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Chief Executive,  
South Derbyshire District Council,  
Civic Offices, Civic Way,  
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Our Ref: DS

Your Ref:

Date: 18 November 2019

Dear Councillor,

**Planning Committee**

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, Civic Offices, Civic Way, Swadlincote on **Tuesday, 26 November 2019 at 18:00**. You are requested to attend.

Yours faithfully,

Chief Executive

To:- **Conservative Group**

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

**Labour Group**

Councillors Gee, Dr Pearson, Shepherd, Southerd and Tilley

## **AGENDA**

### **Open to Public and Press**

- 1** Apologies and to note any Substitutes appointed for the Meeting.
- 2** To note any declarations of interest arising from any items on the Agenda
- 3** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 4** REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY) **3 - 50**

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

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

# **Report of the Strategic Director (Service Delivery)**

## **Section 1: Planning Applications**

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>
9/2016/0166	1.1	Boulton Moor	Aston	5
9/2019/0043	1.2	Thulston	Aston	39
DMPA/2019/1130	1.3	Swadlincote	Swadlincote	46

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

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

**Item** 1.1  
**Ref. No.** 9/2016/0166  
**Valid Date** 19/02/2016

**Applicant:**  
 JSC Farming Ltd & Central Land Holdings Ltd

**Agent:**  
 Mr Michael Knott  
 Barton Willmore LLP  
 The Blade  
 Abbey Square  
 Reading  
 RG1 3BE

**Proposal:** **OUTLINE APPLICATION (ALL MATTERS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT FOR UP TO 550 UNITS, A TWO-FORM ENTRY PRIMARY SCHOOL, STRATEGIC ROAD LINKS (CONNECTING BOULTON MOOR PHASE 1 AND SNELSMOOR GRANGE) PUBLIC OPEN SPACE INCLUDING CHILDREN'S PLAY PROVISION, SURFACE WATER DRAINAGE AND LANDSCAPING AND ANCILLARY SUPPORTING INFRASTRUCTURE (BOULTON MOOR PHASE 2) ON LAND AT SK3931 2744 MILL HILL BOULTON MOOR DERBY**

**Ward:** Aston

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

This item is presented to Committee at the discretion of the Head of Planning and Strategic Housing.

#### **Site description**

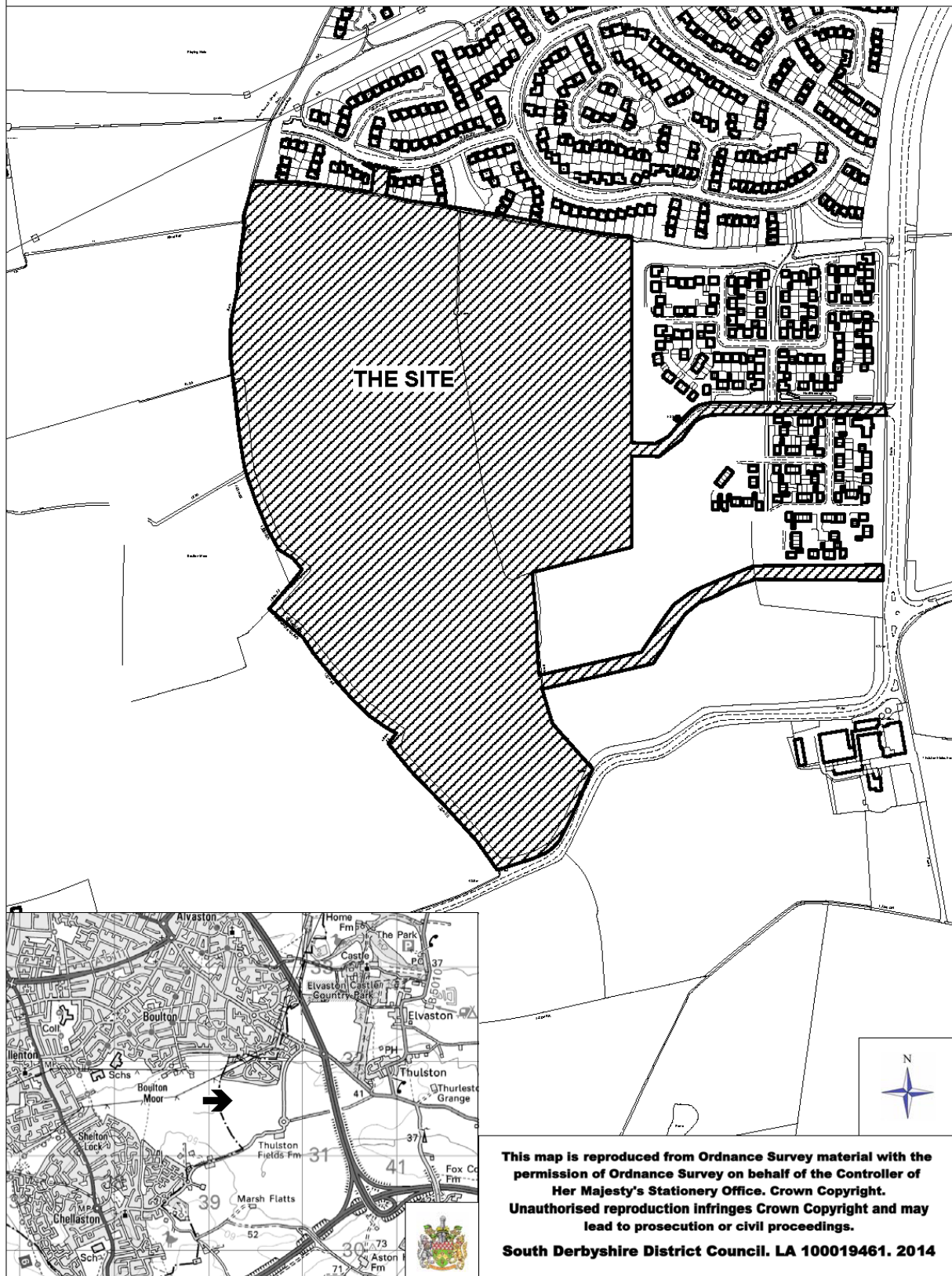
The lies on the south eastern edge of Derby, approximately 6.5km from Derby City Centre and immediately south-east of Alvaston. It is in an area known as Boulton Moor and comprises flat and open arable farmland, with a tree belt located along the majority of the western and southern boundaries. A watercourse passes within the western tree belt whilst Snelsmoor Lane passes along the southern side of the southern tree belt.

