Planning Considerations

The site is within the settlement confines for the Swadlincote Urban Area and part of a strategic allocation in the LP1 allowing for up to 400 dwellings and a drop off/pick up point for Granville Academy. The outline permission 'fixed' the access points to Burton Road and Woodville Road such that the layout and appearance consideration of the link road relates to its route between these two points only; whilst the layout and landscaping for the open space and SuDS relates to just the first phase (the south-eastern 'half' of the site). Consideration of housing design and layout, layout and appearance of estate streets, location and design of play areas and the layout and appearance of the drop off/pick up point are not matters relevant to this application, and would be handled under subsequent reserved matters submissions.

The outline permission requires the submission of certain details alongside each reserved matters submission (in so far as relevant to that submission), including:

- (a) *“undeveloped areas of green infrastructure adjacent to the watercourse and on the northern edge of the site, and that any specific works required with the potential to impact upon the watercourse and its banks be informed by an appropriate ecological survey which shall set out any required mitigation;*
- (b) *except where to the rear of existing dwellings, retained hedgerows and trees shall, as far as practicable, not form boundaries to proposed dwelling houses and be incorporated into public spaces/green infrastructure;*

- (c) *at least one of the balancing ponds be designed to permanently hold water;*
- (d) *a Landscape and Ecological Management Plan (LEMP) for all retained and created habitats outside of private areas, including grassland creation where feasible to mitigate for the loss of suitable habitat for ground nesting birds 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;*
- (e) *a site wide Phasing Programme including details of the proposed sequence of development across the site, strategic drainage and SuDS infrastructure, the extent and location of individual development phases or sub-phases and the associated access arrangements, programme and methodology for infilling of the former railway cutting, and timescales for implementation thereof...;*
- (i) *a scheme, including a programme for implementation, for the disposal of highway surface water...;*
- (j) *details specifications of improvements (to an adoptable standard of at least 2 metres width) of the existing footpaths within the site;*
- (k) *details of subterranean tree and hedgerow root protection/facilitation measures;*
- (l) *details of at least 8.1 hectares of woodland planting to be delivered on the site inclusive of the blue land (as defined on the site location plan submitted with this application), including the mix of species, planting methodology, timetable for planting and maintenance arrangements thereafter; and*
- (m) *a landscaping buffer to the rear of existing residential properties on Woodville Road”.*

Policy H4 also requires:

- i) *“A significant green buffer and landscaping on the north east boundary of the site... linking into the surrounding green infrastructure;*
- ii) *The provision of a road from the A514 to the A511 through the site, to help mitigate the development’s impact on the surrounding road network .... The road link will need to be designed appropriately to avoid the use of the road as a ‘rat-run’;*
- iii) *High quality pedestrian and cycle links shall be provided within the site and connecting to existing and proposed networks...;*
- vi) *...The hedgerow along the watercourse shall be retained where practicable and a significant buffer to the southern edge of the site shall be provided to help reduce the housing development landscape and visual amenity impacts from viewpoints to the south...”.*

With the principle of development established, matters relating to the impact on local services and facilities, ground conditions, ecology and flood risk have all been previously considered acceptable, subject to conditions and/or obligations. The focus under this application is primarily on the reserved matters applied for, but also as to whether the specifics required under condition 3 of the outline permission are also satisfactory at this stage.

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

- The layout and appearance of the link road;
- The layout and landscaping of the green infrastructure; and

- The proposed phasing of the development.

## **Planning Assessment**

### The layout and appearance of the link road

The geometry of the link road provides a route which ‘snakes’ through the wider site and links its two accesses at either end. This routing creates some long, sweeping bends which coupled with housing development either side, junctions, changes in surfacing and pedestrian crossing points would reduce vehicle speeds through design – as advocated by policies BNE1 and INF2, and the SPD. This route follows the line of a sewer easement across much of the south-eastern part of the wider site, which inevitably limits the scope for achieving the envisaged tree avenue to one of the two verges along this section. However, alternative positions of the road have been considered at some length – as well as whether an additional verge to the rear of the footway could accommodate the planting; but these either compromise the scope for tree planting to the opposite verge or compromise the depth of the development ‘blocks’ to a degree which would make a satisfactory housing layout impractical (and potentially compromise overall housing numbers). Hence, the alignment overall is considered to be the most appropriate.

The Greenway Strategy for South Derbyshire, published by Derbyshire County Council in 2006, identifies a proposal for a route around the north-eastern edge of Woodville, connecting the A511 at Station Road to the A511 at Lincoln Way, continuing from there into the Swadlincote Woodlands site. The alignment shown therein is purely indicative and is subject to feasibility and other potential constraints. Policy H4 draws upon this and seeks high quality pedestrian and cycle links within the site, connecting to existing and proposed networks. The development provides the opportunity to realise the proposed greenway connection, in part, with the route continuing beyond the Woodville Road end along the relatively quiet Goseley Estate, eventually linking to Station Road and the A511. The illustrative masterplan approved under the outline permission indicates the provision of multiple shared footpath and cycle routes, but does not commit to greater specific detail. Whilst much of that would be considered as part of the later reserved matters applications for phase 2 of the site and the housing parcels on phase 1, the link road offers a primary route to realise the aspirations of the policy and Greenway Strategy. To this end, the applicant has amended the design of the road to provide a 3m wide cycleway along its length, as well as scope for further ‘limbs’ leaving this route and passing through the wider site. This route would be metalled and lit. There is also scope for the existing footpath network to be upgraded to provide for similar use; however, this would only provide (in so far as the scope of this reserved matters) a loop around part of phase 1 which is no more preferable for cyclists than the route along the link road. There is also no guarantee that consent would be given by the County Council for altering the status of this route to allow for cyclists. With this in mind, it is not considered proportionate to secure this extra route.

Whilst there would be elements of the road delivered with alternative surfacing materials, the points at which the footpaths cross (in so far as phase 1) are not delineated other than for dropped kerb pedestrian crossings. It would be advantageous, in line with the comments of Peak and Northern Footpaths, to have

these delineated by at least a change in carriageway and cycleway surfaces, so to raise awareness to those users of a pedestrian route across an otherwise vehicular domain. This can be appropriately conditioned. Hence, with no objection to the physical layout of the road from the County Highway Authority, and its approval being required under the Highways Act for adoption of it in any case, there is no concern in respect of this element of the wider site and the relevant reserved matters applied for.

### The layout and landscaping of the green infrastructure

The Repton Brook corridor provides a physical constraint and opportunity to the layout of the site, and the creation of green infrastructure. To this end, amendments have secured a pedestrian route along its course, catering for a desire line in part and also facilitating pedestrian connectivity to land to the south, should that come forward for development at any point in the future (it being within the settlement confines). However, this route fails to support the aspirations of condition 3(j) in that, although not an existing footpath, it should be promoted as part of the wider network to be provided within the site. Again, this can be secured by way of condition which can also address a minor inconsistency between the landscape plans and road layout (the width of the cycleway).

The Ecological Update, Drainage Strategy and Hydraulic Modelling report all provide reasonable confidence that the layout would satisfy biodiversity and drainage matters considered in principle at outline, pursuant to various elements of outline condition 3. There is a need to secure the upgrading of the footbridge across the Repton Brook given it would serve greater pedestrian traffic going forward, but a condition can address this finer detail. The proposed landscaping plan provides for a positive scheme of woodland planting within the green infrastructure, and it would certainly be beneficial to see this planted as soon as drainage and levelling works are complete, so to facilitate early establishment of these areas. Similarly so, an early delivery of the woodland block to the northern edge of the site and the buffer to residential properties on Woodville Road would also be an advantage.

### The proposed phasing of the development

A key focus of this application is the phasing programme required under condition 3(e). The TTN and PTN set out the applicant's case which leads to the phasing programme under the PTN. Members should be conscious of policy INF2 which states *"planning permission will be granted for development where... travel generated by development... should have no undue detrimental impact upon... the efficiency of transport infrastructure and the efficiency and availability of public transport services..."* whilst paragraph 32 of the NPPF states *"development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe"*. The bar is thus set very high for a refusal to flow from a view that the proposal would result in severe congestion impacts. The concerns of the County Highway Authority in respect of further loading of the Clock Island are duly noted, but it must be recognised that it does not object to the latest version of this phasing programme. This is a very important starting point.

The PTN provides for a phasing programme which would seek the link road provided in stages. The first stage of the road, including the Woodville Road access, would facilitate the first 100 dwellings (phase 1a). At the same time, the Midway tunnel and cutting would be filled with arisings from creation of drainage infrastructure to serve the wider site. The cutting would be filled to road formation level. This would invariably result in an increase in loading of the Hartshorne Road arm of the Clock Island, although it must be noted that the model split in the original Transport Assessment under the outline application suggests a reasonable level of traffic heading north towards Derby, this having no effect on the Island. The TTN models the 100 dwelling scenario with the Hartshorne Road arm reporting a 6% increase in the AM peak hour, and 3% in the PM peak. These impacts are broadly comparable to the baseline scenarios for 2026 (for the Island without the introduction of Broomy Farm traffic (i.e. business as usual) and with the site fully delivered, with link road). In essence, it results in an impact which is likely to occur in any event in the future.

The next phase would see the next stage of the road within phase 1 provided, as well as the first part of the link road along the cutting and into phase 2, along with the Burton Road junction. These works would occur concurrently with the provision of the next 100 dwellings on phase 1b. Hence whilst up to 200 dwellings could then exist off the Woodville Road access, no further dwellings could be provided given the position of phase 2a (adjacent to Lincoln Way and Salisbury Drive, Midway) and the requirement to complete the two 'ends' of the link road under that next phase. The TTN models the 200 dwelling scenario as a consequence. This sees a 16% increase in the AM peak hour, and 7% in the PM peak on the Hartshorne Road arm of the Clock Island. The PM peak remains broadly comparable to the baseline scenarios, but the AM peak would be noticeably different. Nonetheless, this is clearly not considered to constitute a severe impact given the response of the Highway Authority. It is perhaps worth noting at this point that this would be the 'peak' of impacts attributable to traffic generated by the Broomy Farm site. Thereafter, the phasing from the opposite end of the site and completion of the link road through it would redress the balance and see previous increases on the Clock Island reversed. This is an important point to note – that the impacts would thus be temporary, before the final solution can be feasibly realised. It would also be a relatively short-lived impact given the likely build-out rate envisaged.

There are further points to consider. Firstly, a phasing programme which required the filling of the tunnel and cutting, creation of the two access points and the link road through the site all in advance of any dwellings being constructed could have profound impacts on the viability of the site. The developer would be required to invest substantial sums in delivering this infrastructure without seeing any return from the site. It is perhaps for this reason that it has been difficult to secure a developer – a developer who is unlikely to proceed to purchase the site without the ability to generate some income to finance such works. Secondly, the early delivery of such infrastructure could jeopardise the overall cashflow and viability of the site, likely leading to a revisiting of the viability appraisal and loss of contributions and further loss of affordable housing (which is already at 18%). Thirdly, these contributions include a payment towards the delivery of the Regeneration Route – a long desired piece of key infrastructure which would unlock employment and housing land around the wider Swadlincote area as well as attract inward investment going forward. Seldom do housing sites come forward around the town which can support

delivery of such contributions towards the Regeneration Route and it would be undesirable to risk the reduction or loss of the sum from this site. Fourthly, as outlined in the PTN, the alternative of requiring upfront provision of the link road would likely result in importing of material to fill the cutting as such material would not otherwise be available. Conversely, it is similarly likely that surplus material would then arise in the later phases of the site, which would need to be exported. Not only would this introduce financial burden for sourcing and disposal of material, but it would bring a considerable increase in HGV movements which would otherwise be from one point to another, within the site. Finally, the filling of the cutting requires a period of settlement during which the road cannot be constructed. Requiring the provision of the link road in advance of housing would create a considerable period where the site would be 'stalled'. In the context of housing delivery and a defensible 5 year supply, this is far from ideal.

There are also wider benefits arising from the site, as outlined earlier in this report, such as the cycle links in line with a long standing strategy, the Granville Academy drop off/pick up point which would alleviate congestion on Burton Road around school start and finish times, and the ample green infrastructure provision. These benefits are further enhanced by the phasing programme facilitating the prompt delivery of housing from this site – a key site in the LP1 and featuring prominently in the Council's 5 year housing supply. There is potential for the interested developer to place two 'flags' on the site and achieve a quick build out, both limiting the longevity of interim traffic impacts and assisting in delivery of housing – an emerging measure for performance of Councils around the country. With all these points in mind, and a lack of objection from the County Highway Authority, it is considered that there a severe cumulative impact cannot be demonstrated, nor does it outweigh the benefits of supporting the phasing programme as presented.

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** approval of reserved matters subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the following plans/drawings:
  - P13-111-225J Road General Arrangement East;
  - P13-111-226A Refuse Vehicle Tracking Sheet 1;
  - P13-111-227A Highway Construction Details;
  - P13-111-228 Drainage Construction Details;
  - P13-111-229E Road General Arrangement West;
  - P13-111-230C Surface Finishes;
  - P13-111-231C Storm Network 1 Pond Details;
  - P13-111-232D Storm Network 2 Pond Details;

- P13-111-233D Culvert Sections;
- P13-111-234B Railway Cutting Cross Sections;
- P13-111-235D Phasing Plan;
- P13-111-236D Storm Network 3 Pond Details;
- P13-111-237D Storm Network 4 Pond Details;
- P13-111-238D Drainage General Arrangement East;
- P13-111-239C Drainage General Arrangement West;
- P13-111-240B Longitudinal Sections Sheet 1;
- P13-111-241C Longitudinal Sections Sheet 2;
- P13-111-242C Cut and Fill Sheet 1;
- P13-111-243B Cut and Fill Sheet 2;
- P13-111-246A Refuse Vehicle Tracking Sheet 2;
- P13-111-247A Storm Network 3 Swale Details;
- P13-111-248A Reserved Matters Red Line Plan;
- Landscape and Ecological Management Plan - EMS2383-LMP-001A;
- Landscape Proposals East (Phase 1) - EMS.2383\_015 Sheet 01 Rev A (version received 10/11/2017);
- Site Phasing Summary Technical Note - Rev C; and
- The mitigation measures as outlined in the Ecological Appraisal Update prepared by FPCR dated July 2017;

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.

2. The new link road shall be constructed in accordance with the approved site phasing plan and Technical Note under condition 1, whilst the new link road shall be laid out generally in accordance with the scheme shown on the approved drawings under condition 1 but more specifically in accordance with the detailed designs first submitted to and approved in writing by the Local Planning Authority and constructed in accordance with Derbyshire County Council's specifications. For the avoidance of doubt, the developer will need to enter into an Agreement under Section 38 of the Highways Act 1980 to secure the future adoption of the road and its maintenance at the public expense.

Reason: To ensure the timely delivery of the link road so to ensure the transport impacts arising from the development on the existing highway are appropriately mitigated.

3. Each dwelling shall not be first occupied until the proposed new link road, between each respective plot and the existing public highway (via secondary

estate streets where relevant), has been laid out in accordance with the approved plans/drawings to conform to the County Council's design guide, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.

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

4. Notwithstanding the approved plans/drawings; prior to the construction of the link road revised details of surfacing materials shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include means to delineate existing public rights of way, proposed shared cycleways/footways and crossing points thereof, and means to emphasise the eventual route to the school drop off/pick up point. The link road shall be constructed in accordance with the approved details and thereafter maintained using such materials.

Reason: In the interest of the visual setting of the development and the surrounding area, and to assist in prioritising movements of pedestrians and cyclists.

5. Notwithstanding the approved plans/drawings; prior to the planting, seeding or turfing of the green infrastructure areas of a phase or sub-phase, the subject of this permission, revised details for the surfacing of the existing public rights of way and proposed footpaths through such areas shall be submitted to and approved in writing by the Local Planning Authority. Such details, where relevant to that phase or sub-phase, shall include details to upgrade/replace the existing footbridge over the Repton Brook to enable a level means of passage of no less than 2m in width. The footpaths and upgraded/new footbridge shall then be surfaced/constructed in accordance with the approved details prior to the first public use of the green infrastructure area within that phase or sub-phase and thereafter maintained using such materials with all new footpaths routes safeguarded and made available for public use at all times (save for temporary closure for emergencies or maintenance).

Reason: In the interest of the visual setting of the development and the surrounding area, and to encourage public use of green routes through the site.

6. Notwithstanding the approved plans/drawings; prior to the planting, seeding or turfing of the green infrastructure areas or highway verge of a phase or sub-phase, the subject of this permission, revised details of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be based on the approved highway construction drawings, where relevant to that phase or sub-phase. The green infrastructure areas and highway verges shall be planted, seeded or turfed within the first available planting season following completion of ground modelling or construction works to facilitate those areas or the link road (as appropriate) on that phase or sub-phase, 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 interest of the visual setting of the development and the surrounding area, and to deliver the strategic landscaping features at an early stage.

Informatives:

1. The developer is advised that landscaping of the link road is not addressed by this reserved matters permission, and must be subject to a further application in this respect.

10/04/2018

**Item**            **1.4**

**Ref. No.**        **9/2017/1262/FM**

**Applicant:**  
**Rory Mulroe**  
**2 Freesia Close**  
**Loughborough**  
**LE11 2FD**

**Agent:**  
**Rory Mulroe**  
**2 Freesia Close**  
**Loughborough**  
**LE11 2FD**

**Proposal:**    **CHANGE OF USE OF LAND FOR TOURISM PURPOSES AND  
RETENTION OF A YURT AND A TIPI WITH ASSOCIATED SAUNA  
AND COMPOST TOILET STRUCTURES WITH PARKING AND  
HARDSTANDING AT LAND AT SK3221 7095 TICKNALL ROAD  
HARTSHORNE SWADLINCOTE**

**Ward:**           **WOODVILLE**

**Valid Date**    **09/01/2018**

**Reason for committee determination**

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

**Site Description**

The site is an open field with footpaths running around its perimeter and through the site. The site is located adjacent to Buildings Farm and is bounded by hedgerows and has an open, rural appearance.