The site adjoins existing residential development to the north, constructed during the 1990s, and to the east – more recently constructed as part of the Boulton Moor Phase 1 (BM1) permission granted at the conjoined inquiry. The land the west is also presently agricultural land, although this is part of a City Council housing allocation – Snelsmoor Grange (SG). Chellaston Park and Field Lane Recreational Grounds are located to the west and north of SG, while the residential areas of Chellaston lie further to the west. The A50 passes further to the south, beyond additional agricultural land within the green belt. The application site is herein termed as Boulton Moor Phase 2 (BM2). It is not itself in the green belt.

#### **Proposal**

The application is made in outline, with matters of access, layout, scale, appearance and landscaping reserved for later consideration. It is proposed to construct up to 550 dwellings, a two-form entry primary school and access connections to the east and west, and would include public open space including children's play provision, landscaping, surface water drainage and utilities

9/2016/0166 - Land at SK3931 2744 Mill Hill, Boulton Moor, Derby DE24 5AX



infrastructure. The access routes on the eastern boundary of the site cross, and form part of, BM1 and have been largely constructed up to the main developable area of the site.

The Development will include integrated landscape, ecological and drainage features across the Site. The drainage proposals will include ponds, drainage ditches and green drainage features throughout the Development including permeable paving in car parking areas.

## **Environmental Impact Assessment (EIA)**

The application is supported by an Environmental Statement (ES) pursuant to the EIA Regulations. This is further discussed in the assessment below and this report in turn provides the Local Planning Authority's (LPA's) Statement of Reasons as required by the Regulations. The responses of consultees, as well as the assessment below, are based on the content of the ES and its supplementary reports, as well as subsequent correspondence/clarification where necessary.

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

The Environmental Statement (ES) contains assessment predicting the significance of each environmental effect, determined by two factors:

- The sensitivity, importance or value of the environment (such as people or wildlife); and
- The actual change taking place to the environment (i.e. the size or severity of change taking place).

An EIA should only focus on the likely significant effects of a development. A document setting out the scope (i.e. content) of the EIA was agreed with the Council on 15<sup>th</sup> May 2015. The following topics are considered, or 'scoped in':

- Socio-Economics: effects relating to employment levels, population levels, housing availability, local expenditure, education provision (i.e. capacities in local schools) and healthcare provision (i.e. capacity at local doctor surgeries);
- Landscape and Visual effects: effects of the new development on landscape character, views from publicly accessible locations and the effects of night-time light;
- Ecology and Nature Conservation: effects on protected species and habitats;
- Water Environment: effects on underground water, rivers and streams, and the assessment of flood risk;
- Transport: effects relating to additional traffic on the road network as well as pedestrian/cyclist, and public transport provision;
- Air Quality: effects from additional traffic on local air quality;
- Noise: effects from additional traffic on existing and future residents; and
- Agriculture: effects on agricultural land as a result of the Development.

In order to ensure the EIA is based on all publically available information, consultation has been undertaken with Natural England, Historic England, various departments of the Council, Derby City Council, Derbyshire County Council and Highways England.