**Proposal**

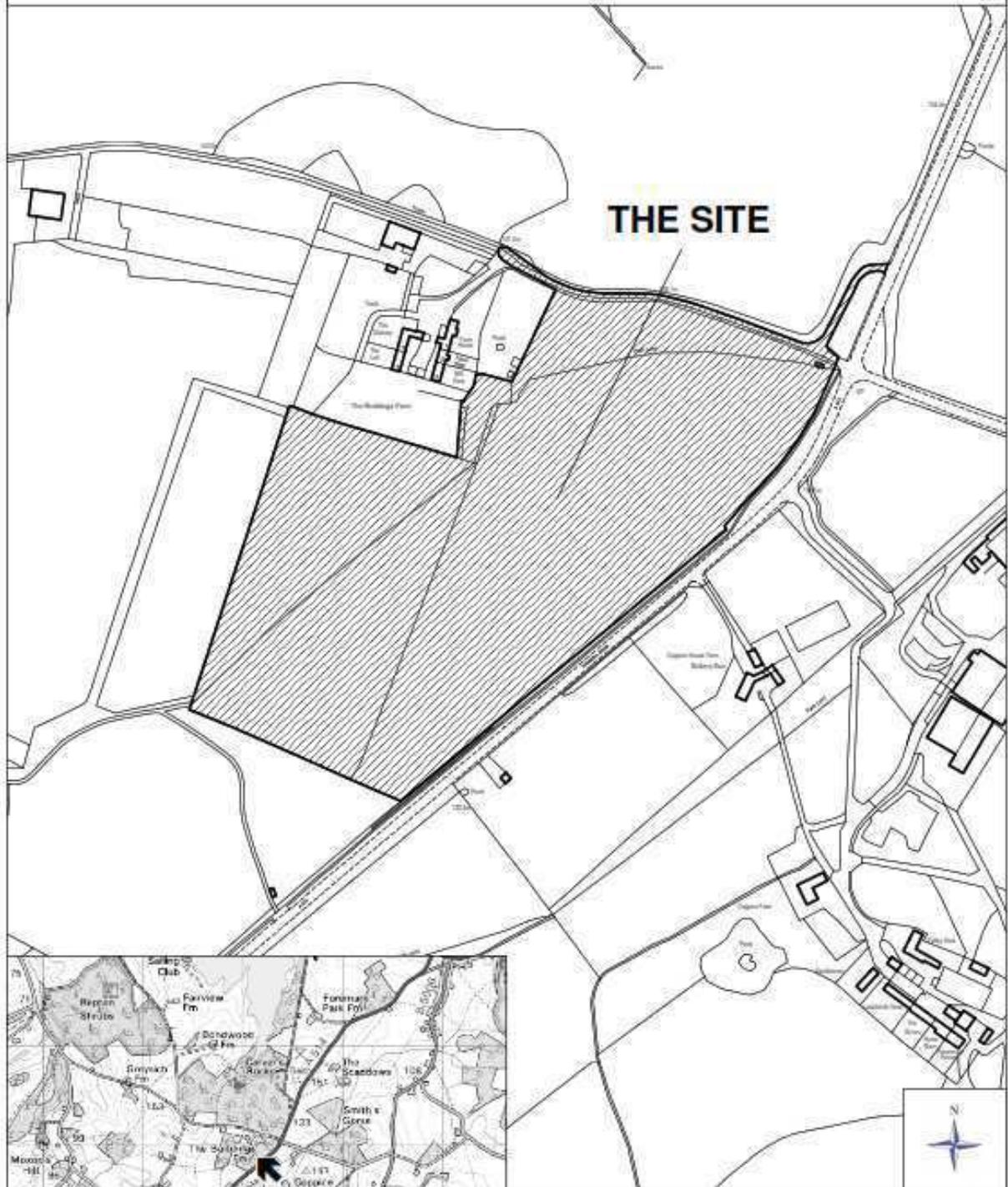
Consent is sought for the change of use of the site to tourism and for the erection of a yurt and a tipi as well as an associated toilet shed, sauna and hot tub, to serve as tourist accommodation.

**Planning History**

The relevant planning history for the site is explained below.

9/2015/0440 – Consent was granted for the erection of a log cabin to be used for holiday lettings, this is shown to the north of the site and was approved with conditions on 30/06/2016.

**9/2017/1262 - Land at SK3221 7095, Ticknall Road, Hartshorne, Swadlincote (DE11 7AU)**



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9/2017/1365 – Consent was sought for the erection of a new log cabin to create a live/work unit along with creation of parking and turning area and decking at Buildings Farm (adjacent to the site). This was subsequently refused on 20/03/2018. The application was refused as an unsuitable permanent dwelling in the countryside.

## **Responses to Consultations**

The County Highway Authority refers to previous comments that were made under planning application 9/2015/0440 regarding the use of the existing access, where an access was to be created to the north of the site and the access to the south closed off. Provided that the same conditions that were included on planning application 9/2015/0400 are included again there would be no objections.

The Environmental Health Officer/Contaminated Land Officer has raised no significant concerns regarding the development. However, it has requested that conditions are added if permission were to be granted relating to; no open fires, other than BBQ's being permitted at the site, as well as no external lighting without prior consent and for a noise control scheme to be approved in writing with the Local Planning Authority with details of site management, acoustic screening and a "quiet site" policy between 10pm to 8am.

National Forest Company - The size of development would be below the threshold where adopted Local Plan policy INF8 would expect National Forest woodland planting and landscaping to be included. The National Forest Company has recently launched a new Tourism Growth Plan, which sets out a 10-year plan for the potential of the Forest as a visitor destination. The Plan explains that a thriving tourism sector needs to deliver more accommodation to increase overnight stays, which are of greater benefit to the local economy. In particular, accommodation that can reflect the ethos of the National Forest through its design, landscaping and the provision of information would assist with the delivery of the Growth Plan. The proposed development is set within an existing National Forest woodland and close to a large accessible complex of National Forest woodlands at Carvers Rocks and Foremark Reservoir. The National Forest Way passes through the woodlands at Buildings Farm around 500m to the west of the application site. The provision of accommodation close to the Way is a further aspiration of the Growth Plan as it allows more people to make use of this long distance walking route. The ability for visitors to book one-night stays as they walk the Way would be particularly welcomed. In providing additional overnight accommodation, this development would be in alignment with the Growth Plan and the National Forest support the application in principle, subject to the development complying with wider Local Plan policies.

## **Responses to Publicity**

There have been twenty one letters/emails of objection and support that have been received, raising the following concerns/points:

- a) This would be environmentally unsound to the existing wildlife. There would be far more traffic on an un-adopted road, this road is used by the public and residents of Buildings Farm.

- b) The buildings which are apparently in the planning stage are already built.
- c) There are safety concerns regarding the public, who already use the national forest for dog walking, cycling, horse riding.
- d) This would be an unregulated business in the middle of the national forest. Much more traffic on a quiet un-adopted road.
- e) Hartshorne would not be a suitable tourist destination as it has too few attractions and amenities; there is not even a shop. Tourism here would require reliance on cars to access amenities which would cause sustainability problems. The site is rural and development would be intrusion into the countryside. Yurt and tipis are not appropriate accommodation for Hartshorne and the noise and activity associated with vehicles, hot tubs and saunas unacceptable in a peaceful location.
- f) This is a retrospective planning permission request as the majority of buildings are already in place without prior planning permission being given. The access to the site is not an adopted road and is unsuitable for the volume of visitor traffic proposed. Access from the un-adopted road is down a green public footpath (footpath sign have been removed).
- g) The trees have already been felled in the area in contrary to planning policy.
- h) Hartshorne is not a service village and site is far from any amenities. The development of overnight tourism in the area is only at 30% capacity at the moment so is not required.
- i) The proposal involves taking cars into established woodland which spoils the environmental impact of the national forest and open countryside.
- j) This is not a monitored or managed site. The development will bring littering/waste disposal/pollution /noise and fire control.
- k) One of the parking sites is positioned at an emergency services access point to the forest as part of the national forest conditions.
- l) Is there any archaeological impact due to the development? No  
Archaeological Survey has been submitted with this application to assess the potential of any archaeological significance.
- m) In addition, another application for building of a log cabin/living accommodation/office by Midlands Logging company at Buildings Farm has also been submitted by another party (ref 9/2017/1365). It is requested is that whilst these applications must be looked at individually, a joint view of the proposals must be considered as the minimum net effect would mean over 30+ additional vehicles using the site, and the creation of 16 car parking spaces as well as overall environmental impact.
- n) The applicant is not a resident of Hartshorne .There are inaccuracies on the application; all the structures are in situ, trees have been felled and the map submitted with the application shows a different location of the access road off Ticknall Road to how the current access road layout is.
- o) The applicant has a business in extreme survival camp and walking on coals and glass.
- p) The access road is not adopted and would not cope with the volume of daily traffic. The entrance to the site is a public bridleway and the post advising this to the general public has been removed. Emergency service vehicles would not be able to access the site.
- q) The land where the proposed dual road track would be for the site is too boggy to accommodate vehicle access and would require significant drainage. The proposed dual road track will be over residents sewerage

- soakaway's having potential to cause expensive damage and pollute the environment and contaminate the land.
- r) The proposed application will affect regular horse-riders who use the access road due to the volume of daily traffic.
  - s) Pollution to the environment, wildlife and health from smoke and potential contamination of the land from proposed toilet facility. Residents would be unable to open windows or doors in the summer months and the smoke (from large bonfires) would likely pollute the local environment and affect wildlife (there is a badger set nearby and other wildlife such as deer, bats, owls, hedgehogs and foxes), resulting in a significant deleterious impact on the natural beauty and peacefulness of the National Forest.
  - t) The litter at proposed site will destroy the National Forest and the site will not be managed on a day to day basis. There is no pavement from the proposed site to local tourist attractions such as Foremark Reservoir. There are no local amenities in Hartshorne to accommodate basic living needs for tourists using the proposed site.
  - u) The main access road from Ticknall Road to Buildings Farm does not comply with the original road plans when the barns were converted. The current non approved entrance location is dangerous and a safety hazard to drivers and accidents have occurred in this area.
  - v) Tourism will not boost local businesses such as a shop or tea-room as Hartshorne does not have these amenities.
  - w) The proposal is for a glamping site; glamping stands for Glamorous Camping. This normally attracts families with young children to experience the countryside and nature in a glamping pod. This site which is already there is nothing like it. This particular set up (which I dispute is glamping) won't attract families. Owing to the business of the applicant, it is likely to attract large groups of predominantly adult males who want to fire walk, carry out martial arts and then drink alcohol in hot tubs and play loud music at night.
  - x) There has been an increase in the number of car accidents on Ticknall Road (A514) over the last 1-2 years. This includes accidents at the brow of the hill close to the right as you exit the access road and cars in ditches to the right of the road. Cars travel at excessive speed. This was highlighted at the parish council meeting on Monday 12th February 2018 and concern was raised about additional traffic accessing the road. This application asks for 6 parking spaces, so there could be an additional 20-30 (estimated) car movements per day moving onto Ticknall Road causing additional danger
  - y) Dog walkers are concerned about cars parking in the national forest and driving down a public footpath. Local people are not keen about an unsupervised glamping site as it will be noisy and generate litter.
  - z) A badgers sett are nesting close to where the proposed tourism development will be located. These are a protected species and there is a high risk that their tunnels, chambers and nesting sites could be disturbed.
  - aa) What steps would be taken by the owner to ensure that the site, and fauna and flora would be respected by holidaymakers, part of the current woodland would be destroyed to complete roadways and car parks. The area is currently used by people to walk and enjoy the local area, there is plenty of accommodation locally for tourists to do the same without destroying woodland to accommodate them.

- bb) The planning application does not make it clear if the existing walking routes through Rowen wood will remain.
- cc) The sites of both the tipi and yurt are very close to public footpaths, which are used daily by dog walkers and hikers and are near to picnic areas. They would disturb the peace and tranquillity of the area with cars coming into the fields to park.
- dd) The sites are not sustainable and the Hartshorne area is not really a holiday destination.
- ee) As long as the environmental impact is minimal and there will not be cars speeding up and down the track then I would fully support this. It makes a pleasant change from building more and more houses on green belt land. It will bring tourism to the area and local economy will improve.
- ff) Once again there is a local land owner who is trying to drive a coach and horses through the local planning laws to eventually obtain residential permission for further development of a green field site within the local areas of the National Forest. It would appear that local land owners are trying to turn Hartshorne into a centre for stag and hen parties with little or no regard for local residents. These type of facilities do not fit in with the local amenities that are available and will only lead to problems for locals who pay their council tax.
- gg) The area is being promoted as part of the National Forest and enjoyed by locals and visitors alike. Changes to public rights of way should be carefully considered if only to facilitate temporary structures. There are sympathies for the occupants of the adjacent residents who will inevitably be impacted by the activities on this leisure site.
- hh) The proposed development is not in keeping with the surrounding area. These structures are tipis, yurts, saunas, hot tubs and a fire pit. These are not likely to attract young families with children, wishing to experience the pleasures of the National Forest, or learn about sustainability and conservation. These structures are more likely to appeal to groups of young people looking for a party environment in the woods; more in keeping with a music festival (Glastonbury) atmosphere than a “back to nature” retreat.
- ii) There are concerns about the potential for damage to Rowan Wood, rowdy antisocial behaviour, litter, noise from loud music and partying, illicit drug taking and excessive alcohol consumption. There is also a significant risk of forest fires and the risk to life and property of local residents.
- jj) From research of other sites there are concerns that there may be antisocial behaviour and health and safety issues.
- kk) The development would affect the public’s enjoyment of the National Forest.
- ll) There will be a substantial increase in noise, particularly in summer when residents with young children may wish to be able to put them to sleep with their windows open, something which will not be possible if large adult groups are staying in the adjacent site.
- mm) The marketing associated with this site demonstrates that it is not intended to be a quiet family site.
- nn) The developer will restrict the dog walking routes in the area and will remove parts of the national forest that have only just come into maturity.
- oo) There is no requirement for the development of overnight tourism in the area and could lead to the creation of more tourism in the area which would harm the character and appearance of the area.

- pp) The paths would cross over a septic tank and foul pipes.
- qq) The proposed development does not take into account public safety or minimise opportunities for crime and anti-social behaviour.
- rr) This would be an alien pattern of development in the area and does not have locally inspired character.
- ss) In addition to the log cabin that was approved as part of planning application 9/2015/0440, this would result in a significant concentration of tourist uses in the area.
- tt) Planning application 9/2017/1262 and 9/2017/1365 should be assessed together.

Hartshorne Parish Council objects to the proposed development site which has been in operation for several years. However, the applicant now seeks formal permission to extend into a summer holiday destination (change of use).

- a) Concerns as there is no on-site management and no control of numbers and the type of groups (i.e. same sex groups). There appears no control times for outside activities to cease.
- b) The approach to the site is an un-adopted, unmade track which is used by walkers and horse riders. Please note that the footpath signage has been removed.
- c) The site is close to domestic dwellings at Buildings Farm. Therefore, there are concerns over noise and outside activities.
- d) Although not part of the National Forest, it is very close to land marks such as Carvers Rock
- e) Concerns over the effects on wild life and the overall environment in the area.
- f) Although subject to another application 9/2017/1365, some of the problems created cannot be viewed in isolation i.e. impact on traffic using the site, access and egress on to Ticknall Road.
- g) Hartshorne village is an unsustainable village with no village shops. The only commercial ventures are the 3 public houses which are not within easy walking distance.
- h) The proposed site is very close to existing dwellings.
- i) The Parish Council is concerned about many Environment and Health and Safety issues e.g. litter, waste disposal and fire control i.e. will the Fire Service be consulted on materials to be used in the construction on site?

### **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), BNE1 (Design Excellence), BNE3 (Biodiversity), INF2 (Sustainable Transport), INF6 (Community Facilities), INF8 (The National Forest) and INF10 (Tourism Development).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Local Distinctiveness), BNE5 (Development in Rural Areas) and BNE7 (Trees, Woodland and Hedgerows).

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide SPD

## **Planning Considerations**

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

- Principle of Development
- Visual Impact
- Environmental Health Issues
- Highways

## **Planning Assessment**

### Principle of Development

Whilst the site falls within the open countryside, there is scope within the Local Plan Part One for the erection of new overnight tourist accommodation, provided that it is placed in an area where there is a demonstrable and recognised need. The site falls within the National Forest, with the National Forest Way passing through. Policy INF8 of the Local Plan Part One recognises that there is a lack of suitable overnight accommodation within the area and the National Forest wishes to promote the creation of overnight accommodation in this location, in accordance with the National Forest Tourism Growth Plan. In addition, policy INF10 of the Local Plan Part One also supports the creation of overnight tourist accommodation that is in an appropriate location and where an identified need cannot be met. It also specifies that the proposed buildings should be well designed and be of a reversible or a temporary nature. The yurt, tipi and other associated structures would be of a construction that would mean that they could be easily removed from the site at a later date and reversible. On the basis of this, the change of use of the land and the retention of the structures would be consistent with policies INF8 and INF10 of the Local Plan Part One.

Concerns have been raised by Local Residents that the proposed use of the site would not be suitable and would inhibit people accessing the site and the wider National Forest. However, the National Forest Company are in support of the use of the site for overnight accommodation and this would assist with the Company's wider objective to encourage people to use the National Forest Way.

### Visual Impact

Concerns have been raised by local residents that the proposed structures would be out of keeping with the wider area and would be harmful to the local character. The

structures are of a small and temporary nature and would be in-keeping with the wider woodland. The structures would be screened from wider public view by the existing hedgerows and forest planting that surrounds the site. On the basis of this, the structures would not have a harmful visual impact and would comply with the principles of policy BNE1 of the Local Plan Part One and BNE5 of the Local Plan Part Two.

### Environmental Health Issues

Concerns have been raised by local residents with regard to the proximity of the tipi/yurt to the existing residential properties; the activities that could be carried out at the site and the likely noise that would be generated at the site. The proposed yurt would be 4.9m in diameter and the tipi would be 5.4m in diameter. Concerns have been raised by local residents that large numbers of people could gather at the site and the potential for anti-social behaviour. However, the size and extent of the structures should naturally restrict the numbers of guests that could be accommodated at the site which could only accommodate so many people. In addition, concerns have also been raised by local residents with regard to issues of noise, smoke pollution and potential anti-social behaviour. Details have been submitted through the consultation process by local residents with regard to potential activities that they think may be carried out on the site. The Environmental Health Officer has requested the use of planning conditions to control noise at the site late at night through a management plan, which would address the creation of fires at the site (with the exception of BBQ'S), management of the site, the use of external lighting, and acoustic screening for the hot tub area. This would endeavour to address the concerns that have been raised by local residents with regard to likely smoke and noise pollution and potential anti-social behaviour. On the basis of this and with the inclusion of these planning conditions, the impact of the development on the amenity of local residents would be significantly reduced and would ensure an area of overnight accommodation in an area of the National Forest where there is a demonstrable need and would comply with policy SD1 of the Local Plan Part 1.

### Highways

Concerns have been raised regarding the use of the current access and the likely increase in traffic to the site. Owing to the size of the buildings, the accommodation would naturally restrict excessive numbers of people being able to stay at the site and use the facility. However, people may continue to travel to the site to visit/use the footpaths within the National Forest, of which there would be no planning control to restrict this. The County Highway Authority has confirmed that the proposed access would be acceptable through the use of a planning condition that would stipulate that the proposed access along Ticknall Road must be created within three months, in accordance with the same planning condition used for application 9/2015/0440. This would allow a safe and suitable access to accommodate the site and would be consistent with policy INF2 of the Local Plan Part 1.

The site currently has several footpaths that surround the perimeter and cross along the centre of the site. The development would not restrict the footpaths at the site and would not close them off to the public. As such there have been no objections from the County Highway Authority regarding access or Public Rights of Way.

## Other issues

Comments have been received from a local resident raising concerns with regard to below ground archaeology. However, the site is not located within an area of identified archaeological interest and there would be no requirement for an Archaeology Survey to be submitted.

## Conclusion

The development would create overnight accommodation within the National Forest that would be of a reversible nature. The buildings would be well screened by existing planting and would not appear out of character in a countryside location. The development would comply with policies BNE1, SD1, INF8 and INF10 of the Local Plan Part 1 and policy BNE5 of the Local Plan Part 2.

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 hereby permitted shall be carried out in accordance with the amended Location Plan received on 14th December 2017; Site Plan 1, received on the 9th January 2018; Site Plan 2, received on the 9th January 2018; Site Plan 3, received on the 9th January 2018; Yurt Floor Plan, received on 9th January 2018; Yurt Elevation Plan, received on 9th January 2018; Tipi Floor Plan, received on 9th January 2018; Tipi Elevation Plan, received on 9th January 2018; Compost Toilet Floor Plan, received on 9th January 2018; Compost Toilet Elevation Plan, received on 9th January 2018; Hot Tub Floor Plan, received on 9th January 2018; Hot Tub Elevation Plan, received on 9th January 2018; Sauna Floor Plan, received on 9th January 2018; Sauna Elevation Plan, received on 9th January 2018; and the submitted document ""Change of use of Forestry Land at Rowan Woods to tourist accommodation Glamping sites"" received on 9th January 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.

2. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Article 3 and Part 3 of the Town and Country Planning (General Permitted Development) Order 2015, or any Order(s) which revokes, amends or replaces that Order(s); this permission shall relate to the use of the premises as described in the application documents and for no other purpose.