An EIA must also assess any likely significant effects of a development that may arise cumulatively with other major development with planning permission or under construction in the local area. Boulton Moor Phase 1 (up to 1,058 dwellings and local centre, including retail and community uses), Boulton Moor Phase 3 (up to 190 dwellings), land at Snelsmoor Grange (up to 800 dwellings, a new primary school and open space, including creation of a country park) and land off Fellow Lands Way, Chellaston (up to 190 dwellings) have all been considered in assessing such effects. It is envisaged that the construction process would begin with the road infrastructure and the primary school, with the residential phases taking some 6-7 years to complete. The site is to be built out in an east to west and north to south approach.

The EIA Regulations also require an applicant to document any alternatives considered to the proposed development. The alternatives considered include not developing the site, thereby leaving it in agricultural use, and alternative designs for the development. The present designs have evolved from a detailed constraints and opportunities analysis, which influenced the layout of the built development and open space.



The ES deals with each of the 'scoped in' topics in turn. The following represents a precis of the applicant's commentary in the ES:

### Socio-Economics

As the site is currently agricultural land there are no existing residents, schools or employment opportunities. The construction phase is expected to generate up to 121 full time construction jobs. Research has established that there are over 5,000 construction workers resident locally meaning the construction employment generated would provide opportunities for local people. Further indirect employment and economic benefits would be experienced through purchases of building supplies to local provision of meals, fuel and potential temporary accommodation for the construction workforce. Effects on existing population, housing, healthcare and education would be negligible during the construction phase.

The development would provide a mix of new homes to approximately 1,265 (adjusted to reflect the reduction to 550 dwellings) people. Baseline research has shown that there is a deficit of primary pupil places in schools closest. However, the development includes a two-form entry primary school which would accommodate up to 420 pupils. The local secondary school provision is at the Noel-Baker School. Baseline research claims the school has a surplus of 484 secondary pupil places although this may change given the timeframe for construction. The provision of a two-form entry primary school would generate employment opportunities for up to 42 staff. Three local GP practices were identified which would serve the new residents. Baseline research claims there is currently capacity for new patients across the three practices.

All other developments in the area are likely to generate additional construction jobs which would result in additional employment benefits in combination with the development.

### Landscape and Visual effects (informed by a Landscape and Visual Impact Assessment)

The site is predominately flat, agricultural land with few hedgerows and surrounded by tree belts of varying thicknesses. During the construction phase, there would be temporary visual effects from the presence of construction machinery and ground works. The development would retain woodland, trees and hedgerows where possible except where removal is necessary for access and the connectivity of development parcels. Mitigation measures have been included to go some way to alleviating the effect. These measures include maintaining the protection and retention of hedgerows and limiting of light pollution.

Once the development is built and occupied, the changes to the character of the landscape and the views to and from it would be permanent. However, a landscape strategy is proposed which includes planting, managing and maintaining existing trees and vegetation, provision of small parks with play features, and the incorporation of drainage features.

Overall, the cumulative schemes are unlikely to markedly increase the existing visual effects of those associated with the development due to the relatively contained setting and the context of existing built form and construction activity.

### Ecology and Nature Conservation (informed by a Phase 1 Habitat Survey, an Ecology Report and Bat Survey)

The existing habitat includes arable fields, boundary hedgerows with trees and a narrow corridor of plantation woodland. The site is used by a diverse assemblage of common and widespread breeding bird species. There was no evidence of badgers. Protected species include bats and breeding birds. Although there was no evidence of any bat roosts, they use the site for commuting and foraging, which is confined mainly to the hedgerows and the woodland edges.

The construction phase would result in the gradual removal of the arable fields, which are of relatively low ecological value. The hedgerows and trees are of greater ecological value and these,



for the most part, are to be retained with the exception of short sections of hedgerow and a small number of trees where access roads and pedestrian routes are required. Ecological enhancement measures to be provided during the construction phase include the installation of bat boxes both integrated in the building designs and externally fixed to encourage bats into areas where there are few roosting sites.

Once completed and occupied, it is anticipated the development would result in a change in the bird species, from predominantly farmland species to those found in suburban areas. This generally results in a reduction in diversity but may lead to an increase in overall numbers. The main impacts on bats would be increased light levels, potential predation by domestic cats and the general levels of increased traffic, noise and disturbance. At the detailed design stage, a lighting design would be developed to minimise the adverse effects on bats, following current best practice guidance.

Water Environment (informed by a Flood Risk Assessment (FRA), Drainage Strategy and Sewer Capacity Assessment)

The site is surrounded by ditches and watercourses that drain water away. These include:

- The Southern Brook which runs eastwards along the northern boundary;
- An unnamed ditch generally running northwards along the western boundary from Snelsmoor Lane; and
- An unnamed ditch (known locally as the Hardhurst Ditch) approximately 140m long, which runs southwards along the eastern boundary.