Reason: In order that the Local Planning Authority may retain control over the future use of the premises, and in the interests of the amenity of the area and highway safety.

3. Within three months of the date of permission, or the first occupation of the site the sole vehicular access to the site shall be via the access shown on the application site to Ticknall Road (A514) only, with the alternative access block off.

Reason: In the interests of highway safety.

4. Within three months of the date of permission, or the first occupation of the site, a scheme of noise control shall be submitted to and approved in writing with the Local Planning Authority; this scheme shall include details of a "quiet site" policy, enforced between 10pm and 8am; details of site management which shall be provided by the site entrance, and the contact details of person with responsibility for the site made available. The development shall be carried out in accordance with the approved details.

Reason: To ensure the amenity of local residents and their ability to enjoy their properties.

5. Details of acoustic screening of the hot tub areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details within three months of the date of permission or prior to first occupation and retained as such thereafter.

Reason: To protect the amenity of neighbouring residents.

6. Notwithstanding the submitted details there shall be no open fires, other than BBQ's at the site.

Reason: In the interest of the public amenity.

7. There shall be no external lighting fixed to and structure on the site, unless approval has first been granted by the Local Planning Authority.

Reason: To protect the public amenity from light pollution.

8. The site shall not be occupied by guests until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

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

#### Informatives:

1. The grant of planning permission does not entitle developers to obstruct public rights of way affected by the proposal. Development, in so far as it affects the right of way, should not be started, and the right of way should be kept open for public use, until the necessary order under Section 247 or 257 of the Town and Country Planning Act 1990 for the diversion or extinguishment of the right of way has been made and confirmed. Nor should it be assumed that because planning permission has been granted an order will invariably be made or confirmed.

10/04/2018

**Item**            **1.5**

**Ref. No.**        **9/2017/1248/FM**

**Applicant:**  
**M Jones & A Byatt**  
**Tree Tops**  
**Trent Lane**  
**Weston On Trent**  
**Derby**  
**DE72 2BT**

**Agent:**  
**Mr Mark Blood**  
**Mark Blood Building Design**  
**Manor Farm House**  
**London Road**  
**Shardlow**  
**Derby**  
**DE72 2GR**

**Proposal:**     **DEMOLITION OF EXISTING DWELLING AND ERECTION OF TWO  
DETACHED DWELLINGS AT TREE TOPS TRENT LANE WESTON  
ON TRENT DERBY**

**Ward:**         **ASTON**

**Valid Date**    **20/11/2017**

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

This item has been called to Committee by Councillor Watson due to local concern that has been expressed about a particular issue.

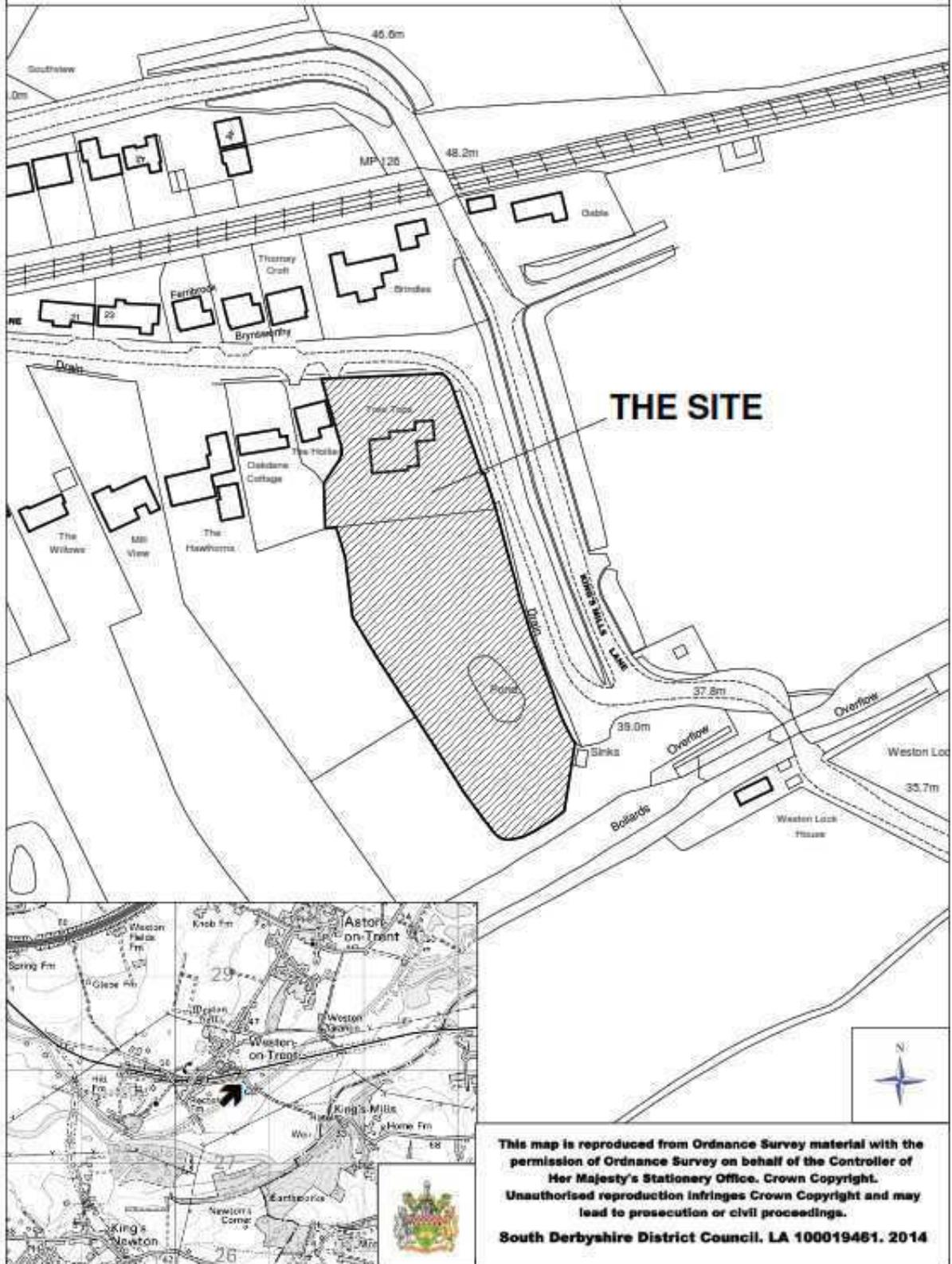
#### **Site Description**

The site consists of a single storey red brick dwelling which and is located on the corner of Trent Lane and is bounded by mature trees and hedgerows, the trees to the front and side of the site (along Trent Lane) are protected by a tree preservation order and a tree protection report has been submitted with the application in order for these to be retained. The immediate neighbouring properties in the area are predominantly two storey detached dwellings with some large three storey dwellings immediately adjacent the site and along Trent Lane. The existing dwellings in the wider area vary in terms of design, character and scale, with some examples of very large three storey residential properties.

#### **Proposal**

Consent is sought for the demolition of the existing dwelling at the site and the erection of one two storey dwelling (plot one) and one two and half storey dwelling (plot two) (roof lights in roof space) with parking and landscaping. Amended plans have been submitted which have reduced the height of the proposed dwelling at plot one by between 0.5 and 1.5m in height in order to reduce the impact to the

9/2017/1248 - Tree Tops, Trent Lane, Weston on Trent, Derby DE72 2BT



neighbouring properties. The existing access would be utilised as part of the development.

## **Applicant's supporting information**

### Tree Protection Measures

The measures to protect the trees shall follow the guidance in BS5837. All trees retained on site will be protected by suitable barriers or ground protection measures around the calculated Root Protection Area. Barriers shall be erected prior to the commencement of development and particular attention will be given by contractors to minimise damage or disturbance to retained specimens.

### Phase 1 Habitat Survey and Protected Species Survey

The habitats on site have been evaluated as being of low ecological value in relation to local surroundings and a regional context. The dominant habitat type on this site is amenity grassland, an introduced ornamental scrub with scattered trees.

A number of common birds were recorded on site and the proposal to remove large amounts of scrub could have an impact on breeding birds. The removal any scrub or hedgerows shall be done outside of breeding season.

The existing bungalow does not offer potential to support roosting bats. Mature trees on site have potential for supporting roosting bats on site. Any lighting should be positioned sympathetically to reduce the impact on the roosting and commuting bats.

There is the potential for Great Crested Newts in Pond 2 which is 100 metres away from the application site. It is considered necessary a full Great Crested Newt presence/absence survey is carried out at the correct time of year.

### Protected Species Survey Great Crested Newt

A survey was carried out for Great Crested Newts was conducted during April – May 2015. The survey failed to detect any Great Crested Newts.

## **Planning History**

There have been various planning applications submitted at the site since 2008 for the demolition of the existing dwelling and the erection of a replacement dwelling, of which planning permission has previously been granted. The current application is a revised re-submission of a previous approval under planning application 9/2008/1174 and 9/2015/1201 for the replacement of one dwelling house. The previous applications in 2008 and 2015 were for one significantly larger dwelling at the site. The current proposal seeks consent for the erection of two smaller residential properties. The previous applications that have been submitted at the site are shown below:

9/2008/1174 – The erection of a proposed replacement dwelling – Approved with conditions - 14/01/2009

9/2013/0037 - Application for a new planning permission to replace an extant planning permission 9/2008/1174 in order to extend the time limit for implementation for the erection of a dwelling – Approved with conditions - 14/01/2009

9/2015/1202 – The erection of a replacement dwelling with an outdoor swimming pool and pergola – Approved with conditions – 15/02/2016

### **Responses to Consultations**

The Environmental Health Officer/ Contaminated Land Officer have no objections to the proposal, subject to a condition for measures to protect against possible ground gas ingress.

The Tree Officer has no objections to the proposed development, subject to the submitted tree protection measures being secured as conditions.

The County Highways Authority has no objections subject to the inclusion of conditions for the parking and manoeuvring details to be implemented and for area to be created within the site for the storage of building materials.

Derbyshire Wildlife Trust has raised no objections subject to conditions.

### **Responses to Publicity**

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

- a) The houses would overlook neighbouring properties and there are concerns about the size and proximity of the dwellings. Access to the property, especially for the construction traffic will be a problem as lorries will not be able to get over five arch bridge or round the corner. Access from Kings Mill Lane is also not feasible.
- b) The Hollies is a dormer bungalow constructed in 2006. The house has a smaller plot than the other dwellings along Trent Lane and as such the garden of the Treetop wraps around the rear of the property. The rear elevation of the house is only 9m from the boundary to the Treetops site.
- c) There have been a number of previous approvals on the site for a single replacement dwelling (App Ref 2008/1174, 2012/0037 and 2015/1202). However these proposals were for a single dwelling which would have been constructed a suitable distance from neighbouring properties and would not have caused any significant issues regarding outlook, daylight/sunlight and overlooking.
- d) In particular the 2015 scheme was for a two storey dwelling, located towards the eastern side of the site, and a garage positioned to the rear of the garden to the Hollies. This garage was a storey and a half in height, and included a games room above the garage. The windows to the front elevation to the garden were limited and the scale of the development to the rear of the neighbouring house was only one and a half storeys in height.

- e) The current application proposes two new dwellings on the site, creating a more intensive use of the site. The house referred to as Plot 1 is located to the rear of the Hollies. This is significantly closer to the site boundary with the neighbouring house than the 2015 application proposals, although the application drawings do not indicate any dimensions.
- f) The proposal is for a three storey dwelling and some two and half storey elements, which will have a much greater impact on the living conditions of neighbouring properties than both the current situation, and under the 2015 scheme. It is noted that some effort has been made in the scheme design to consider the impact on neighbouring properties and the windows to the front elevation at first floor level are shown as obscured glazing. However there are large elements of the scheme which comprise two storey brick walls with no windows which will loom over neighbouring gardens and dominate the view from neighbouring kitchens, living rooms, conservatories and master bedrooms and have a significant impact on the light to neighbouring properties and gardens.
- g) The BRE Report, 'Site layout planning for daylight and sunlight: a guide to good practice' (BR209), gives advice on planning developments to make good use of daylight and sunlight, and is widely used by many local authorities to help determine the impact of new development. With regards to amenity space, the BRE Guidance on guidelines recommend that at least half of the garden or open space can receive at least two hours sunlight on March 21.
- h) The proposals at three storeys high are out of keeping with the general scale and massing of residential development in the local area.
- i) The proposed dwelling at Plot 1 is located directly to the south and south east of the garden to The Hollies. The proximity and scale of the proposals will cause significant overshadowing to the garden, resulting in receiving minimal levels of light for a large part of the year. It is considered that this will mean that this does not meet the standards set out in the BRE guidance.
- j) No separation distances are given on the drawings, and as these scale at A2 it has not been possible to print these off to determine the relevant measurements. However it is considered that these are close to the minimum requirements within the Design Guide SPD given the use of blank elevations and obscured glazing.
- k) It is noted that the Design Guide SPD is clear that the requirements and impact of a scheme needs to be assessed on a site by site basis. It is considered that the proximity of the three storey dwelling with its two storey garage element would be located too close to the garden and main living space of The Hollies having an adverse impact on outlook and resulting in an overbearing development.
- l) No assessment is included as part of the application on the impact on the daylight and sunlight to the Hollies. However in the absence of any such assessment it is considered that a three storey dwelling located circa 12m from the rear of the Hollies will impact on the light levels to the kitchen, living room, conservatory and master bedroom.
- m) The conservatory at the hollies will receive no light, and no warmth from the sun, in the colder months this will render the room unusable for a large part of the year.

Following the submission of amended plans, there have been two further letters/emails of objection raising the following issues:

- a) The reduction in height and the sloping roof of the garage have reduced the impact significantly.
- b) The garage of plot one is closer to the rear of a neighbouring property than before, this seems like a needless encroachment and its removal would allow the retention of an additional tree.

Weston on Trent Parish Council objects to the planning application for the following reasons:

- The buildings are out of character for that part of the Lane;
- Access to the site is difficult, either over the bridge -with a weight limit and a 90 degree bend or from Trent Lane over the railway bridge and another sharp turn;
- The shared entrance could be a problem;
- There is already a flooding issue with Oakdene (next door) so provision for not making the situation worse would need to be included;
- Some of the trees are believed to have TPO's and the tree report is for the wrong property;
- Residents nearby have expressed their concerns to the Parish Council.

### **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), SD2 (Flood Risk), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity) and INF2 (Sustainable Transport).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development) and BNE7 (Trees, Woodland and Hedgerows)

### **National Guidance**

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

### **Local Guidance**

- South Derbyshire Design Guide SPD

### **Planning Considerations**

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

- Principle and design of development
- Overlooking and Overbearing

- Highways Issues
- Other Matters

## **Planning Assessment**

### Principle and design of development

The site is located within the settlement boundary of Weston on Trent. This would be considered as development within a settlement confine and would not result in encroachment into the open countryside. The demolition of the existing dwelling and the erection of two dwellings at the site would therefore, be acceptable in principle and would comply with policy H1 of the Local Plan Part 1 and policy SDT1 of the Local Plan Part 2. Previous applications 9/2008/1174 and 9/2015/1201 have already established the principle of a replacement residential scheme on the site.

The existing neighbouring dwellings in the area vary in terms of design, character and scale. The area is predominantly characterised by two storey detached dwellings along Trent Lane but there are some examples of very large, three storey residential properties which have recently been completed. On the basis of this, a large dwelling in this location or two smaller detached dwellings could be supported at the site as this would reflect the size and scale of neighbouring properties and the pattern of the existing street scene. The proposed two dwellings would be more in keeping in terms of size and character with the neighbouring dwellings and would result in a more architecturally pleasing building than existing. In this regard, the proposed development would comply with policy BNE1 of the Local Plan Part 1.

### Overlooking and Overbearing

Concerns have been raised by a local resident and the Parish Council regarding likely overshadowing and overlooking of the neighbouring properties. Amended plans have been received and the proposed dwellings achieve the minimum separation distances as defined within the Councils Design Guide. The site is located on level ground with the neighbouring properties so there would be no mitigating circumstances that would alter this assessment.

Notwithstanding concerns raised by a local resident with regard to the proximity of the proposed dwelling on plot one to their property, since the original submission, the height of the proposed dwelling on plot one has been significantly reduced, with the front garage reduced from 7.2m in height to 6.5m, with a hipped roof. This has been amended in order to reduce the impact on the immediate neighbouring property and would achieve a significant height reduction from the original scheme that was approved under application 9/2015/1202. In addition, the front section of the dwelling that sits behind garage has been reduced to between 6.8m and 7.7m in height. The height of the proposed dwelling at this point in the site would be the same as was approved under planning application 9/2015/1202, with an overall reduction in height of the remainder of the proposed dwelling by 0.5m. The footprint of the proposed dwellings would be similar to the previous dwelling that was approved under planning application 9/2015/1202; albeit the garage on plot one would be four metres closer to the neighbouring property than the previous application. However, the single storey garage to the front of the dwelling (plot one) has a positive visual

impact and assists with reducing the mass when viewed from the front. The impact of the garage would be lessened from the previous application as it would be a narrower gable end with a hipped roof that would be presented to the rear of the neighbouring property, with the bulk of the dwelling set behind it. The gable end would also be a blank elevation with no windows and there would be a reduced impact from overlooking from this. The two storey section of the proposed dwelling on plot one would be set back a further two metres from the neighbouring dwellings than the approved dwelling under planning application 9/2015/1202. As such the proposed dwellings would comply with the standards set out in the South Derbyshire Design Guide and policy SD1 of the Local Plan Part 1.

### Highways Issues

Policy INF2 of the Local Plan Part 1 specifies that there should be a safe and suitable access provided that is sufficient to meet the vehicle movement of the proposed development. There have been concerns raised regarding access to the site from local residents and concerns with regard to the likely traffic that would be experienced during the construction phase of the works. Whilst it is noted that Trent Lane is a small rural lane, this would not be sufficient grounds to withhold permission for the level of traffic that would be experienced for a relatively short period of time through the construction phase. This would not be just or proportionate and the construction phase would be regulated by legislation that would be outside of the sphere of Planning Management. It is also acknowledged that the proposal would utilise an existing access and on the advice of the Highway Authority would not create a level of harm to vehicular and pedestrian safety that would merit withholding permission. The proposed works would therefore comply with policy INF2 of the Local Plan Part 1.

### Other Matters

The proposed tree works and tree protection measures would appear to be acceptable and would not affect the trees that face the highway which has the most significant amenity value. There have been no objections raised by the Councils Tree Officer subject to conditions that the works are carried out in accordance with the submitted Tree Report.

### Conclusion

The proposal would comply with policies H1, SD1 and BNE1 of the Local Plan Part One, policies SDT1 and BNE7 of the Local Plan Part Two and the South Derbyshire Design Guide.

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

### **Recommendation**

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with drawing nos. Location Plan received on 17th November 2017; 17049.01; 17049.02A (Amended Plan); 17049.03A (Amended Plan); 17049.04A (Amended Plan); 17049.05 and 17049.06; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).  
Reason: For the avoidance of doubt.
3. Sufficient measures to protect the development from the risks posed by any ground gases or vapours shall be installed during the construction of the development and shall be maintained for the duration of the life of the development. Prior to the commencement of the development, a completion report confirming the details of the measures installed shall be submitted to the Local Planning Authority for approval in writing. The measures which shall be installed shall meet the requirements of sections 3 and 6 of Building Research Establishment 414 (2001) ""Protective Measures for Housing on Gas Contaminated Land construction methods"" or any alternative proposals which achieve an equivalent level of protection. The report shall be agreed in writing with the Local Planning Authority prior to the commencement of development and the development shall be carried out in conformity with the approved details.  
Reason: To protect the health of future occupiers of the site from any possible effects of contaminated land, in accordance with local planning policy SD4.
4. The tree works authorised by this permission shall be carried out in accordance with the root protection areas as shown on drawing 17049.02 and the Tree Protection Measures received on 29/01/2018 and the British Standards Institute recommendations for tree work.  
Reason: In the interest of the health and safety of the trees.
6. Prior to the construction of the dwelling houses, 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.
7. The dwelling houses shall not be constructed until 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.