The site is predominantly at a low risk of flooding although there is an area of moderate surface water flood risk in the south-east of the site

During construction there is a risk of contamination from general construction drainage to the local surface water environment. The geology of the site and the small size of the adjacent watercourses means that any pollutants would remain relatively local as opposed to being transported away. However, pollution prevention measures would be provided through a new surface water drainage system implemented during the construction phase

The completed development would include hard surfaces such as roofs, roads, driveways, etc. which is a change from the existing situation and therefore may lead to an increase in the amount of water flowing from the site when it rains. This can in turn create flooding. A surface water management scheme to store water run-off and release it at a controlled rate would be constructed. The scheme would include features to help to clean the run-off in order to help prevent pollutants from being washed into the watercourses around the site (and further downstream). All foul water would connect to the existing sewer network which has sufficient capacity.

All other developments in the surrounding area would be required to mitigate potential flood risk effects during the construction and operational phase as well as use pollution control measures to avoid contamination of water, therefore no cumulative effects with the development are anticipated.

Transport (informed by a Transport Assessment (TA) and Travel Plan)

The site has good accessibility to existing facilities in the City. The main access route is via Snelsmoor Lane/Shardlow Road and the A6 Alvaston Bypass. Other accesses include Snelsmoor Lane to the south-west. There are good existing cycle and public transport networks surrounding the site, with a number of identified national cycle routes and three nearby bus services, one of which links Boulton Moor to the City Centre. Spondon and Derby railway station are the closest stations to the Site, with Derby railway station operating services to London, Sheffield, Birmingham, Nottingham and Stoke-on-Trent. As yet, the site is not readily accessible by foot, but a number of potential access points would be made available following the completion of other nearby developments. The topics considered in this assessment comprise public transport, severance, driver, delay, pedestrian/cycle delay, pedestrian amenity, fear and intimidation, and accidents and safety.

Effects on the above transport topics are considered to be temporary during the construction phase and a Construction Environmental Management Plan (CEMP) would be implemented to mitigate impacts.

A Travel Plan includes measures and targets to reduce unsustainable travel as far as possible. A minor beneficial effect on public transport is projected. With the exception of the Alvaston District Centre, all junctions are considered to be able to cope with the increase in traffic. However, mitigation measures would have a beneficial effect on the affected junction.

The traffic data used in the assessment includes traffic generated by other committed developments in the area. During the construction phase, the management of construction vehicles is considered to result in negligible and temporary effects on transport and access networks. Following the implementation of mitigation, minor adverse effects are expected to occur with the increase in traffic flows on the surrounding road network.

### Air Quality

The assessment involved monitoring air quality within and around the site and determining the effects of the development on the existing air quality – primarily with regard to the two most common pollutants from road traffic: Nitrogen Dioxide (NO<sub>2</sub>) and Particulate Matter (PM<sub>10</sub>). The site does not lie within or adjacent to any Air Quality Management Areas (AQMAs).

The air quality effects from the construction phase are most likely to relate to dust nuisance problems. However, control of dust emissions can be undertaken using management techniques, set out in the CEMP. Emissions from road traffic during the construction phase are considered to be negligible.

The assessment of the effects of traffic has identified that no significant effects would be generated once the development is complete and occupied. Concentrations of NO<sub>2</sub> and PM<sub>10</sub> would remain below the relevant targets.

There would be some minor significant effects during the construction phase due to the size and location of other developments in the vicinity, however, all sites would be subject to mitigation measures to monitor and manage the effects during the construction phase.

### Noise (informed by a Noise Monitoring Survey)

To establish the existing noise levels, a noise survey was undertaken. The survey identified that the dominant source of noise was that of road traffic on the surrounding road network. 'Sensitive receptors' were identified; these comprise existing residential properties in the area as well as future residents of the proposed development.

Construction activities would generate noise, some of which would go beyond the site boundaries. There are nearby existing residential properties and once construction gets underway some of the first properties to be built will become occupied whilst construction is still taking place elsewhere on site. To ensure there are no significant adverse effects on these properties, mitigation measures would be put in place including limiting times when construction takes place, putting up temporary screens, keeping machinery maintained to control noise emissions and providing advance notice to residents of any particularly noisy activities. The primary school would be constructed using appropriate materials to ensure that internal noise levels are appropriate for school uses.

Once completed, the main source of noise would be from the traffic. As part of the assessment, noise levels were predicted at all the identified sensitive receptors. For the existing properties, the increase in traffic on the roads would not cause change to the noise environment. The properties in the development that face or have a direct line of sight of Snelsmoor Lane would need to have their outdoor living areas located away the road, with the building itself forming a screen to road noise. There is the potential for there to be noise when windows are open in these properties, therefore, alternative methods of ventilation would need to be provided.

It was identified that there would be no adverse effects in combination with the other developments. Similarly, the traffic generated from the other developments was included as part of the assessment. There would be no adverse effects in combination with the other developments.

Agriculture (informed by an Agricultural Land Classification and Soil Resources Report)

The site comprises approximately 20.47ha of Grade 3b agricultural land (moderate quality). The remaining 0.84ha forms non-agricultural land. The land currently grows arable crops.

During the construction phase, the agricultural land would be permanently lost. However, the land is of only moderate quality and unable to produce high yields. The soils would be disturbed and displaced. However, it is the intention that the soils would be retained and used for engineering and landscaping works. Any handling of soils would be undertaken in accordance with good practice guidance.

Once completed and occupied, there would be no further effects on the agricultural land although there is the potential for residents to trespass on neighbouring agricultural land to the south of the Site. However, as this land is separated from the site by a tree belt and a road it is anticipated that this would be unlikely.

The nearby other developments would also undergo a loss of agricultural land, some of which is good quality.

In summary, the development would result in the following beneficial and residual effects:

- Provision of new housing to meet the local need;
- Provision of primary school to meet primary education need;
- Increased employment opportunities during construction;
- Effects on some views to the development.

The ES has also identified a number of adverse residual effects, including:

- Effects resulting from changes to the landscape and views;
- Loss of agricultural land and soil resources;
- Minor effects on traffic as a result of the development;
- Disturbance to, and potential for predation of, birds and bats; and
- Fragmentation of habitats and loss of hedgerows and plantation woodland.

An Environmental Statement: Statement of Conformity (ESSoC) was supplied in October 2018 alongside further highway and transport information, amended layouts and parameters and the reduction in the number of dwellings proposed. The environmental topics that could potentially be affected by the further highways information, proposed amendments and passage of time were identified as ecology and nature conservation, and the water environment. The assessment of significant effects in relation to the other technical disciplines included in the ES are not materially influenced by the changes and therefore the assessments set out in the ES remain valid. Furthermore, no additional cumulative schemes with the potential for likely significant cumulative effects with the proposed development have come forward since the ES was submitted.

A Planning Statement notes the site forms part of the proposed strategic site allocation at Boulton Moor, included within the Local Plans for South Derbyshire and the City.

Policy H13 of the LP1 provides a set of requirements for any proposals within the Boulton Moor strategic urban extension. This Statement, together with the comprehensive documentation and plans submitted, is considered to demonstrate how the proposal complies with the requirements of this policy and other relevant local policies. It is considered to comply with the Development Plan. The Statement also provides an assessment against other material considerations including the NPPF and demonstrates that all relevant requirements would be met. The development would result in a range of benefits which would not be significantly and demonstrably outweighed by adverse impacts. The documents and plans provide a set of parameters and design principles which provide a robust

framework for a high quality development being delivered. In particular, the proposals are consistent with the emerging joint Development Framework Document (DFD).

The development is an integral component of the overall delivery of the Boulton Moor strategic urban extension. In addition to its contribution to housing delivery, which forms part of the Council's five year housing land supply, the proposal would connect the wider developments in the area, to deliver the comprehensive development approach envisaged in policy H13.

A Design and Access Statement (DAS) demonstrates that a high quality and sustainable development can be delivered. The proposals deliver a locally distinct design response that can deliver real benefits to the locality including:

- meeting an identified need for new housing;
- providing a mix of dwelling types and tenures, including affordable housing;
- delivering high quality housing as part of a wider urban extension to Derby in a sustainable location;
- providing new landscaped links for managing surface water drainage which would provide additional biodiversity and amenity functions;
- providing a new primary school in a better location than within phase 1;
- improving connectivity between the original urban extension planned at phase 1 and Snelsmoor Grange, enabling a looped bus network to be provided;
- integrating with the existing built up area, phase 1 and the schemes proposed at Snelsmoor Grange.

The DAS explains how the design principles and concept have been applied to the development and demonstrates how context has been taken into account during the design process. It articulates the approach to access, the consultation process that has been undertaken and the way in which the proposals have responded to feedback. The principles are considered to comply with local and national planning policy and therefore this application should be supported.

Various Highway Technical Notes and Transport Addendums have been supplied over the course of the application. A Highways Summary Report dated October 2018 succinctly summarises the majority of the work up to that point in time:

*"Since the BM2 application was made in 2016 a number of comments have been received from the local authorities and Highways England relating to the Transport Assessment. Agreement over the use of DATM traffic modelling forecasts and a number of criteria were reached prior to submission and in relation to the adjacent Snelsmoor Grange application. The focus of comments have been made in relation to the assessment of the A6 (T) Thulston Roundabout and Shardlow Road/Snelsmoor Lane junctions. These have resulted in a number of sensitivity tests and design changes.*

*The principle issue was to ensure that sufficient capacity exists in the corridor to attract traffic and avoid adverse impacts on the Chelaston corridor to the west, in Derby City. Whilst model forecasts using DATM showed that the mitigation and proposals were supportable, more recent survey work and site observation showed there to be existing problems. The sensitivity assessments have been based on recent significantly higher forecasts and modelling supplied by Highways England. The principle concern of the City Council related to the interaction between the proposed Shardlow Road signal controlled junction and the A6 Thulston Roundabout.*