8. The construction of the dwelling houses shall not take place until space has been provided within the site curtilage for the storage of plant and materials, site accommodation, loading, unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles, laid out in accordance with details first submitted to and approved in writing by the Local Planning Authority, and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

Reason: In the interest of highway safety. This is necessary because the associated traffic impacts will occur at the outset.

9. Prior to the first occupation of either dwelling hereby approved, the car parking and manoeuvring space shall be laid out in accordance drawing (17049.02) and maintained throughout the lifetime of the development free of any impediment to its designated use.

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

10. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), the dwellings 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 treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

11. The dwelling houses shall not be occupied until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on or adjacent to the site (including those which would have their root or canopy structure affected), and details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interests of the appearance of the area, recognising that initial clearance and groundworks could compromise the long term health of the trees/hedgerows affected.

12. 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. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
2. Derrbyshire Wildlife Trust advises that the layout (potential layout provided within the submission) should be designed to ensure that all mature trees (especially with bat potential) are retained within the development.
3. Biodiversity enhancement opportunities such as the installation of bat and bird boxes within the development should be taken.
4. External lighting should be minimised wherever possible on site and in particular the north and west boundaries and the trees should remain unlit to continue to provide valuable bat foraging habitat.
5. You are advised that all work should be carried out in accordance with the British Standards Institute's recommendations for tree work.
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 householder.
7. 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.
8. The applicant should be aware that they will be responsible for the repair of any damage to the public highway which may occur as a result of its being used by construction whilst works are being carried out.

10/04/2018

Item 1.6

Ref. No. 9/2015/1108/MRF

**Applicant:**  
Bellway Homes Ltd R G Brooks;J M  
Brooks;R L & MA Wain  
C/O Bellway Homes Ltd  
3 Romulus Court  
Meridian East  
Meridian Business Park  
Leicester  
LE19 1YG

**Agent:**  
Mr Michael Davies  
Savills UK Ltd  
Innovation Court  
121 Edmund Street  
Birmingham  
B3 2HJ

**Proposal:** DEMOLITION OF EXISTING RESIDENTIAL PROPERTY (CHERRY COTTAGE) AND AGRICULTURAL BARN AND PROPOSED DEVELOPMENT FOR 385 RESIDENTIAL DWELLINGS (USE CLASS C3), FORMAL AND INFORMAL PUBLIC OPEN SPACES, STRUCTURAL LANDSCAPING, NEW ROADS, FOOTPATHS AND CYCLEWAYS, (2NO.) SITE ACCESSES AND ANCILLARY WORKS ON LAND AT SK2130 8875 SOUTH OF DERBY ROAD HATTON DERBY

**Ward:** HATTON

**Valid Date** 04/12/2015

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

The item is presented to Committee following the Committee's approval of the application in January 2017. However, the applicants have requested that a small number of conditions be amended to reflect the most recent design requirements for which there is no delegated authority. The report is also an opportunity to update members regarding the Section 106 agreement.

#### **Detail**

The report to that Committee in January last year is appended although the resolution as recorded in the minutes is as follows:

*A. That authority be delegated to the Planning Services Manager, in conjunction with the Chairman, to secure the appropriate contributions for mitigation of the impact of the development under Section 106 of the Town and Country Planning Act 1990 (subject to compliance with the CIL Regulations 2010) and to resolve the outstanding boundary issues affecting the implementation of the link road.*

*B. That, subject to A. above and the revised conditions, planning permission be granted as recommended in the report of the Director of Community & Planning Services.*

Since approval, some minor amendments have been made to drawings largely at the request of the Principal Area Planning Officer, which relate to details representing clarifications and small improvements to the layout within the site itself but were not included in the last report to the Committee. It has also emerged (and was reported at the Committee last time) that there is a small sector of unregistered land abutting the southern boundary of the site over which the main spine road (the Avenue) would link to any proposed link road from the south designed to facilitate a link to Nestle. In order to facilitate this link running all the way to the Nestle factory, the applicants must be able to demonstrate that the link road to Nestle can be delivered in full on land within the control of the necessary parties and as such the spine road requires a minor realignment to avoid the unregistered land. In detail, the additional proposed amendments to those drawings approved last year are as follows:

**Amendment C-C** made to drawing number 11 (Amendment made 26/03/18);

- Amendment made to the alignment of the Avenue (main spine road) to avoid unregistered land;

**Amendment B-B** made to drawing number 11 (amendment made 17/01/17)

- Red edge amended to extend 5m around end of Avenue to the South
- Amendment A-A made to drawings number 10 and 11 (Amendments made 15/12/16)
- Pedestrian and private drive visibility splay indicated and forward visibility added to bends; Bin collection points added to private drives;
- junction size increased adjacent plot 354;
- turning head adjacent plot 321 removed;
- Substitution of house types on plots 127-131;
- plots 17-19, 22, 23, 68-70, 100, 102-107, 140, 141, 172, 173, 189-192, 237, 278, 279, 315-318, 332-333, 344-348, 364, 370-376 repositioned;
- Entrance gate shown adjacent plot 99 and additional visitor parking space shown adjacent plot 328-331;
- Boundary treatment to plot 280 is fenced around the parking space;
- Boundary treatment amended to a screen wall adjacent to plots 366 – 368; Rye Flats Lane - boundaries for plots 229 - 237 - amended from a screen fence to the decorative screen fence. Boundary treatment amended to a screen wall for Plots 323 - 325, 74, 75, 56, 57 - fronting the main Avenue. Boundary treatment amended to a decorative screen fence to plots 25-26 and 158 and 159. Boundary wall pull back to - plot 380, 235, Boundary wall shown to plots 28 - 29, 30, 36, and 37. Decorative screen fencing shown to plots 169-178 and 188;
- The footpath has been extended to reach the Bus stop outside plots 30-34, (more detail can be included in the S38);

**Amendment Z** to drawing number 10 and 11 (Amendment made 14/11/16)

- Updated to include landscape architects latest designs i.e. indicative trees removed and proposed trees indicated, attenuation feature fronting plots 351-354 repositioned 4m South;
- Footpaths within POS re-aligned.;

**Amendment A** made to drawing number 24

- Phase 4 area amended.

**Planning Assessment**

None of the amendments affect any other planning interests outside the site or any other relevant agencies. When last reported some of the policies cited were draft (emerging) versions in the Local Plan Part 2. However, none has changed materially that would alter the previous outcome and as such there are no policy issues arising from the amendments, indeed many serve to improve the proposed development and therefore could be argued to better deliver policy. The relatively small realignment of the spine road is sensible and removes any doubt or opportunity for any unforeseen obstacle to completing the link road to the boundary so that the road abuts registered land to ensure the road can be delivered beyond the red line in full in the future which is an important objective for the development. The recommendation below contains an updated condition 2 showing the amended plan drawings and additional conditions regarding strengthened surface water drainage condition 15 and control of permitted development rights for certain plots at condition 46.

The Section 106 agreement is now drafted and incorporates all of the contributions and measures stated in the report last year. As such and subject to the agreement of the recommendation below, the agreement should be signed and permission issued soon.

**Recommendation**

**A.** That authority be delegated to the Planning Services Manager, in conjunction with the Chairman, to secure the appropriate contributions for mitigation of the impact of the development under Section 106 of the Town and Country Planning Act 1990 (subject to compliance with the CIL Regulations 2010);

**B.** That, subject to A. above, planning permission be granted 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 the revised Drawing Schedule dated 16 December 2016 (as received on 19 December 2016) with the exception of drawing number 11: Planning Layout -

Sheet 2 Rev C-C, and drawing number 16: Location Plan Rev D, unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt.

3. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Revision D, dated 22 June 2016, Ref: 2014/1867 and the following mitigation measures detailed within the FRA:

1. Proposed Access Bridge Within Site - It is proposed that a clear span bank to bank access bridge is provided. The minimum soffit level of the bridge should be 53.26m to Ordnance Datum (AOD) and the pad stones should be located at least 0.5m back from the bank top level unless otherwise agreed in writing by the Local Planning Authority. This will provide a freeboard of 720mm during a 1 in 100 year plus climate change flood event unless otherwise agreed in writing by the Local Planning Authority. There should be no encroachment into the channel (Section 3, Page 22).

2. Raising Floor Levels - Finished floor levels are set no lower than 600mm above the modelled flood level to Ordnance Datum (AOD) applicable to the plot location unless otherwise agreed in writing by the Local Planning Authority, see 1:100CC flood levels and node locations shown on pages 30 and 31 (Section 3 page 21, fourth paragraph).

The mitigation measures shall be fully implemented prior to the commencement of phases 3 and 4 (see drawing No. 20A) for point 1 above and prior to occupation of any phase for point 2 above and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason : To ensure the structural integrity of existing watercourse and it's banks thereby reducing the risk of flooding, to ensure safe access and egress from and to the site, to reduce the risk of flooding from blockages of the new access crossing and to reduce the risk of flooding to the proposed development and future occupants.

4. The development permitted by this planning permission shall only be carried out in accordance with the approved Water Framework Directive Assessment, dated September 2016 and the mitigation measures detailed within the Water Framework Directive Assessment (Table 7: Page 19) unless otherwise agreed in writing by the Local Planning Authority. The mitigation measures shall be fully implemented in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: To protect the water environment from pollution during the construction of the access road crossing works.

5. Prior to the construction of any of the floorslabs of any of the houses hereby permitted in a phase, details of the finished floor levels of each building in that phase shall have first been submitted to and approved in writing by the Local Planning Authority. The buildings shall be constructed in accordance with the approved details.

Reason: In the interests of visual amenity and to protect the amenity of neighbours.

6. There shall be no alterations to ground levels and/or development (including fencing, footpaths or roads) or erection of any building, structure (including surface water drainage headwall outfalls) or any other such obstruction to flood flows within the watercourse channel and/or within 8m from the top of the bank (on both sides of the watercourse) of the Salt Brook, unless otherwise agreed in writing by the Local Planning Authority in consultation with the Environment Agency.

Any scheme for surface water drainage outfalls shall demonstrate through the submission of plans, cross-sectional drawings and calculations that the design of the outfalls will not result in an increase in flood risk upon completion of these works.

Reason: To safeguard the efficient workings of the watercourse and 8m easement from inappropriate development and thereby prevent and increase in flood risk.

7. No part of the construction of a dwelling hereby approved shall take place 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 that particular dwelling 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 character and appearance of the area.

8. Notwithstanding the approved drawings/plans and submitted details, no development involving the construction of a dwelling shall commence until revised or additional details, including samples and/or drawings where necessary, of the following materials/features for the respective dwelling have been submitted to and approved in writing by the Local Planning Authority:

- a. colour of fascia boards and mortar for verges;
- b. eaves/verges/string/dentil course/window reveal details;
- c. porch canopies;
- d. utility cupboard colours (both wall and ground mounted); and
- e. highway kerb styles to all road typographies.

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

Reason: To ensure a good standard of design in the interest of the appearance and character of the area.

9. Notwithstanding the submitted details prior to the construction of any external wall of any of the dwellings hereby approved a scheme of landscaping, which shall include indications of all existing trees and hedgerows on or adjacent to the site (including those which would have their root or canopy structure affected), and details of any to be retained, together with measures for their protection in the course of development shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the area, recognising that initial clearance and groundworks could compromise the long term health of the trees/hedgerows affected.

10. Further to condition 9 above, soft landscape details shall include planting plans; written specifications including cultivation and other operations associated with plant and grass establishment; schedules of plants (noting species, plant sizes and proposed numbers/densities where appropriate) and the implementation programme.

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

11. 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.

12. Prior to the commencement of any phase of the development which includes the new crossing of the Salt Brook, the detailed design of the new crossing (outlined in drawing No. 7414/100/01 revision C), including a scheme to ensure the design does not result in an increase in flood risk up to a 1 in 100 year (plus an allowance for climate change) critical flood event (as defined by the Salt Brook hydraulic model), shall be submitted to, and approved in writing by, the Local Planning Authority in consultation with the Environment Agency. The scheme shall demonstrate through the submission of plans, cross-sectional drawings and calculations that the design of the Salt Brook crossing will not result in an increase in flood risk upon completion of these works.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority in consultation with the Environment Agency.

Reason: To ensure that the design of the Salt Brook crossing will not result in an increase in flood risk upon completion of the link road.

13. Prior to commencement of any phase of development a scheme to provide access to the watercourse for maintenance and inspection shall be submitted to, and approved in writing by, the Local Planning Authority in consultation with the Environment Agency.

The scheme shall demonstrate through the submission of plans, cross-sectional drawings that the design of the scheme, including any alternative maintenance access arrangement will not result in an increase in flood risk.

The scheme shall be fully implemented prior to commencement of the development and subsequently in accordance with the timing /phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: To safeguard the efficient workings of the watercourse and thereby prevent and increase in flood risk.

14. Prior to the commencement of any works affecting the watercourse, including surface water drainage headwall outfalls and the Salt Brook crossing works, a detailed Construction Method Statement for the works shall be submitted to, and approved in writing by, the Local Planning Authority in consultation with the Environment Agency. The approved statements shall be adhered to throughout the construction period. The Statement shall provide for:

- o methods used for all flood plain and outfall bank-side/water margin works including temporary and permanent works;
- o machinery to be used;
- o location and storage of plant, materials and fuel;
- o access routes to the works, access to the banks of the outfall;
- o method of protection of the site and any areas of ecological sensitivity and importance;
- o site supervision;
- o location of site office, compounds and welfare facilities.

To protect the water environment from pollution during the construction of the access road crossing works.

15. Prior to the construction of any dwelling an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system and the results of the assessment provided to the Local Planning Authority. Where this assessment identifies the ability to dispose of the surface water by means of a sustainable drainage system a detailed design and associated management and maintenance plan of surface water drainage for the site shall be submitted to and approved in writing by the Local Planning Authority, such scheme shall be in accordance with Defra Non-statutory technical standards for sustainability drainage systems and:

- 1) have regard to the recommendations set out in the Flood Risk Assessment with particular attention to the scheme's accommodation of flows from outside the site;

- 2) include details of the mechanism by which surface water attenuation pond will control its discharge to an outfall;
- 3) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- 4) include a timetable for its implementation;
- 5) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme through its lifetime;
- 6) provide details of the means by which flood protection to neighbouring land can be assured during the course of construction;
- 7) provide details of how each phase of the development can be satisfactorily drained notwithstanding that the scheme as a whole may be incomplete (i.e. the scheme shall show a certain level of independent drainage for each stage of the development);
- 8) provide details of the land form levels across the site (to accord with the approved drainage strategy), supervision and certification of compliance;
- 9) the regime for supervision, inspection and certification of each phase of the surface water system by suitably qualified professionals.

The approved drainage system shall be implemented in accordance with the approved detailed design and timetable for implementation.

Reason: In the interests of flood protection.

16. No part of the development in a phase shall take place until details of the proposed means of disposal of foul sewage for the phase have been submitted to and approved in writing by the Local Planning Authority. All foul water shall be directed into the main foul sewerage system. The development shall be carried out in accordance with the approved details.

Reason: To ensure that adequate drainage facilities are provided.

17. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.  
  
B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

18. Prior to the first occupation of any of the dwellings hereby permitted, measures to minimise the risk of crime to meet the specific security needs of the application site and the development shall be implemented in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area pursuant to the Council's powers under Section 2 of the Local Government Act 2000 and to reflect government guidance set out in PPS1.

19. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), prior to the erection of boundary treatments in a phase, plans indicating the positions, design, materials and type of boundary treatment to be erected in the relevant phase shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before the any part of the relevant phase is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

Reason: In the interests of visual amenity.

20. No part of the construction of any road, footpath, car parking area or courtyard in a phase shall take place until details of the materials proposed to be used within the phase on the surfaces of the roads, footpaths, car parking areas and courtyards in that phase have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the visual amenity of the area.

21. No site clearance works or development shall take place in a phase until there has been submitted to the Local Planning Authority for their written approval a scheme showing the type, height and position of protective fencing to be erected around each tree or hedgerow to be retained in that phase. The scheme shall comply with BS 5837:2012.

The area surrounding each tree or hedgerow within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

- (i) There shall be no changes in ground levels;
- (ii) No material or plant shall be stored;
- (iii) No buildings or temporary buildings shall be erected or stationed;
- (iv) No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow; and
- (v) No drain runs or other trenches shall be dug or otherwise created; without the prior written consent of the Local Planning Authority.

Reason: To ensure adequate protection measures are in place in the interests of the character of the area.

22. Notwithstanding the submitted details, prior to the commencement of the construction of any of the external walls of the dwellings hereby approved, details of noise mitigation measures for the dwellings on the approved layout plans which have been identified as being affected by noise sources contained within the submitted Acoustic Air Noise Assessment dated March 2016 and the addendum received on the 29th June 2016, and which accord with the noise mitigation measures proposed within those documents, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To protect the amenity of residents.

23. No development of any phase shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority for that phase. The CEMP: Biodiversity shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones" to include ponds, hedgerows, woodland, trees other habitat as required.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period of the relevant phase strictly in accordance with the

approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that ecological interests are protected in accordance with paragraph 118 of the National Planning Policy Framework; in order to control impacts from the outset as an early incursion could otherwise not be rectified.

24. Before development of any phase begins a Landscape and Ecological Management Plan (LEMP) for all retained and created habitats shall be submitted to, and be approved in writing by, the Local Planning Authority. The content of the LEMP shall include the following:

a) Description and evaluation of features to be managed/created.

This should include:-

i. Management of field edges/buffer to hedges including wildflower strips;

ii. Hedgerow management and enhancement;

iii. Bird boxes; and

iv. Bat boxes

b) Ecological trends and constraints on site that might influence management.

c) Aims and objectives of management.

d) Appropriate management options for achieving aims and objectives.

e) Prescriptions for management actions.

f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).

g) Details of the body or organization responsible for implementation of the plan.

h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details for each relevant phase.

Reason: To ensure that ecological interests are protected and enhanced in accordance with paragraph 118 of the National Planning Policy Framework. This needs to be made clear before commencing to ensure that all stages of development are considered.

25. Prior to commencement of any groundwork of any phase a survey for any recently excavated badger setts on the site or within 30 metres of the site

boundary shall be undertaken and results submitted and approved in writing by the Local Planning Authority.

Reason: To ensure that ecological interests are protected in accordance with paragraph 118 of the National Planning Policy Framework; in order to control impacts from the outset as an early incursion could otherwise not be rectified.

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

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

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

Reason: To ensure that ecological interests are protected in accordance with paragraph 118 of the National Planning Policy Framework; in order to control impacts from the outset as an early incursion could otherwise not be rectified.

27. Notwithstanding the submitted details prior to the any dwelling being occupied, a revised Travel Plan which shall include reference to phases of development shall be submitted to and approved in writing by the Local Planning Authority. The revised Travel Plan details approved for a phase shall be implemented in accordance with the timescales specified therein, to include those parts identified as being implemented prior to occupation and following occupation, unless alternative timescales are agreed in writing with the Local Planning Authority. Reports demonstrating progress in promoting sustainable transport measures in accordance with the objectives of the Travel Plan shall be submitted annually to the Local Planning Authority for approval for a period of five years from the date of first occupation of the relevant phase of the development. In the event of an annual report concluding that the objectives of the Travel Plan are not being met, the annual report shall also include for the approval of the Local Planning Authority a scheme detailing remedial measures to be undertaken in order to achieve the objectives of the Travel Plan, as well as a timetable for the implementation of the remedial measures. The scheme detailing the remedial measures shall be implemented as approved and in accordance with the approved timetable.

Reason: In the interests of highway safety.

28. Prior to the occupation of any dwelling an archaeological site investigation and post investigation assessment shall be completed in accordance with the programme set out in the approved archaeological Written Scheme of Investigation (Trent & Peak Archaeology: Land at Derby Road, Hatton, Derbyshire. Project Design and Written Scheme of Investigation for Archaeological Investigation Project Code: HDR3; 2016; Report Number

046.2/2016) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To ensure that archaeological interests at the site are suitably addressed.

29. During the period of construction no construction work shall take place outside the following times: 0800 - 1900 hours Monday to Friday and 0800 - 1330 hours on Saturdays and at any time on Sundays, Bank and Public Holidays.

Reason: To protect the amenities of nearby residents.

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

Reason: To protect the amenity of residents.

31. No development shall take place until a Construction Management Plan or Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved plan/statement shall be adhered to throughout the construction period. The plan/statement shall provide for the storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking of vehicles for site operatives and visitors, routes for construction traffic, method of prevention of debris being carried onto the highway, pedestrian and cyclist protection, proposed temporary traffic restrictions and arrangements for turning vehicles. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

Reason: In the interests of highway safety.

32. No development of a phase shall commence until the Local Planning Authority has approved in writing the details of and arrangements for the setting out of the public open space within the relevant phase. Such arrangements shall address and contain the following matters:

(i) The delineation and siting of the proposed public open space within the phase

(ii) The type and nature of the facilities to be provided within the public open space, including where appropriate the provision of play equipment within a play area, which shall be supplied and installed to a specification as agreed by the Local Planning Authority.

(iii) The arrangements to ensure that the public open space is laid out and completed during the course of the development.

(iv) The arrangements for the future management and maintenance of the public open space.

The public open space within the development shall be completed in accordance with the approved details.

Reason: To ensure adequate and appropriate open space and associated facilities are provided.

33. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), there shall be no alteration to any wall which forms the principal elevation or side elevation of any dwellinghouse and fronts a highway or public open space or adjoins any existing dwelling around the site; there shall be no alteration to any gate, wall, fence or other means of enclosure adjacent to any highway or public open space; and there shall be no alterations to any roof of any dwellinghouse which forms the principal elevation of the dwellinghouse and fronts a highway or public open space.

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

34. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no further boundary treatments shall erected forward of any walls, fences or other means of enclosure fences which are approved by way of condition 14 above unless planning permission has first been obtained from the Local Planning Authority.

Reason: In the interests of overall design, recognising that the details submitted to date are not acceptable and in order to maintain the character of green and public spaces as secured under the plans hereby approved.

35. Notwithstanding the approved drawings/plans and submitted details, no development involving the construction of any of the driveways or hard surfaced areas within the root protection areas of retained trees as detailed in the Arboricultural Assessment produced by FPCR dated November 2015 which accompanied the application, or in any areas of open space shall commence until a method statement relating to the construction of those driveways or hard surfaced areas and to include their final finish have been submitted to and approved in writing by the Local Planning Authority and the development shall be implemented in accordance with the details approved by this condition.

Reason: To protect the health of trees and in the interests of the visual amenity of the area.

36. Prior to any other works commencing on site for Phase 1, the new estate street junction shall be formed to Station Road. The junction shall have a minimum width of 5.5m, be constructed to base, be provided with 2 x 2m footways, 6m radii and visibility sightlines of 2.4m x 90m. The area forward of the sightlines shall be levelled, constructed as footway and form part of the highway.

Reason: In the interests of highway safety.

37. Prior to the first occupation of Plots 167 and 168, the temporary access onto Station Road serving these plots shall be permanently stopped up and the footway reinstated in accordance with Derbyshire County Council's specifications for adopted footways. For the avoidance of doubt, this can be

included in the Agreement under Section 38/278 of the Highways Act 1980 for the roads on Phase 1.

Reason: In the interests of highway safety.

38. Prior to any other works commencing on Phase 2, technical details (generally in accordance with application drawing EL14-17 13 rev B) of the layout and construction of the new roundabout on Derby Road shall be submitted to and approved in writing by the local Planning Authority in consultation with the County Highway Authority. The roundabout shall be laid out and constructed in accordance with the approved drawings and any vehicular links to Phase 1 stopped up prior to the first occupation of any dwelling on Phase 2.

Reason: In the interests of highway safety.

39. Notwithstanding the submitted drawings, prior to the first occupation of any dwelling on Phase 2, a 2m wide footway fronting the south side of Derby Road shall be provided. The new footway shall extend from that existing to the west (Derby Road/Station Road junction), along the entire south side Derby Road, including adjacent to the new roundabout up to and including the footpath link to the cul-de-sac serving plots 1 to 34.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

41. The new dwellings shall not be occupied until the proposed new estate street, between each respective plot and the existing public highway, has been laid out in accordance with the approved application drawings, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of highway safety.

42. Prior to the first occupation of any dwelling on Phase 2, details shall be submitted to and approved in writing for the relocation of the bus stops on Derby Road and the enhancements of existing bus stops on the vicinity of the site including raised kerbs, timetables, shelters and road markings.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

44. 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.

45. Prior to the first occupation of any dwelling, space shall be provided within the development for secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the respect dwelling hereby permitted and shall thereafter be retained for use at all times.

Reason: In the interests of highway safety.

46. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; the dwellings referred to on the approved plans as plot numbers: 217, 220, 223, 224, 225, 226, 227, 228, 229, 230, 232, 233, 234, 236, 237, 238, 239, 240, 241, 242, 245, 246, 247, 248, 249, 250, 251, 252, 253, 259, 260, 261, 262, 263, 264, 265, 266, 268, 269, 270, 271, 272, 273, 298, 299, 300, 301 and 302, hereby permitted shall not be enlarged or extended, and no buildings, gates, walls or other means of enclosure shall be erected and no hard surfaces created within the curtilages of the respective plots (except as authorised by this permission or required by any condition attached thereto) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: To protect the amenity of residents and avoid exacerbating surface water flooding issues for neighbouring properties.

#### Informatives:

1. This development will require an Environmental Permit from the Environment Agency under the terms of the Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2016 for any proposed works or structures, in, under, over or within 8 metres of the top of the bank of designated 'main rivers'. This was formerly called a Flood Defence Consent. Some activities are also now excluded or exempt. An environmental permit is in addition to and a separate process from obtaining planning permission. Further details and guidance are available on the GOV.UK website: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> and to discuss detailed permit requirements and submission for the above site please contact Sarah.Mallett@environment-agency.gov.uk

2. The applicant / developer should refer to our 'Groundwater Protection: Principles and Practice' (GP3) document, available from gov.uk. This sets out our position on a wide range of activities and developments, including:

- Waste management
- Discharge of liquid effluents
- Land contamination
- Ground source heat pumps
- Drainage
- Storage of pollutants and hazardous substances
- Management of groundwater resources

All precaution must be taken to avoid discharges and spills to ground both during and after construction. For advice on pollution prevention measures, the applicant

should refer to guidance available on our website ([www.gov.uk/environment-agency](http://www.gov.uk/environment-agency)).

3. To discharge the appropriate condition the applicant should ensure all of the below parameters have been satisfied:

The production and submission of a scheme design demonstrating full compliance with DEFRA's Non-statutory technical standards for sustainable drainage systems:

- Limiting the discharge rate and storing the excess surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical duration rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site to comply with S2 & S3.
- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm to comply with S7 & S8.
- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.
- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.
- Production of a plan showing above ground flood pathways where relevant for events in excess of 1 in 100 year rainfall event to comply with S9.
- Where reasonably practicable demonstrate that the runoff volume of the site reflects the requirements of S4.

4. Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

5. The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

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

Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: [pollution.control@south-derbys.gov.uk](mailto:pollution.control@south-derbys.gov.uk).

6. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and suggesting amendments to improve the quality of the proposal through meetings and negotiations. As such it is considered

that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

7. The applicant is advised that following consultation with Derbyshire County Council, they request access to high speed broadband services for future residents (in conjunction with service providers) should be provided and new homes should be designed to Lifetime Homes standards.

8. 8. The applicant is advised that following consultation with the County Highway Authority they advise the following:

a. Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Economy, Transport and Environment Department at County Hall, Matlock. The applicant is advised to allow at least 12 weeks in any programme of works to obtain a Section 278 Agreement.

b. Pursuant to Section 38, and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Economy, Transport and Environment Department at County Hall, Matlock.

c. Traffic management measures will be necessary throughout the works on Station Road and Derby Road. The applicant should submit all management details for approval prior to implementation to the Traffic & Safety Section at Derbyshire County Council's Economy, Transport & Communities Department, County Hall, Matlock (01629 533190).

d. For the avoidance of doubt, full construction and structural details of the bridge will need to be submitted to and approved by the Highway Authority as part of the Section 38 road adoption process.

e. 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 & 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 is available via email:

ETCNetmanadmin@derbyshire.gov.uk; telephone Call Derbyshire on 01629 533190 or via the County Council's website at:

[http://www.derbyshire.gov.uk/transport\\_roads/roads\\_traffic/development\\_control/vehicular\\_access/default.asp](http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp)

f. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

g. 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.

h. The applicant should contact the Public Transport Unit at Derbyshire County Council's Economy, Transport & Communities Department, County Hall, Matlock (01629 533190) regarding the relocation of the bus stops on Derby Road and enhancement of facilities and existing bus stops in the vicinity.

i. The applicant is advised to ensure that the future maintenance responsibilities of the shared accesses/driveways and visitor parking spaces is clearly defined within the deeds of the individual properties.

j. The applicant should be aware that a commuted sum will be payable to the Highway Authority for the future maintenance of the extra over carriageway, trees and any other non-standard highway infrastructure within the site.

# COPY OF PREVIOUS REPORT

17/01/2017

Item 1.1

Ref. No. 9/2015/1108/MRF

**Applicant:**  
Bellway Homes Ltd; R G Brooks; J M  
Brooks; R L & Ma Wain  
C/O Bellway Homes Ltd  
3 Romulus Court  
Meridian East  
Meridian Business Park  
Leicester  
LE19 1YG

**Agent:**  
Mr Michael Davies  
Savills Uk Ltd  
Innovation Court  
121 Edmund Street  
Birmingham  
B3 2HJ

**Proposal:** DEMOLITION OF EXISTING RESIDENTIAL PROPERTY (CHERRY COTTAGE) AND AGRICULTURAL BARN AND PROPOSED

DEVELOPMENT FOR 385 RESIDENTIAL DWELLINGS (USE CLASS C3), FORMAL AND INFORMAL PUBLIC OPEN SPACES, STRUCTURAL LANDSCAPING, NEW ROADS, FOOTPATHS AND CYCLEWAYS, (2NO.) SITE ACCESSES AND ANCILLARY WORKS ON LAND AT SK2130 8875 SOUTH OF DERBY ROAD HATTON DERBY

**Ward:** HATTON

**Valid Date** 04/12/2015

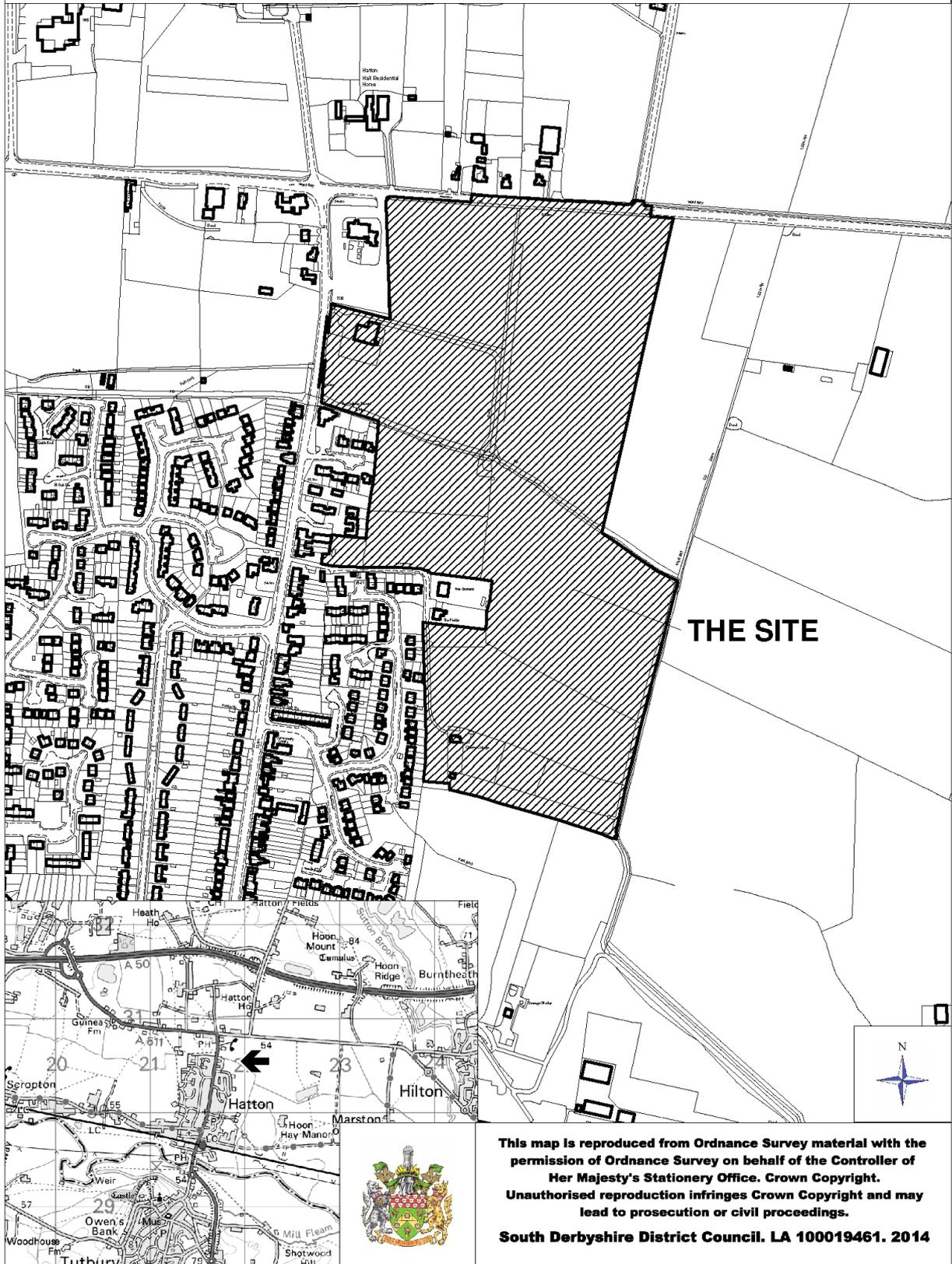
## **Reason for committee determination**

The item is presented to Committee as it is a major application where more than two objections have been received.

## **Site Description**

This c.17 Ha site is located on land to the east of Hatton settlement on fields to the south of Derby Road, east of Station Road and adjacent to, but excluding, the Salt Box Café. The application includes Cherry Cottage and outbuildings as well as an agricultural building within the site. The site does not include The Orchard and The Fields cottages which are situated on Rye Flatts Lane and Rye Flatts Lane will remain open, though not connected to, to maintain access to these two cottages. To the east of the site are open fields which are well maintained and used by grazing animals. The land is crossed by farm tracks, a watercourse and well established hedgerows containing some mature trees. To the north the sites boundary is formed by the A511 Derby Road. To the south the site abuts an area of open space known locally as the Jubilee Field. The Salt Brook crosses the site running from Station Road to the west, adjacent to the Railway Tavern public house, across the site into the fields to the east before flowing south adjacent to the eastern boundary of the site. The site is located within Flood Zone 3.

9/2015/1108 - Land at SK2130 8875 South of Derby Road, Hatton, Derby  
(DE65 5EJ)



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## **Proposal**

Full permission is sought for the demolition of the existing residential property (Cherry Cottage) and agricultural barns on the site and a proposed development of 385 dwellings in a variety of house styles and designs consisting of 2, 3, 4 and 5 bedroom properties. The development includes areas of public open space across the site, some of which would also perform the dual function of forming surface water attenuation features when needed at times of heavy rainfall before discharging to the Salt Brook. In order to take account of the threat of flooding both in terms of water flows and the relatively high water table experienced at the site, and to ensure a suitably drained development can be achieved the whole site would be raised and the scheme is provided with a series of surface water attenuation ponds. As the Salt Brook is a main river which already has numerous interventions to its flows nearby at Station Road and with the farm crossing within the site, it is proposed to provide a road bridge to cross the Salt Brook so as to avoid any further impedance of flow.

New roads, footpaths and cycleways are provided with cycle links from the south, along the eastern part of the site which would then link to Derby Road as well as Station Road. Access links are provided to and from areas of public open space on Eaton Close to the west as well as to Jubilee Fields to the south. Vehicular access would be from both Station Road and Derby Road with Derby Road provided with a new roundabout. The roundabout on Derby Road would affect the existing properties on Derby Road with no. 11 Derby Road being provided with a new turning facility before they access the realigned road and the access for their associated farm provided with direct access to the proposed roundabout. From the proposed roundabout a road would also be provided through the site running south, in most part down the eastern side of the development designed to accommodate HGV vehicles so that the road could eventually be extended to link up with the Nestle coffee factory which lies further to the south.

## **Applicant's supporting information**

The Design and Access Statement describes the site and sets the policy context. The topography, drainage, access, public transport and walking and cycling routes are described. The local context is analysed with photos of existing dwellings and their features. A constraints plan is provided which informed the layout. An overview of key proposals includes re-direction of HGV's from Station Road, provision of open space, footpath / cycle connections, enhancement of watercourses and provision of affordable housing. The masterplan is then introduced with the amount and type of properties included. Discussion on the legibility, scale, massing, movement and accessibility, parking, street hierarchy, open space and architectural appearance is included. Then areas are identified and streetscenes provided with external materials detailed. Conclusions drawn were community benefits, delivery of housing, affordable housing, alleviation of HGV movements through Hatton, community open space and footpath links, flooding enhancements, healthcare and biodiversity enhancements.

The Planning Statement introduces the background to the application and includes a summary of pre-application discussions and consultations. The application site, surroundings and landscape is described and the proposal described in relation to the masterplan, access and highways, landscaping and open space, scale, type and amount of dwellings, affordable housing and phasing. The planning policy is analysed and justification outlined in terms of principle, sustainability and housing supply. The details such as access, landscaping, layout, design are described and environmental and technical considerations such as noise, flooding and drainage, ecology and landscape, highways including the proposed highway and transport infrastructure and archaeology and heritage. Statements on affordable housing, the key benefits of the proposal and potential S106 obligations are included. Conclusions are that the site is an allocation in the Local Plan Part 1, it is a

sustainable location, there are no adverse impacts identified, an acceptable layout can be achieved, it includes provision of a secondary access for Nestle and on balance is consistent with recent appeal decisions in Mickleover.

The Arboricultural Survey states that the large majority of the individual tree cover and tree groups assessed should be retained and incorporated into the final scheme due to them primarily being situated along the outer boundaries of the site or confined to the bisecting hedgerows which provided the physical division of the field parcels. The greatest loss of tree cover shall be in the form of the removal of either entire hedgerows to facilitate the roundabout (H19) or through the loss of several sections of growth across the site to accommodate the positioning of the internal primary and secondary road layouts.