*As reported in the August 2018 technical report we consider that we have reached a conclusion of the modelling and are awaiting sign off from Derby City. Due to the time that has passed since the BM2 application was made we have summarised the key events, submissions and agreements which have taken place....:*

- Highways England removed their holding direction in July 2016;
- The proposed layout for the A6(T) Thulston Roundabout and Shardlow Road/Snelsmoor Lane has not changed since AECOM presented the proposed layout in May 2018 incorporating partial signal control at Thulston Roundabout;
- Since May 2018, the refinement to modelling relates to the optimisation of the traffic signal timings in order to satisfy Derby City that queuing at the junction can be managed, at each

*step AECOM [acting on behalf of Highways England] has independently confirmed that the junction can accommodate the proposed developments at nil-detriment or better to the higher sensitivity traffic forecast;*

- *The proposals have been modelled using a range of traffic flow forecasts (between the*
- *DATM forecast approximately 5700 vehs/hr and agreed AECOM sensitivity test approximately 7,200 vehs/hr);*
- *Highways England have signed off the modelling at each stage including with the worst case traffic flow forecast (7,200 vehs/hr) and are progressing with their strategic improvement testing (Option 7);*
- *Although the scheme has evolved, the trigger for the delivery of traffic signal control has remained at approximately 800 units since September 2016;*
- *However, an interim scheme comprising of removing the existing segregated left turn lane and providing three lanes on the eastbound and westbound reservoir section between Snelsmoor Lane and the A6(T) Thulston Roundabout was proposed, with a suggested trigger of 50 occupations. This scheme is designed to remove the existing queuing on Shardlow Road and provide capacity for further development before the full scheme for traffic signal control is implemented...”.*

An Arboricultural Impact Assessment (AIA) notes the development framework seeks to accommodate the all of the arboricultural features which are considered to be important to the future amenity of the site and in facilitating the proposal's integration within the wider setting. This is considered practicable subject to future detailed design reflecting the need for temporary protection and mitigation for permanent development in close proximity to retained trees during construction. The proposals put forward allow for confidence in the long-term viability of retained and appropriate tree cover. The principle of the framework is therefore considered supportable from the arboricultural perspective and in terms of local policy where it relates to trees. This is subject to appropriate mitigation planting proposals, arboricultural input during detailed design and the adoption of future safeguards for protecting trees.

An Archaeological Desk Based Assessment has established that there are no designated heritage assets within the site. The Registered Park and Garden of Elvaston Castle and a Grade II Listed milepost are located within the 1km search area around the study site. These heritage assets are screened from the site by intervening built development, mature trees and local topography. Accordingly, the proposed development would not directly or indirectly impact on these or any other designated heritage assets. Detailed geophysical survey of five areas of the study site and adjacent land to the east was undertaken in 2003. The survey identified a possible enclosure and former field boundary within the study site. Trial trenching of land to the east in 2014 identified four Iron Age features and a possible pit alignment. Accordingly, the site has a high potential for dispersed later Prehistoric activity. Such remains would not prevent development and it is considered that sufficient information exists to enable an informed planning decision.

An updated Ecology Report notes the semi-natural habitats within the site remain largely unchanged since earlier survey work with some small increase in the roost potential of certain trees. However, these trees are to be retained and protected by a buffer within landscape planting proposals. As previous surveys concluded, there are no roosts within the trees surveyed, activity remains low within the site and as would be expected this is constrained to boundary features, which are to be retained. Sky lark, as previously, are present in low numbers within the site and it is thought that current and past land use is likely to support breeding sky lark early in the season with a reducing potential as the summer progresses due to crop height and structure. Recommendations for mitigation made in the ES remain relevant to the site and its ecological function and value.

A Flood Risk Addendum notes the FRA was prepared prior to the publication of the revised climate change guidance. The Lead Local Flood Authority (LLFA) issued a positive consultation response to the application in June 2016 but this included two recommended conditions highlighting the current recommendation for a 40% allowance for climate change to be applied to surface water management schemes. The three attenuation facilities proposed in the outline drainage strategy are:

- The northern basins/basin complex, a three part basin in the north of the site serving to manage runoff from the majority of the residential area;



- The southern basin, a single basin serving a smaller residential area in the south of the site; and
- The school basin serving the proposed school in the north-eastern corner of the site.

The school has since been the subject of a separate planning application and supported by a surface water management strategy which included the current 40% allowance.