The Archaeology Survey states that the desk based assessment demonstrated that there are no known designated heritage assets within the proposed development area itself. The Derbyshire Historic Environment Record (DHER) lists one non-designated heritage asset within the boundary of the development site in the form of medieval ridge and furrow (DHER ref: 20309). Aerial photographs reveal a range of possible cropmarks both within the proposed development site and in the immediate vicinity, including medieval cultivation remains, former field boundaries, circular and semi-circular cropmarks, linear, curvilinear and rectangular cropmarks, parched cropmarks, and perpendicular linears. The date, nature and extent of these features is unknown. However, in light of the evidence for prehistoric and Roman activity within a 1km radius of the proposed development site there is potential for prehistoric and Roman sub-surface and surface remains to be present within the site. Areas of ridge and furrow evident from aerial photographs and a previous ground survey suggest there is potential for there to be sub-surface remains relating to later Medieval cultivation, providing they have not been ploughed out by modern farming. Photos also indicate that sub-surface remains relating to post-medieval field boundaries may be encountered within the proposed development site.

The Ecological Assessment describes the site as pastoral farmland and habitats comprise improved grassland, hedgerows with trees, Salt Brook and two buildings. Detailed fauna surveys conducted in 2013/2014 indicate the presence of: low levels of foraging activity by common and soprano pipistrelle bats, a common assemblage of birds and foraging activity of negligible importance by a protected species. A construction method statement (CMS) will ensure that retained habitats are protected and impacts to nesting birds would be minimised. Opportunities for biodiversity enhancement have been identified. An ecological management plan (EcMP) would ensure that: retained and created habitats are managed for biodiversity benefit; lighting is designed to minimise the risk of impacts to bats; and habitat creation including new features for roosting bats/nesting birds and log piles for invertebrates and fungi are installed appropriately.

The Flood Risk Assessment states that the ground levels in this area are at a level of between 52.70mOD at the south east corner of the site, up to 54mOD at the north west corner of the site. There is existing residential development located to the west of the site and commercial development to the south. The site is currently considered to be 100% permeable and presently drains into the ditch watercourses and the Salt Brook. It is estimated that the impermeable area following completion of the development will be increased to approximately 8.385Ha which is 54% of the total site. There is a line of flood defences which runs parallel with the railway embankment 600m to the south of the site which is considered to provide the 1 in 100 year defence. During a 1 in 100 year (plus climate change) overtopping event it is assumed that the defences will be overtopped by 300mm. Due to the distance from the defences to the site, the southern part of the site is located within an area which is at risk to some degree. During a 1 in 100 year breach of the defences it is considered that the site will not be affected by the flood water. The Salt Brook flows through the site eventually discharging into the River Dove some 800m to the south

east. The extreme 1 in 1,000 year flood is generally maintained within the channel with only minor flooding to the opposite bank in line with the site. The 1 in 100 year plus climate change flood is maintained within the channel throughout the site. The 1 in 100 year flood level varies between 52.290mOD and 52.644mOD within the site. The local watercourses and ditch watercourses represent a low risk due to their small catchment areas. In order to comply with the Environment Agency's requirements, it is recommended that the internal finished floor level of the proposed buildings which are residential in nature, are set at a minimum of 600mm above the 1 in 100 year plus climate change flood level for the Salt Brook. Therefore, the internal ground floor levels should vary between 52.890mOD and 53.244mOD within the site. It is also recommended that the ground floor level of all the dwellings within the site are elevated at least 150mm above the finished external ground level to ensure that any overland flow from the north does not enter the new buildings. It is concluded that the proposed development lies within an area which could be flooded during extreme flood events from the River Dove and the current drainage feasibility study utilises sustainable drainage techniques where practically possible.

The Water Framework Directive Assessment, compiled due to the proposed bridge over the watercourse, ensures that any proposed scheme causes no deterioration to the current ecological status of a water body or prevents that waterbody from achieving its expected status by set target dates. A stretch of Salt Brook has been surveyed to establish the baseline conditions for the assessment. The Brook has been subjected to engineering works in the past. This is indicated by the uniformity of the channel profile and riparian zone and the construction of a new channel to the south of the site. Despite the presence of this uniform channel profile with its almost complete absence of natural stream features like meanders, riffles, berms, earth cliffs etc. the brook supported a moderately diverse aquatic plant assemblage. No evidence of fish was noted during the survey. Mitigation measures recommended are that; the proposed drainage scheme for the development includes a series of attenuation measures to ensure discharge rates fall within parameters agreed with the EA and proposed planting of the northern and southern sections of brook edge, with an additional 10m planted to mitigate for loss at headwalls.

Geophysics Report states that the site is situated on deposits of Mercia Mudstone, with superficial Clay, Silt, Sand, and Gravel Alluvium. The land had partially been in use as pasture prior to the survey, some fields were planted with uncut crop at the commencement of survey necessitating some delay in proceeding with data-capture while the crop was cut / bailed and removed. The survey demonstrated the presence of potential buried archaeological features, these comprised: probable archaeological features relating to ridge/furrow agricultural practices, probable remains of discrete cut features such as pits or small-scale episodes of quarrying, probable evidence for the remains of structures, possible evidence of pits or small-scale quarrying, possible evidence for cut-features of indeterminate nature and possible remains of buildings or structures. It concludes that the distribution of geophysical anomalies across the areas surveyed should probably be seen as representative of the presence of archaeological features within the survey area.

The Noise Report describes the noise criteria and relevant planning policy. It outlines the British Standard guidance on sound insulation and noise reduction for buildings and the recommended indoor ambient noise levels for dwellings and the World Health Organisation standards. The noise levels affecting the site were not particularly high, with a day and night-time LAeq at Position 1 of 64 dB and 54 dB respectively. In conclusion, the noise assessment demonstrates that acceptable external and internal noise levels will be achieved for residents subject to appropriate noise mitigation such as double glazing with passive acoustic ventilators installed within habitable rooms that have windows having an unscreened view towards Derby Road.

An additional noise report was submitted to assess the potential noise impacts from vehicles on the Salt Box lorry park. For dwellings adjacent to the Salt Box Cafe's lorry park, a 2.5m high close boarded timber fence is recommended along the site boundary or along the boundaries of gardens backing on to the parking area in order to protect garden areas. During the daytime, normal thermal double glazing providing would be more than adequate to satisfy the internal noise standards within living rooms. The main noise events having the potential to disturb local residents, most particularly at night, will be the movement of lorries, cab doors being closed, and the possible operation of refrigeration motors on some lorries. Therefore, the overall package of mitigation against night-time use of the lorry park would include a 2.5m high noise fence along the boundary of the lorry park area and its access road, and the provision of secondary glazing with sound-absorbent reveals plus passive acoustic ventilators for bedrooms of plots 115-167 that have a view to the lorry park. Noise levels will decrease at dwellings set back from the site boundary and the changing sound reduction requirements for bedrooms having an unscreened through to the Salt Box Cafe lorry park have been defined. Higher specification bedroom windows would only be required out to a distance of 40m from the boundary. Beyond this zone normal thermal double glazing would continue to enable internal noise standards to be met.

The Statement of Community Consultation is based on the consultation event held on 11 May 2015 from 2pm to 8pm at Jubilee Hall, Station Road Hatton where 195 people attended, 94% of which were residents. The strongest level of agreement within the responses received related to the availability of new homes and contributions towards other infrastructure as part of the proposals. The strongest level of disagreement within the responses received related to traffic and transport, community infrastructure, devaluing existing properties, construction impacts, flood risk, loss of countryside and loss of community feel.

Transport Assessment states that the site would be accessed via a new roundabout junction with Derby Road to the north of the site, and a new priority junction with Station Road to the west of the site. It has been demonstrated that the northern site access roundabout could provide an additional route for HGV traffic associated with the existing and consented Nestlé operation. The site has been shown to be well located in terms of access by sustainable modes, with a range of local facilities within walking and cycling distance and two regular bus routes servicing the site. The collision record on the local highway network for the most recent five year period has been interrogated and it has been shown that there are no inherent safety issues that could be exacerbated by the proposed development. The number of vehicular trips generated by the site has been forecast using the TRICS database. The distribution of development traffic from the site has been determined using Journey to Work data from the 2011 Census. The capacity of the proposed access junctions and that of others on the existing highway network has been assessed based on a scope of assessment which was agreed with the Local Highway Authority. Additional traffic associated with the recent Nestlé expansion has been fully accounted for in a robust manner utilising surveys undertaken at the site access in 2015 and 2012.

The assessments demonstrate that all of the junctions considered would continue to operate within capacity in the Future Year 2020 scenario in the AM and PM peak hours, following the completion of the proposed development. The proposal is therefore compliant in respect of NPPF paragraph 32.

The Travel Plan outlines the relevant policies, reviews access by sustainable transport modes such as walking, cycling and public transport. It identifies objectives and targets to reduce car use and the management and monitoring required.

## **Planning History**

9/2012/0132 – The Construction of New Flood Embankments and Wall and Improvement Works to Existing Flood Defences – GRANTED Subject to Conditions – 26/06/2012

9/988/0582 - The Erection of a Detached Bungalow on approximately 930 square metres of land to the west of Cherry Cottage – REFUSED – 14/10/1988

9/1195/0580 – The Erection of a Detached House in substitution for that permitted under planning application 9/0495/0001 on plot 19 – GRANTED – 22/12/1995

## **Responses to Consultations**

Highways England has no objection.

Natural England has no objection as they are satisfied that the Old River Dove SSSI does not represent a constraint. They would expect consideration be given to local sites, local landscape character, priority habitats and species, protected species, green infrastructure and biodiversity enhancements.

The Police Crime Prevention Design Advisor recommends that shared accesses are communally secured and gates are in open view. Garden accesses should be included on some plots with gates visible and lockable.

Derbyshire County Council Flood Team as Local Lead Flood Authority has no objection in relation to the surface water management proposed and recommends a condition.

The County Archaeologist states that the site has a high potential for archaeological remains of prehistoric/Romano-British date. The archaeological fieldwork on site has been completed and post-excavation work, reporting and an archive can be secured by condition.

East Staffordshire Borough Council has no objection provided the criteria of Policy H11 being met.

The Council's Contaminated Land Officer recommends a phased contamination condition due to the site being within influencing distance from the former Hoon Hay Landfill site.

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

Derbyshire Wildlife Trust states that no roosting bats, GCN and notable bird species were recorded during the survey efforts, but common and soprano pipistrelle bats were foraging and commuting across the site utilising the hedgerows. The proposed layout plan has the potential to result in a direct loss of biodiversity through loss of hedgerow habitats potentially causing a net loss to biodiversity without appropriate assessment, mitigation and enhancements and have maintained an objection in regard to this. It is recommended a 6m buffer along the entire Saltbox Brook ditch length is included. Further details and clarification on removal of trees will be required prior to determination of the application. Conditions are recommended in relation to the further survey work in relation to the outlier badger sett, Badger protection during construction, protection of nesting birds, submission of a Construction Environmental Management Plan (CEMP) and Landscape and Ecological Mitigation and Management Plan (LEMP).

The County Highways Authority commenting on the original plans originally stated that the Transportation Assessment suggests that the residential element of the proposals will generate around 225 - 250 vehicles during the weekday peak hours and has taken account of the committed development, notably proposals for expansion to the Nestle factory currently accessed from Marston Lane. The main access into the site would be from a newly

constructed 3 arm junction onto Derby Road, further detailed design on the continued satisfactory use, of private accesses in the north western quadrant of the proposed roundabout is required. The roundabout design is required to be future proofed to take into account the Council's aspirations for further development of the Nestle site and a potential Hatton bypass. Capacity assessment of the Derby Road/Station Road (Saltbox) traffic signal controlled junction indicate that the junction would work with some spare capacity once the background traffic, committed development and growth and proposed development traffic is taken into account. Accident data has been analysed and has not revealed any trends or features of the highway that are contributing to accidents or that road safety will be compromised by the proposed development. The visibility sightlines at junctions onto the "major industrial access road" should be 47m, visibility from specific plots should be improved and clarification as to whether ramps as a transition to block paved areas are proposed.

In terms of the Travel Plan, no objection is raised but a Travel Plan Monitoring Fee is requested of £1,000 pa x 5 years as well as ensuring direct access to the NCN 549 to the south from the access road. At the time of writing final comments and suggested conditions and informatives have yet to be received and will be reported at the meeting.

The Council's Environmental Health Officer has no objection as it is considered that noise impacts in relation to HGVs using the Salt Box Café has been satisfactorily addressed through the submission of a Noise Report and addendum and the recommended implementation can be controlled by condition which specifies the plots where additional noise mitigation and screening is required.

The County Council's Economy, Transport and Environment Department has requested the following S106 contributions:-

- £136,788.00 for 12 primary places at Heath Fields Primary
- £1,030,570.20 for 60 Secondary places at John Port Secondary (Academy)
- £447,069.60 for 24 post 16 places at John Port Secondary (Academy)

The County Council has completed a costed feasibility study for 3 additional classrooms at Heath Fields Primary and the above funding would either contribute to this or fund an additional classroom. Funding for John Port would be used towards the creation of additional teaching accommodation for protects Year 7 to Year 11 project A and Post-16 project F.

The Southern Derbyshire CCG states that as the GP practice at Hilton does not have any spare capacity to manage increased patient demand a S106 contribution of £152,160 should be secured for the practice to expand and /or provide additional services in the area.

The Environment Agency has no objection subject to conditions relating to the new Salt Brook crossing, mitigation measures within the FRA, easement of the watercourse, ground levels, maintenance access for Salt Brook, construction method statement for the Brook crossing, Water Framework Directive Assessment. The site lies in a high risk area of flooding from the River Dove during a 1 in 100 year plus climate change flood event. The probability of flooding to the proposed development is kept within acceptable limits due to the presence of flood defences than run parallel with the railway embankment some 600m to the south of the site. Without a commitment to the long term maintenance of the flood defences the standard of protection afforded to the application site will reduce and the risk of flooding become greater. Based on the total annual investment over the 50 year design life of the flood defences it is considered that a S106 contribution of £393,038.88 towards their maintenance would be reasonable.

## Responses to Publicity

Hatton Parish Council has raised concerns regarding flooding of the site in spite of flood alleviation works being undertaken; there is a shortage of school places at Heath Field School; there is no capacity at local doctors and dentists; and when work commences, material deliveries should access the site via the northern access and not Station Road.

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

- a) The proposed traffic island should be moved opposite Sutton Lane for safer access for HGVs.
- b) The movement of HGVs should have time delivery restrictions and 20mph speed restrictions applied.
- c) The Nestle relief road is not shown on the plans.
- d) The proposal would result in extra pressure on the existing busy road through the village.
- e) The site is susceptible to flooding and is within flood zone 3 and would put existing homeowners at risk if it is developed.
- f) Hatton will no longer be a village due to the expansion together with developments at Nestle.
- g) It will cause environmental damage and wildlife habitat would be destroyed.
- h) The proposal will destroy the village community and would join Hatton with Hilton.
- i) There is no capacity at the local doctors or dentists for future residents.
- j) Station Road is already very busy with traffic from Burton and the A50.
- k) There is no parking capacity at the shops on Station Road already.
- l) Noise and dust during construction will impact on their property.
- m) The proposal would result in overlooking and overshadowing of their property.
- n) What are the provisions for the extra demand placed on doctors, dentists and services.
- o) In relation to flood risk, does raising the levels of the new properties put existing properties at more risk.
- p) The flood defences were not designed for the 400 houses and the Nestle factory.
- q) Brownfield land with a low risk of flooding should be considered first.
- r) The increase in HGVs would increase noise levels at their property.
- s) At least 9 houses would overlook their property - The Fields on Rye Flatts Lane.
- t) There would be increased noise levels at their property and as such additional fencing required on their boundary.
- u) Would the Japanese Knotweed be eradicated from the field prior to development.
- v) Loss of privacy to rear of house and garden.
- w) The hedgerows on the site were planted as part of the flood alleviation scheme and should be protected.
- x) The site is used for recreation and dog walking by villagers.
- y) No.50 Eaton Close would be affected by noise, dust and would lose its privacy and security.
- z) Bats use this area to feed and possibly roost and one was found on their property.
- aa) The proposal would bring with it at least 800 vehicles.
- bb) Station Road is very busy and often queued when the train barriers are down.
- cc) Salt Brook runs through the site and frequently floods.
- dd) At the consultation event held by the developers the pictures and plans were not accurate as they showed fewer dwellings than planned.
- ee) There would be an increase in anti-social behaviour and crime with its resultant pressure on the police force.
- ff) There is no capacity at the Infant school or John Port for this development.
- gg) If approved the junction onto Station Road should be pedestrian only and estate traffic restricted to the Derby Road access.

- hh) New houses fronting Station Road may increase on street parking which is already a problem.
- ii) HGV traffic from Burton would increase.
- jj) They do not want a public pathway to the rear of their dwelling as it would reduce their security.
- kk) There would be a loss of landscape for the village.
- ll) The development would increase the impermeable area by 54% significantly increasing the run-off from the site and the balancing ponds inadequate.
- mm) The new Derby Road access location would cause problems for traffic using Sutton Lane.
- nn) 14 Birch Grove considers a narrow screen with trees and bushes should be considered adjacent to their boundary as mitigation for the loss of view.
- oo) The proposed bungalows to the rear of 4 Lime Grove would overlook and overshadow their bungalow and reduce their enjoyment of their garden.
- pp) The sewerage system has no capacity for the increase in properties.
- qq) Existing properties insurance premiums would increase due to the increased risk of flooding.
- rr) It would cause light pollution for existing properties.
- ss) A sizeable green belt area would be lost.
- tt) There would be an increased risk of children being injured due to congestion around the Heath Fields Primary.
- uu) The land was common land but re-registered in 2003 and could have been used for a new school.
- vv) More congestion would make it difficult and dangerous for crossing roads with their horses.
- ww) The loss of the local pub as it would be built on.
- xx) The footpath / cycleway route would be via Church Avenue and there has been no consultation and the increased use may mean more 'dog mess' on the street.
- yy) Is the environmental report undertaken for the site available?
- zz) Future residents of the development would use Rye Flatts Lane as a cut through to Station Road if there adequate boundary treatment is not proposed
- aaa) 14 Birch Grove would like a 2m high fence erected along the side and rear of their property
- bbb) If this site is developed Hilton Brook would flood and damage adjacent properties.

3 letters of support which make the following points:-

- a) Nestle support the application as it would provide a second access connection to the factory for HGV traffic through a new roundabout off Derby Road.
- b) First time buyers in the area would welcome new homes in Hatton.

16 letters in response to re-consultation on amended plans / information have been received and comments not included above are summarised below:-

- a) The timing of re-consultation over the Christmas period did not allow for proper scrutiny and should have been sent in January.
- b) The village infrastructure cannot support such a large development.
- c) A dangerous junction is proposed near the Salt Box and may result in extra parking on Station Road.
- d) Construction working hours need to be controlled if the plans go through.
- e) John Port would need capital development in order to meet the demand from this development.

- f) If the amendments result in making Church Avenue a through-fare for foot traffic this is inconsiderate as the diversion of the Bridal path has increased its use already and it reduces their quality of life.
- g) The fence blocking off Hoon Road should be opened up and the pedestrian traffic shared.
- h) The proposal would change Hatton to a small town and would add a third to the existing population.
- i) It would increase strains on NHS practices, services, schools, traffic noise and pollution.
- j) It would increase the risk of flooding for existing residents.
- k) The revised plans show a sewerage relief system adjacent to the boundary with 50 Eaton Close which is unacceptable due to smells and germs being released affecting their quality of life.
- l) The land level of No.3 Lime Grove's garden (shown on the submitted sections) is 1-1.5m lower and as such there is an increased risk of flooding.
- m) What is proposed as screening on the boundary for 3 Lime Grove?