The updated calculations show that the southern and school basins are able to manage the additional rainfall associated with the 10% increase in climate change allowance. The additional 10% does however lead to approximately 500m<sup>3</sup> of flooding in the northern basin complex. In order to contain this water, and prevent it from spilling onto the site or exiting at an uncontrolled rate, the north-western section of the basin complex should be made 100mm deeper. The updated results therefore show that the outline surface water management strategy is able to manage the current climate change recommendations with some minor adjustment and therefore remains a suitable outline scheme to support the proposals. The conclusions in the ES therefore remain valid.

A Contamination Assessment Report indicates that there is an overall low risk of encountering contamination during development. Due to the possibility of made ground associated with the development and demolition of the onsite farm, it is recommended that prior to development that a site investigation to include chemical testing of soil samples is undertaken to confirm this low risk.

A Services Appraisal confirms there are existing low and high voltage underground cables located within the adjacent road networks. There is also a high voltage overhead cable crossing the site in the north which would be diverted underground as part of the development proposals. National Grid has existing medium and low pressure gas mains adjacent to the site within the local road network and have confirmed that a connection can be made to the existing medium pressure gas main located 500m to the north-east of the site within Shardlow Road, which currently has sufficient capacity. There are existing Severn Trent Water potable water mains within the local road network adjacent to the site and correspondence confirms that the development as a whole can be accommodated within the mains laid as part of Phase 1. There are twin wastewater sewers located at the north-western corner of the site which were originally laid to serve phases 1 and 2. These connect with the Chellaston Trunk Sewer which ultimately conveys flows to Derby Sewage Treatment Works. A sewer capacity assessment for the current development aspirations in the locality (2,938 dwellings) was commissioned and the conclusions are that this new scale of development could be accommodated within the existing conveyance network. BT and Virgin Media operate services in the area and has underground cables located within the adjacent road networks. There are no major pipelines in the vicinity of the site

A Statement of Community Involvement (SCI) confirms the proposals have been the subject of consultation with local residents, the Council, Derby City Council and other consultees. The emerging draft proposals were presented during a public exhibition held in June 2015 at Thulston Village Hall. Over 70 people attended across the two days and a number of written comments were received. Many of the local residents were interested to find out how this new development would relate within the ongoing development of Boulton Moor. The main issues centred on the impacts of any development upon the existing properties to the north of the site, with particular interest in the location of the school. Concerns raised at the consultation included:

- Potential traffic impact caused by locating the school closer to the existing development;
- New properties overlooking existing gardens and houses to the northern boundary;
- The impact of the new development upon the drainage of the local area;
- The impact of increased traffic flow upon the Shardlow Road/Thurlow Park roundabout intersection; and
- Impacts of connecting routes between the new development and the existing housing to the north of the BM2 site.

As a result of the consultation feedback, the landscape proposals have taken into account the sensitivities to the northern boundary within the landscape strategy. One of the proposed pedestrian and cycle links to the north of the site, linking with Mill Hill, has been removed to respond to concerns about the impact on an existing area of amenity space. In terms of the concerns relating to traffic impact from the school on the surrounding neighbourhoods, the illustrative school parking and drop-off arrangements have been revised.

## Planning history

### Boulton Moor Phase 1 (BM1): Outline and reserved matters

9/2005/0611	Outline application (all matters to be reserved except for means of access) for the construction of up to 1058 dwellings together with a primary school, retail provision, public open space, supporting infrastructure and associated landscape works - Not determined but allowed at Appeal January 2009
9/2010/1134	Extension of time limit for implementation of outline permission 9/2005/0611 including variation of conditions 1, 2, 5, 6 and 25 - Approved November 2011
9/2013/0802	Approval of reserved matters of 9/2010/1134 for the erection of 284 dwellings with associated infrastructure, access roads, drainage and public open space (Boulton Moor Phases 1a & 1b) - Approved April 2014
9/2015/0612	Approval of reserved matters of 9/2010/1134 for the erection of 113 dwellings with associated infrastructure, car parking and landscaping (Boulton Moor Phase 1c) - Approved January 2016
9/2015/1104	Approval of reserved matters of 9/2010/1134 for the erection of 145 dwellings with associated infrastructure, car parking and landscaping (Boulton Moor Phase 1d) - Approved December 2016
9/2017/0286	Approval of reserved matters of 9/2010/1134 for the erection of 119 dwellings (in lieu of 113 previously approved under 9/2015/0612) with associated infrastructure, car parking and landscaping (Boulton Moor Phase 1c) - Approved June 2017
9/2017/0822	Approval of reserved matters of 9/2010/1134 to facilitate the reorientation of 9 dwellings (previously approved under 9/2015/0612) (Boulton Moor Phase 1c) - Approved October 2017
9/2017/0826	Approval of reserved matters of 9/2010/1134 for the re-plan of part of the site and the addition of 1 dwelling (previously approved under 9/2015/1104) with associated infrastructure, car parking and landscaping (Boulton Moor Phase 1d) - Approved November 2017
9/2018/0606	Approval of reserved matters of 9/2010/1134 to facilitate the plot substitution of 10 dwellings, and re-siting of detached garage; in lieu of reserved matters approvals ref. 9/2015/0612, 9/2017/0286 and 9/2017/0822 (Boulton Moor Phase 1c) - Approved September 2018
9/2019/0658	Approval of reserved matters of 9/2010/1134 for the erection of 351 dwellings with associated infrastructure, access roads, drainage and public open space (Boulton Moor Phase 1e) - Approved November 2019