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1:

S1 (Sustainable Growth Strategy)

S2 (Presumption in Favour of Sustainable Development)

S3 (Environmental Performance)

S4 (Housing Strategy)

S6 (Sustainable Access)

H11 (Land north east of Hatton)

H20 (Housing Balance)

H21 (Affordable Housing)

SD1 (Amenity and Environmental Quality)

SD2 (Flood Risk)

SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure)

SD4 (Contaminated Land and Mining Legacy Issues)

BNE1 (Design Excellence)

BNE2 (Heritage Assets)

BNE3 (Biodiversity)

INF1 (Infrastructure and Developer Contributions)

INF2 (Sustainable Transport)

INF6 (Community Facilities)

INF7 (Green Infrastructure)

INF9 (Open Space, Sport and Recreation)

- 1998 Local Plan (saved policies):

EV1 (Development in the Countryside)

EV8 (Open Spaces in Villages and Settlements)

EV9 (Protection of Trees and Woodland)

EV14 (Archaeological and Heritage Features)

## **Emerging Development Plan Policies**

The relevant policies are:

- Pre-submission Local Plan Part 2:  
  
SDT1 (Settlement Boundaries and Development)  
  
BNE5 (Development in the Countryside)  
BNE7 (Trees, Woodland and Hedgerows)  
BNE10 (Heritage)

## **National Guidance**

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

## **Local Guidance**

- SPGs - Housing Design and Layout, Developer Contributions, Better Design for South Derbyshire.

## **Planning Considerations**

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

- The planning policy context,
- Flood risk,
- Archaeological impacts;
- Connectivity and highway safety impacts;
- Biodiversity, trees and hedgerows;
- Design and amenity;
- Affordable housing, infrastructure and mitigation (S106)
- Other material considerations.

## **Planning Assessment**

### The planning policy context

The site has been allocated for around 400 dwellings in the Local Plan Part 1 which was adopted in June 2016 therefore the principle of developing the site for housing has been established through the Local Plan process. Policy H11 sets out the specific requirements for the site with the following criteria specified: i) the retention of trees on the eastern boundary and landscaping to soften the impact; ii) high quality pedestrian and cycle links within the site and connecting to the south; iii) consideration of retail provision; iv) contributions to maintain flood alleviation works at the Lower Dove Catchment area; v) consideration of a doctors surgery in Hatton; vi) ensure combined access to the sewage treatment works and manufacturing plant; vii) contributions to Heath Fields Primary School; viii) watercourse easements; ix) consideration of heritage assets; and x) contributions to household waste recycling in Swadlincote.

Whilst some of these issues are discussed in more detail below, compliance with the policy is as follows: i) the development does not affect the eastern boundary and whilst no off-set is provided on that edge it is noted that the road towards the Nestle coffee factory is located on that edge which, whilst elevated due to the raising of the land levels, means that the built

form for the most part is set off the boundary satisfactorily; ii) high quality pedestrian and cycle links are provided; iii) it should be noted that the allocated site also includes the Salt Box Café to the north-west of the application site which is where the provision of retail would be considered more appropriate; iv) contributions towards maintenance of the flood alleviation works is secured through the S106; v) consideration to a health centre in Hatton was given but NHS England have instead requested a contribution towards the health centre in Hilton; vi) combined access would be secured on both the plans and in the S106 agreement; vii) contributions to Heathfields Primary School would be secured through the S106 agreement; viii) easements are accommodated in the layout; ix) the only heritage asset is archaeological and this has been addressed; and x) a Household Waste Recycling contribution is not CIL compliant at this stage (see below).

The Sustainability Appraisal that accompanies the LP1 cites several benefits that flow from the development of the site which outweigh the negative aspect of its flood zone location: the site would contribute to the cost of maintaining the lower Dove management Scheme protecting 1600 homes and businesses from up to 1:100 year events (cost £5m); the creation of homes near to a manufacturing company recently significantly extended creating a more balanced community; and improved access to the factory with potential to reduce HGV movements along Station Road. The site is therefore established in principle for development and in general terms the proposal complies with the relevant adopted policy.

### Flood risk

The site lies wholly within zone 3 of the Environment Agency Flood Map, being the zone with a risk of 1 in 100 year or greater for river flooding. The NPPF advocates that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere – ‘necessary’ being the operative word. Policy SD2 of the 2016 Local Plan Part 1 states “the development of sites with a higher risk of flooding will only be considered where essential for regeneration or where development provides wider sustainability benefits to the community that outweigh flood risk”.

Residential development is classified as a ‘more vulnerable’ development type and is generally inappropriate in Flood Zone 3 unless the Sequential and Exception Tests can be passed. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding – ensuring that development is not permitted where there are reasonably available alternative sites appropriate for the proposed development in areas with a lower probability of flooding. In the case of this site the Sequential Test was applied at the Local Plan level during Part 1 and as part of the allocation of sites through that process the merits of this site were considered against other sites in the Sustainability Appraisal. The site was ultimately accepted as appropriate in flood risk terms for residential development and as such in strategic terms the development of the site for residential purposes is considered to be acceptable in flood risk terms.

In terms of the detailed design of the development in flood risk terms the application is accompanied by a Flood Risk Assessment (FRA) which based its study on the basis of a 100% permeable site which presently drains into the ditch watercourses and the Salt Brook, which in turn flows through the site eventually discharging into the River Dove to the south east.

The FRA states that the main channel of the River Dove is located approximately 800m to the south of and whilst there are no flood defences, such as embankments or flood walls directly adjacent to the river south of the site there are recognised flood defences which run parallel with the railway embankment which is approximately 600m to the south of the site which provide the 1 in 100 year standard of defence. However, consideration has also been

given to these defences on the River Dove being over-topped as well as to breach scenarios. During a 1 in 100 year flood event within the River Dove flood water will be maintained to the south of the railway embankment and the site will not be flooded although when a further allowance is made for climate change there is a residual risk of flooding of the southern part of the site. In order to protect against that residual risk the site would need to be raised to an appropriate level.

The FRA states that in terms of the Salt Brook and the ditch watercourses these represent a low risk due to their small catchment areas and states that flood water should remain in channel for the full length of the site even during an extreme 1 in 1,000 year flood event. Furthermore, the FRA considered a scenario whereby there was a blockage of the four culverts under Station Road directly upstream of the site but concluded that whilst the area directly upstream of that culvert would become inundated, it would not overtop Station Road and flood the site. As such, the development site would remain dry during a blockage of that culvert.

The County Flood Risk Team initially raised an objection to the proposal as infiltration is an unlikely option for the disposal of surface water and data from the British Geological Survey indicates that groundwater is likely to be less than 3 m below the ground surface for at least part of the year, and bedrock deposits are likely to be poorly draining. The raising of the site not only lifts the development to a safe level but would also allow appropriate falls to be created to dispose of surface water around the site being designed in such a way so that the resulting surface water drains in seven mini catchments, each at the greenfield rate for the corresponding return period. This is proposed to be achieved through the use of attenuation in balancing ponds ultimately discharging to the watercourse flowing through and adjacent to the site. This approach has been accepted by the County Flood Risk Team.

It is considered that whilst part of the proposed development lies within an area which could be flooded during extreme flood events from the River Dove, the overall design of the scheme in flood risk terms is such that the development is acceptable. Both the Environment Agency and the County Flood Risk Team raise no objection to the proposals and it should be noted that the development would deliver a financial contribution of £393,038 through the S106 Agreement for the future maintenance of the local flood defences which would clearly secure the defence benefit to many other homes and businesses outside the site.

### Archaeological impacts

The County Archaeologist advises that the site is within the historic alluvial floodplain of the River Dove, which has been subject to periodic inundation during the Holocene period and has formed a very mobile fluvial environment. There is plentiful evidence for prehistoric and Romano-British activity within the floodplain, often with archaeological levels sealed by alluvium to a greater or lesser depth. He advised that the site therefore has a high potential for archaeological remains of prehistoric/Romano-British date.

The site itself contains ridge and furrow earthworks of medieval date as noted on the Derbyshire Historic Environment Record (HER 20309), although these appear to be of modest scale and preservation and are perhaps only of local significance.

Because of this archaeological potential noted above the applicant submitted the results of an archaeological desk-based assessment and a geophysical survey to the County Archaeologist and because the geophysics showed features likely to represent prehistoric archaeology, he advised the applicant to undertake a programme of field evaluation to establish the significance of archaeological assets on the site in line NPPF para 128.

On the site archaeological fieldwork has been completed in accordance with an approved Written Scheme of Investigation (WSI). However, the post-excavation work, reporting and archiving are not yet complete and those elements need to be secured by an appropriately worded planning condition. This is considered to be appropriate and with that mechanism in place the development is compliant with Saved Environment Policy 14 of the 1998 Local Plan as well as NPPF Chapter 12.

### Connectivity and highway safety impacts

As this application is in full the means of access from both Derby Road, including the acceptability of the roundabout, the access from Station Road as well as the detailed internal road network, parking provision and pedestrian/cycleway connectivity must all be considered at this stage. As part of the evolution of the scheme the roundabout design was amended and a new footway between the new roundabout on Derby Road and the existing footway on Derby Road close to the traffic lights adjacent to the Salt Box and Station Road junction has been included. The site has a good level of connectivity between the Jubilee Field to the south, Station Road to the west including shops, school etc., Derby Road to the north as well as within the site which would also link areas of public open spaces with paths/cycleways to create a well-connected development. The layout will also promote access to bus stops on Derby Road and Station Road. Adequate and appropriate off-street parking is provided, generally on plot. The safety of the roundabout, accesses and appropriateness of the internal road layout for the development is considered to be acceptable to the County Highway Authority who have verbally indicated this, although at the time of writing their final comments and suggested conditions and informatives have yet to be received and will be reported at the meeting.

The number of dwellings proposed is also considered unlikely to cause capacity issues on the wider network. The frequency of bus services nearby is also relatively good for a rural village, whilst other sustainable modes of transport are feasible.

It is acknowledged that at certain times the local roads are busy. However, there is no evidence to show that the proposed development would have any undue impact on the highway network and thus the potential to adversely affect the wider transport infrastructure. The NPPF makes it clear in paragraph 32 that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. In this case there is no evidence that the cumulative impact would be severe and as such, notwithstanding the comments received, in highway safety terms the proposal is considered to be acceptable.

As such the proposals are considered to be acceptable and permission should not be withheld on highway safety or capacity grounds.

### Biodiversity, trees and hedgerows

The NPPF advocates that impacts on biodiversity should be minimised and net gains provided where possible. It makes clear that if significant harm cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused and that permission should also be refused for development resulting in the loss or deterioration of irreplaceable habitats unless the need for, and benefits of, the development in that location clearly outweigh the loss. Policy BNE3 and saved policy EV11 reflect these principles.

The application was accompanied by an Ecological Assessment which was also later supplemented by a Water Framework Directive (WFD) Assessment in order to address concerns in respect of the impact on the ecology relative to the Salt Brook watercourse as

well as further information relating to badgers. At the same time the applicant included the provision of a clear span bridge within the designs in order to ensure that any adverse impacts on the watercourse were avoided. These have been examined by the Environment Agency which is now content in regards to the impact of the development on the Salt Brook watercourse. However, the Derbyshire Wildlife Trust maintain their objection in regards to the net loss of hedgerow as a result of the development as a whole, stating that there has been a drastic loss of hedgerows throughout the UK and that hedgerows are considered the most significant wildlife habitat over large stretches of lowland Derbyshire and are essential refuge for a great many woodland and farmland plants and animals. The inclusion within the UK BAP recognises that hedgerows are important not just for biodiversity, but also for farming, landscape, cultural and archaeological reasons. They also state that linear landscape features such as hedgerows are also important for bats. They have advised that a revised layout is preferred which reduces the impacts of the proposals to the local biodiversity and that the mitigation should state that all newly planted hedgerows are created using native species and include trees and managed to maximise biodiversity within the scheme rather than ornamental planting which will not achieve the same biodiversity level.

Policy BNE3 of the 2016 Local Plan Part 1 states that the Local Planning Authority will support development which contributes to the protection, enhancement, management and restoration of biodiversity or geodiversity and delivers net gain gains in biodiversity wherever possible by: i) protecting sites of International, European, National and County importance, together with local nature reserves, from inappropriate development within and adjacent to sites; ii) delivering long term plans to restore the River Mease SSSI/SAC to a more natural condition and improve water quality within the Mease and other catchments to meet the Water Framework Directive (WFD) objectives; iii) developing and maintain a district wide ecological network of SSSI's and local wildlife sites; iv) supporting and contributing to the targets set out in the Lowland Derbyshire and/or National Forest Biodiversity Action Plan for priority habitats and species; v) Protecting ancient woodland and veteran trees from loss unless the need for, and benefits of, the development in that location clearly outweigh that loss. The policy also states that proposals that could have direct or indirect effect on sites with potential or actual ecology or geological importance including: internationally recognised sites; nationally important sites (SSSI's); sites of county importance (Local nature Reserves, Local Wildlife Sites and Local Geological Sites); ancient woodlands, veteran trees and hedgerows; priority habitats, will be supported by appropriate surveys to fully understand the likely impacts and mitigation proposed and where, exceptionally, compensation cannot sufficiently off-set the significant harm and/or where the development can potentially be located elsewhere causing less harm, permission will be refused.

Clearly, Policy BNE3 seeks to ensure that new development does not give rise to undue adverse ecological effects. The Council has worked with the developer to ensure that all reasonable mitigation to protect existing and deliver new hedgerows on site are incorporated into the scheme. Notwithstanding that the scheme will lead to the loss of some existing hedgerow on site mainly due to the raising of levels and necessary access arrangements. DWT have objected to loss of hedgerow and consider that its loss will not be fully offset; however this is not the test that is required by this policy. Mitigation is proposed to reduce the likely effects of hedgerow loss on the site and in view of the site constraints identified elsewhere in this report, and the measures taken by the developer, the proposal as a whole is considered to conform with Policy BNE3. It is considered that the impact of the development biodiversity is acceptable in the context of delivering this large, allocated housing development and a condition to secure an appropriate landscaping scheme can be secured through a suitably worded condition and is appropriate to ensure the LPA has discharged its statutory duty in relation the ecology and nature conservation.

The site contains numerous trees on current field boundaries or the boundaries with neighbours and whilst some of these will be removed to facilitate the development this would

not have any undue impact on the visual amenity of the area. It is noted that some engineering works, paths roads etc., would need to occur within the Root Protection Areas (RPA) of some of the trees, as such a condition is considered to be necessary to control the method of constructing those so as not to affect the health of the trees. Subject to the inclusion of a suitably worded condition the impact of the development on trees is considered to be acceptable.

### Design and amenity

Significant negotiations have taken place to ensure an appropriate design and layout is achieved. These included alterations to the road layout and hierarchy, addressing levels, feature properties set on prominent corners in the site to provide a double frontage, improving the natural surveillance of the street and appropriately addressing public open space as well as ensuring connectivity within the site. The scale of the dwellings reflects the characteristics of the wider settlement generally and the layout and floor levels respect the contours of the site although the engineering constraints that result from the levels associated with the roundabouts with the development itself are fixed. The appearance and layout of the proposed development is, on balance, acceptable and appropriate for the site. The house types create a strong character for the overall development and include the selective use of strong gable features and symmetry across the fenestration details.

The mix of house styles and scales creates an evolving built environment that sensitively reflects the better parts of the local vernacular whilst providing its own identity in the evolution of the village's built environment. It is considered that the layout and house types would generally result in a built form that would create a good sense of place for future occupiers and which would sit harmoniously with the existing settlement.

The application site runs adjacent to existing housing across Derby Road, the living accommodation at the Salt Box café, off Birch Grove and Lime Grove, Rye Flatts Lane and Eaton Close. The proposed layout is considered to be a reasonable balance between protecting the amenity of neighbours and delivering the development, even taking into account the significant but necessary raising of the ground levels. Backing and siding onto existing properties is also achieved without compromising separation distances set out in the SPG. Whilst some existing residents presently benefit from an open and unimpeded view out onto the open countryside, the principle of developing the site has already been ruled acceptable when the site was allocated in the Local Plan and there is no concern as to separation to existing residences.

In terms of designing out crime, the main concern is about the lack of side or gable treatment for the smaller house types which reduces supervision of private curtilage, where the majority of private parking is sited, and in some cases lessens the outlook onto public spaces. This is noted and some have been provided. However, their occasional absence is not sufficient to justify refusal of the development. The concern about secure rear access routes for terraces is also noted and these are not clear on the submitted plans and so is a matter that needs to be appropriately addressed. As such the plans submitted showing the specific boundary treatments for plots are not recommended for approval and the imposition of a suitably worded planning condition would achieve the submission of further boundary details for consideration.

In terms of noise, the main source is traffic using Derby Road although the lorry park and car washing facility at the Salt Box Café as well as the proposed industrial access road to serve the factory to the south are also relevant. However, the noise levels are not so great so as to render the proposed dwellings particularly vulnerable to unacceptable disturbance and indeed normal mitigation measures would be able to achieve suitable protection for future residents to eliminate any undue effects. In line with the submitted Noise Assessments

recommendations and the advice of the Council's Environmental Health Officer, a condition is suggested to secure a package of measures for the plots adjacent to those noise sources.

In terms of open space within the development for the enjoyment of future residents, there are a number of spaces within the site some of which also contain surface water storage which gives them a dual function of open space and surface water attenuation although most would be dry except during severe rainfall events, whilst some are wet for biodiversity and amenity reasons. The site lies immediately adjacent to the Jubilee Fields which abuts part of the southern boundary and contributions by way of a S106 agreement would be made to improve that space which would enhance it for both existing residents as well as future occupiers of the new development. The creation of a sizeable population on this development would lead to people using the existing public open spaces on Eaton Close and Jubilee Fields and, ultimately, Church Avenue. The new and existing residents would be able to use newly created routes to access this development or the wider areas and allow connection to Station Road and services in the village. Whilst this will lead to additional comings and goings along those roads, they are already public areas.

#### Affordable housing, infrastructure and mitigation

From a planning point of view legislation states that there are legal tests for when a S106 agreement can be utilised and these are set out in regulation 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 as amended (and as set out in para. 204 of the NPPF). S106 agreements, in terms of developer contributions, need to address the specific mitigation required by the new development. The tests are that they must be:

1. necessary to make the development acceptable in planning terms
2. directly related to the development; and
3. fairly and reasonably related in scale and kind to the development.

The Education Authority require contributions of £136,788 for 12 primary places at Heath Fields Primary, £1,030,570 for 60 Secondary places at John Port Secondary (Academy) as well as ££447,069 for 24 post 16 places at John Port Secondary (Academy). In total contributions to mitigate the impact of the development on education facilities totals £1,614,427. This request is deemed appropriate for inclusion in the S106 agreement to mitigate the impact of the development in that regard.

NHS England has requested £152,160 towards additional healthcare services at Hilton which cannot currently accommodate the new residents. This request is deemed appropriate for inclusion in the agreement to mitigate the impact of the development in that regard.

The Environment Agency has requested a contribution of £393,038 towards the maintenance of flood defences. This request is deemed appropriate for inclusion in the agreement to mitigate the impact of the development in that regard as no guarantees regarding the defence of the site can otherwise be offered by the EA.

In respect of off-site open space provision the sum of £121,025 is to be secured in the agreement to be used towards the provision of enhanced facilities at Jubilee Fields to the south as well as for off-site recreation built facilities the sum of £160,868 is to be secured towards a pavilion extension at Scropton Road recreational ground. In respect of off-site outdoor sports facilities the sum of £288,200 is also to be secured for enhancement to the Scropton Road Recreation Ground.

At this stage it has yet to be decided whether the on-site POS and SuDS would be adopted by the Council, however, the provision of those elements and an appropriate financial contribution for their future maintenance if the Council is to adopt (currently set at £200,317

for the POS and £349,700 for the SuDS), or the setting up of a Maintenance Management Company if not, would need to be secured in the S106 agreement.

The S106 agreement also needs to ensure the delivery of that part of the access road within the site to serve the Nestle coffee factory and sewerage treatment works in order to deliver the provisions of the new LP policy. Again for this reason this element of the package is justified.

It is noted that Derbyshire County Council also requested a contribution of £1,000 per annum for 5 years as a Travel Plan Monitoring Fee be secured through the S106. However, case law has ruled that that this request would not pass the legal tests.

The Scheme Viability Submission has been independently assessed by the District Valuer and discussions with the applicants and the Council have taken place to reach agreement. The District Valuer has produced a valuation based on the applicant's report. The full requested S106 contributions, including 30% affordable housing produces a negative Residual Land Value (RLV) which cannot be sustained particularly in the light of high abnormal costs relating to the raising of site levels, the provision of the link road and the construction of the bridge over the Salt Brook.

As such further appraisals have been undertaken following scrutiny of all development costs (including the significant abnormal costs) but it is clear that the contributions for educational improvements for primary, secondary and post-16 education, public open space/SUDs, and policy compliant affordable housing cannot all be achieved. However, when the scheme is appraised without the affordable housing obligation but with all of the other requested S106 contributions, a positive RLV is produced. On this basis the scheme is viable and the surplus demonstrates that about 4% affordable housing can be sustained by the scheme. If the S106 package set out above is maintained, the affordable housing that can be provided based on an appropriate tenure split of 75% social rent and 25% shared ownership.

#### Other material considerations

The application includes the delivery of a roundabout junction and internal road which is suitable for HGV access from Derby Road to the southern boundary of the site which is proposed in order to provide the first part of a potential access road to and the Nestle coffee factory and the sewerage treatment works which lie to the south. This accords with the requirements of Policy H11 of Adopted Local Plan Part 1. The roundabout and internal road is suitable in terms of its size and geometry to perform that function and it also includes a 3m wide footway/cycleway to allow sustainable connections around the site.

#### Conclusion

Considerable efforts have been made by both the applicant and officers to achieve a scheme which satisfactorily harmonises with its environs. The proposal represents an appropriate form of development that appropriately balances the competing and conflicting issues such as flood risk and drainage, layout constraints, design cues, impact on trees and hedgerows, connectivity and effect on neighbours; and would provide a sound basis on which this development should proceed. The development of the site would secure several benefits which outweigh the negative aspect of its flood zone location: the site would contribute to the cost of maintaining the lower Dove management Scheme protecting 1600 homes and businesses from up to 1:100 year events (cost £5m); the creation of homes near to a manufacturing company recently significantly extended creating a more balanced community; and improved access to the factory with potential to reduce HGV movements along Station Road. The site is therefore established in principle for development and in general terms the proposal complies with the relevant adopted policy.

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

## Recommendation

A. That delegated authority be granted to the Planning Services Manager to secure the appropriate contributions for mitigation of the impact of the development under Section 106 of the Town and Country Planning Act 1990 (subject to compliance with the CIL Regulations 2010);

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 the revised Drawing Schedule received by the Local Planning Authority on 7th November 2016 with the exception of drawing number 20: Boundary Treatment Layout Sheet 1 Rev. E and drawing number 21: Boundary Treatment Layout Sheet 2 Rev. D; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt.

3. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Revision D, dated 22 June 2016, Ref: 2014/1867 and the following mitigation measures detailed within the FRA:

1. Proposed Access bridge Within Site - It is proposed that a clear span bank to bank access bridge is provided. The minimum soffit level of the bridge should be 53.26m to Ordnance Datum (AOD) and the pad stones should be located at least 0.5m back from the bank top level. This will provide a freeboard of 720mm during a 1 in 100 year plus climate change flood event. There should be no encroachment into the channel (Section 3, Page 22).

2. Raising Floor Levels - Finished floor levels are set no lower than 600mm above the modelled flood level to Ordnance Datum (AOD) applicable to the plot location, see 1:100CC flood levels and node locations shown on pages 30 and 31 (Section 3 page 21, fourth paragraph).

The mitigation measures shall be fully implemented prior to the commencement of phases 3 and 4 (see drawing No. 20A) for point 1 above and prior to occupation of any phase for point 2 above and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason : To ensure the structural integrity of existing watercourse and it's banks thereby reducing the risk of flooding, to ensure safe access and egress from and to the site, to reduce the risk of flooding from blockages of the new access crossing and to reduce the risk of flooding to the proposed development and future occupants.

4. The development permitted by this planning permission shall only be carried out in accordance with the approved Water Framework Directive Assessment, dated

September 2016 and the mitigation measures detailed within the Water Framework Directive Assessment (Table 7: Page 19). The mitigation measures shall be fully implemented in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: To protect the water environment from pollution during the construction of the access road crossing works.

5. Prior to the construction of any of the floorslabs of any of the houses hereby permitted in a phase, details of the finished floor levels of each building in that phase shall have first been submitted to and approved in writing by the Local Planning Authority. The buildings shall be constructed in accordance with the approved details.

Reason: In the interests of visual amenity and to protect the amenity of neighbours.

6. There shall be no alterations to ground levels and/or development (including fencing, footpaths or roads) or erection of any building, structure (including surface water drainage headwall outfalls) or any other such obstruction to flood flows within the watercourse channel and/or within 8m from the top of the bank (on both sides of the watercourse) of the Salt Brook, unless otherwise agreed in writing by the Local Planning Authority in consultation with the Environment Agency.

Any scheme for surface water drainage outfalls shall demonstrate through the submission of plans, cross-sectional drawings and calculations that the design of the outfalls will not result in an increase in flood risk upon completion of these works.

Reason: To safeguard the efficient workings of the watercourse and 8m easement from inappropriate development and thereby prevent and increase in flood risk.

7. No part of the construction of a dwelling hereby approved shall take place 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 that particular dwelling 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 character and appearance of the area.

8. Notwithstanding the approved drawings/plans and submitted details, no development involving the construction of a dwelling shall commence until revised or additional details, including samples and/or drawings where necessary, of the following materials/features for the respective dwelling have been submitted to and approved in writing by the Local Planning Authority:

- a. colour of fascia boards and mortar for verges;
- b. eaves/verges/string/dentil course/window reveal details;
- c. porch canopies;
- d. utility cupboard colours (both wall and ground mounted); and
- e. highway kerb styles to all road typographies.

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

Reason: To ensure a good standard of design in the interest of the appearance and character of the area.

9. Notwithstanding the submitted details prior to the construction of any external wall of any of the dwellings hereby approved a scheme of landscaping, which shall include

indications of all existing trees and hedgerows on or adjacent to the site (including those which would have their root or canopy structure affected), and details of any to be retained, together with measures for their protection in the course of development shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the area, recognising that initial clearance and groundworks could compromise the long term health of the trees/hedgerows affected.

10. Further to condition 9 above, soft landscape details shall include planting plans; written specifications including cultivation and other operations associated with plant and grass establishment; schedules of plants (noting species, plant sizes and proposed numbers/densities where appropriate) and the implementation programme.

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

11. 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.

12. Prior to the commencement of any phase of the development which includes the new crossing of the Salt Brook, the detailed design of the new crossing (outlined in drawing No. 7414/100/01 revision C), including a scheme to ensure the design does not result in an increase in flood risk up to a 1 in 100 year (plus an allowance for climate change) critical flood event (as defined by the Salt Brook hydraulic model), shall be submitted to, and approved in writing by, the Local Planning Authority in consultation with the Environment Agency. The scheme shall demonstrate through the submission of plans, cross-sectional drawings and calculations that the design of the Salt Brook crossing will not result in an increase in flood risk upon completion of these works.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority in consultation with the Environment Agency.

Reason: To ensure that the design of the Salt Brook crossing will not result in an increase in flood risk upon completion of the link road.

13. Prior to commencement of any phase of development a scheme to provide access to the watercourse for maintenance and inspection shall be submitted to, and approved in writing by, the Local Planning Authority in consultation with the Environment Agency.

The scheme shall demonstrate through the submission of plans, cross-sectional drawings that the design of the scheme, including any alternative maintenance access arrangement will not result in an increase in flood risk.

The scheme shall be fully implemented prior to commencement of the development and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: To safeguard the efficient workings of the watercourse and thereby prevent and increase in flood risk.

14. Prior to the commencement of any works affecting the watercourse, including surface water drainage headwall outfalls and the Salt Brook crossing works, a detailed Construction Method Statement for the works shall be submitted to, and approved in writing by, the Local Planning Authority in consultation with the Environment Agency. The approved statements shall be adhered to throughout the construction period. The Statement shall provide for:

- methods used for all flood plain and outfall bank-side/water margin works including temporary and permanent works;
- machinery to be used;
- location and storage of plant, materials and fuel;
- access routes to the works, access to the banks of the outfall;
- method of protection of the site and any areas of ecological sensitivity and importance;
- site supervision;
- location of site office, compounds and welfare facilities.

Reason: To protect the water environment from pollution during the construction of the access road crossing works.

15. Prior to the construction of any dwelling an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system and the results of the assessment provided to the Local Planning Authority. Where this assessment identifies the ability to dispose of the surface water by means of a sustainable drainage system a detailed design and associated management and maintenance plan of surface water drainage for the site shall be submitted to and approved in writing by the Local Planning Authority, such scheme shall be in accordance with Defra Non-statutory technical standards for sustainability drainage systems and:

1) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

2) include a timetable for its implementation; and

3) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme through its lifetime.

The approved drainage system shall be implemented in accordance with the approved detailed design and timetable for implementation.

Reason: In the interests of flood protection.

16. No part of the development in a phase shall take place until details of the proposed means of disposal of foul sewage for the phase have been submitted to and approved in writing by the Local Planning Authority. All foul water shall be directed into the main foul sewerage system. The development shall be carried out in accordance with the approved details.

Reason: To ensure that adequate drainage facilities are provided.

17. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications

for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.

B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

18. Prior to the first occupation of any of the dwellings hereby permitted, measures to minimise the risk of crime to meet the specific security needs of the application site and the development shall be implemented in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area pursuant to the Council's powers under Section 2 of the Local Government Act 2000 and to reflect government guidance set out in PPS1.

19. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), prior to the erection of boundary treatments in a phase, plans indicating the positions, design, materials and type of boundary treatment to be erected in the relevant phase shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before the any part of the relevant phase is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

Reason: In the interests of visual amenity.

20. No part of the construction of any road, footpath, car parking area or courtyard in a phase shall take place until details of the materials proposed to be used within the phase on the surfaces of the roads, footpaths, car parking areas and courtyards in that phase have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the visual amenity of the area.

21. No site clearance works or development shall take place in a phase until there has been submitted to the Local Planning Authority for their written approval a scheme showing the type, height and position of protective fencing to be erected around each tree or hedgerow to be retained in that phase. The scheme shall comply with BS 5837:2012.

The area surrounding each tree or hedgerow within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

- (i) There shall be no changes in ground levels;
- (ii) No material or plant shall be stored;
- (iii) No buildings or temporary buildings shall be erected or stationed;
- (iv) No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow; and
- (v) No drain runs or other trenches shall be dug or otherwise created; without the prior written consent of the Local Planning Authority.

Reason: To ensure adequate protection measures are in place in the interests of the character of the area.

22. Notwithstanding the submitted details, prior to the commencement of the construction of any of the external walls of the dwellings hereby approved, details of noise mitigation measures for the dwellings on the approved layout plans which have been identified as being affected by noise sources contained within the submitted Acoustic Air Noise Assessment dated March 2016 and the addendum received on the 29th June 2016, and which accord with the noise mitigation measures proposed within those documents, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To protect the amenity of residents.

23. No development of any phase shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority for that phase. The CEMP: Biodiversity shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones" to include ponds, hedgerows, woodland, trees other habitat as required.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period of the relevant phase strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that ecological interests are protected in accordance with paragraph 118 of the National Planning Policy Framework; in order to control impacts from the outset as an early incursion could otherwise not be rectified.

24. Before development of any phase begins a Landscape and Ecological Management Plan (LEMP) for all retained and created habitats shall be submitted to, and be approved in writing by, the local planning authority. The content of the LEMP shall include the following.

a) Description and evaluation of features to be managed / created.

This should include:-

- i. Skylark mitigation - skylark plots in adjacent arable field
- ii. Management of field edges/buffer to hedges including wildflower strips
- iii. Hedgerow management and enhancement
- iv. Reptile hibernacula x 2
- v. Bird boxes
- vi. Bat boxes

b) Ecological trends and constraints on site that might influence management.

c) Aims and objectives of management.

d) Appropriate management options for achieving aims and objectives.

e) Prescriptions for management actions.

f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).

g) Details of the body or organization responsible for implementation of the plan.

h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details for each relevant phase.

Reason: To ensure that ecological interests are protected and enhanced in accordance with paragraph 118 of the National Planning Policy Framework. This needs to be made clear before commencing to ensure that all stages of development are considered.

25. Prior to commencement of any groundwork of any phase a survey for any recently excavated badger setts on the site or within 30 metres of the site boundary shall be undertaken and results submitted and approved in writing by the Local Planning Authority.

Reason: To ensure that ecological interests are protected in accordance with paragraph 118 of the National Planning Policy Framework; in order to control impacts from the outset as an early incursion could otherwise not be rectified.

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

a) creation of sloping escape ramps (mammal ladders) for badgers (and other mammals potentially using the site), which may be achieved by edge profiling of

trenches/excavations or by using planks placed into them at the end of each working day; and

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

Reason: To ensure that ecological interests are protected in accordance with paragraph 118 of the National Planning Policy Framework; in order to control impacts from the outset as an early incursion could otherwise not be rectified.

27. Notwithstanding the submitted details prior to the any dwelling being occupied, a revised Travel Plan which shall include reference to phases of development shall be submitted to and approved in writing by the Local Planning Authority. The revised Travel Plan details approved for a phase shall be implemented in accordance with the timescales specified therein, to include those parts identified as being implemented prior to occupation and following occupation, unless alternative timescales are agreed in writing with the Local Planning Authority. Reports demonstrating progress in promoting sustainable transport measures in accordance with the objectives of the Travel Plan shall be submitted annually to the Local Planning Authority for approval for a period of five years from the date of first occupation of the relevant phase of the development. In the event of an annual report concluding that the objectives of the Travel Plan are not being met, the annual report shall also include for the approval of the Local Planning Authority a scheme detailing remedial measures to be undertaken in order to achieve the objectives of the Travel Plan, as well as a timetable for the implementation of the remedial measures. The scheme detailing the remedial measures shall be implemented as approved and in accordance with the approved timetable.

Reason: In the interests of highway safety.

28. Prior to the occupation of any dwelling an archaeological site investigation and post investigation assessment shall be completed in accordance with the programme set out in the approved archaeological Written Scheme of Investigation (Trent & Peak Archaeology: Land at Derby Road, Hatton, Derbyshire. Project Design and Written Scheme of Investigation for Archaeological Investigation Project Code: HDR3; 2016; Report Number 046.2/2016) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To ensure that archaeological interests at the site are suitably addressed.

29. During the period of construction no construction work shall take place outside the following times: 0800 - 1900 hours Monday to Friday and 0800 - 1330 hours on Saturdays and at any time on Sundays, Bank and Public Holidays.

Reason: To protect the amenities of nearby residents.

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

Reason: To protect the amenity of residents.

31. No development shall take place until a Construction Management Plan or Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved plan/statement shall be adhered to throughout the constructions period. The plan/statement shall provide for the storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking of vehicles for site operatives and visitors, routes for

construction traffic, method of prevention of debris being carried onto the highway, pedestrian and cyclist protection, proposed temporary traffic restrictions and arrangements for turning vehicles. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

Reason: In the interests of highway safety.

32. No development of a phase shall commence until the Local Planning Authority has approved in writing the details of and arrangements for the setting out of the public open space within the relevant phase. Such arrangements shall address and contain the following matters:

(i) The delineation and siting of the proposed public open space within the phase

(ii) The type and nature of the facilities to be provided within the public open space, including where appropriate the provision of play equipment within a play area, which shall be supplied and installed to a specification as agreed by the Local Planning Authority.

(iii) The arrangements to ensure that the public open space is laid out and completed during the course of the development.

(iv) The arrangements for the future management and maintenance of the public open space.

The public open space within the development shall be completed in accordance with the approved details.

Reason: To ensure adequate and appropriate open space and associated facilities are provided.

33. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), there shall be no alteration to any wall which forms the principal elevation or side elevation of any dwellinghouse and fronts a highway or public open space; there shall be no alteration to any gate, wall, fence or other means of enclosure adjacent to any highway or public open space; and there shall be no alterations to any roof of any dwellinghouse which forms the principal elevation of the dwellinghouse and fronts a highway or public open space.

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

34. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no further boundary treatments shall be erected forward of any walls, fences or other means of enclosure fences which are approved by way of condition 14 above unless planning permission has first been obtained from the Local Planning Authority.

Reason: In the interests of overall design, recognising that the details submitted to date are not acceptable and in order to maintain the character of green and public spaces as secured under the plans hereby approved.

35. Notwithstanding the approved drawings/plans and submitted details, no development involving the construction of any of the driveways or hard surfaced areas within the root protection areas of retained trees as detailed in the Arboricultural Assessment produced by FPCR dated November 2015 which accompanied the application, or in any areas of open space shall commence until a method statement relating to the construction of those driveways or hard surfaced areas and to include their final finish have been submitted to and approved in writing by the Local Planning Authority and the development shall be implemented in accordance with the details approved by this condition.

Reason: To protect the health of trees and in the interests of the visual amenity of the area.

36. Within 12 months of the commencement of the operation of the approved surface water drainage scheme, it shall be certified as completed in accordance with the approved drawings/documents by a Chartered Engineer.

Reason: To ensure that the development is provided with appropriate drainage measures to prevent additional flood risk.

Informatives:

1. This development will require an Environmental Permit from the Environment Agency under the terms of the Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2016 for any proposed works or structures, in, under, over or within 8 metres of the top of the bank of designated 'main rivers'. This was formerly called a Flood Defence Consent. Some activities are also now excluded or exempt. An environmental permit is in addition to and a separate process from obtaining planning permission. Further details and guidance are available on the GOV.UK website: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> and to discuss detailed permit requirements and submission for the above site please contact Sarah.Mallett@environment-agency.gov.uk

2. The applicant / developer should refer to our 'Groundwater Protection: Principles and Practice' (GP3) document, available from gov.uk. This sets out our position on a wide range of activities and developments, including:

- Waste management
- Discharge of liquid effluents
- Land contamination
- Ground source heat pumps
- Drainage
- Storage of pollutants and hazardous substances
- Management of groundwater resources

All precaution must be taken to avoid discharges and spills to ground both during and after construction. For advice on pollution prevention measures, the applicant should refer to guidance available on our website ([www.gov.uk/environment-agency](http://www.gov.uk/environment-agency)).

3. To discharge the appropriate condition the applicant should ensure all of the below parameters have been satisfied:

The production and submission of a scheme design demonstrating full compliance with DEFRA's Non-statutory technical standards for sustainable drainage systems:

- Limiting the discharge rate and storing the excess surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical duration rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site to comply with S2 & S3.
- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm to comply with S7 & S8.
- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.

- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.
- Production of a plan showing above ground flood pathways where relevant for events in excess of 1 in 100 year rainfall event to comply with S9.
- Where reasonably practicable demonstrate that the runoff volume of the site reflects the requirements of S4.

4. Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

5. The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

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

Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: [pollution.control@south-derbys.gov.uk](mailto:pollution.control@south-derbys.gov.uk).

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

7. The applicant is advised that following consultation with Derbyshire County Council, they request access to high speed broadband services for future residents (in conjunction with service providers) should be provided and new homes should be designed to Lifetime Homes standards.