### BM1 & BM2: Infrastructure related applications

9/2008/0415	Construction of landscaped earth bund, pedestrian cycle bridge and extension of the Thulston Brook - Approved July 2008
9/2011/0783	Extension of time limit for implementation of outline permission 9/2008/0415 - Approved December 2011
9/2015/0998	Outline application (all matters to be reserved) for the creation of playing pitches, a sports pavilion, allotments, ancillary car parking and associated access, informal open space and landscaping (The Triangle, Boulton Moor Phase 1) - Approved July 2017



9/2015/0959	Outline application (all matters to be reserved) for the construction of a two-form entry primary school and associated access, car parking, outdoor play space, surface water drainage, services, lighting, signage and landscaping - Approved July 2017
9/2017/1216	Off-site highway improvements (pursuant to condition 25 of outline permission ref. 9/2010/1134) to include the construction of two roundabouts - Approved June 2018
9/2018/0017	Approval of reserved matters of 9/2015/0959 for the construction of a 2-form entry primary school and associated access, car parking, outdoor play space, services and landscaping - Approved April 2018
DMPA/2019/1119	Approval of reserved matters for access, layout, scale, appearance and landscaping of outline permission ref. 9/2015/0998 - Pending decision

Snelsmoor Grange (SG), Derby City Council (DCityC) (adjacent to BM2)

04/13/00351	Hybrid application for up to 800 dwellings in outline with all matters except access reserved, with access to be off Snelsmoor Lane and Field Lane, a sustainable drainage system, new primary school with playing field, open space including creation of country park; and for 245 dwellings in detail including roads, infrastructure, landscaping, attenuation ponds and play areas - Pending decision (by DCityC)
9/2013/0245	Highway works to Snelsmoor Lane to facilitate access associated with a hybrid planning application for residential development and associated infrastructure situated within Derby City - Approved May 2013
9/2017/0021	Improvements and increases to volume of the existing drainage ditches - Approved June 2017
9/2019/0557	Enabling highway works comprising the straightening of Snelsmoor Lane and a new roundabout access to serve SG - Approved September 2019

**Responses to consultations and publicity**

Highways England (HE) notes their interest relates to the operation of the A6 Thulston roundabout that forms part of the Strategic Road Network (SRN). They note that their initial response was of no objection subject to a condition that minor works to the adjacent A6 Thulston roundabout be delivered prior to first occupation. However, this scheme did not address the severe capacity issues on the local road network which led to objection from the local highway authorities. Since then, there has been ongoing discussions to agree a scheme which suitably mitigates the combined traffic impacts from developments in this area, and HE are now content that a 'nil-detriment' scenario is now provided by the 'Option 1b' scheme at the A6 roundabout together with the signalisation of the Chellaston Lane/Shardlow Road junction immediately to the west. The traffic modelling work to support this position was undertaken by HE on the developers' behalf using their 2015 base VISSIM model, and the conclusions of this modelling work have been shared with all parties for agreement on the mitigation scheme to be reached and allow for detailed work to progress. As such it is recommended that conditions should be attached to any planning permission that may be granted.

The County Highway Authority (CHA) notes that whilst access is a reserved matter, they need to be satisfied that a safe and suitable access can be achieved. Access to the site is intended to be taken from Snelsmoor Lane to the east via BM1, currently under construction, and from a roundabout to the south via the proposed SG development. The CHA is satisfied that a suitable means of access into the site from the public highway can be achieved along with an internal layout which accords with current design guidance and criteria.

However, it is the cumulative impact of development on the existing highway network which has caused concerns and the proposal has been considered in conjunction with the adjacent SG application in this respect. Particular emphasis has been placed on ensuring that traffic from the development does not exacerbate the existing congestion in Chellaston/A514 and on measures to mitigate the impact of traffic on the Snelsmoor Lane/Shardlow Road junction and the A6 Thulston roundabout. Engineers at both Derbyshire County Council (DCC) and DCityC have given serious consideration to the mitigation measures proposed in respect of these junctions. These are summarised thus:

- the 'Interim Improvement Scheme' to signalise the Snelsmoor Lane/Shardlow Road junction and add a third lane – triggered upon the occupation of the 50<sup>th</sup> dwelling across BM2 and SG combined;
- the 'Option 1b' scheme to partially signalise the A6 Thulston Roundabout – triggered upon the occupation of the 450<sup>th</sup> dwelling across BM2 and SG combined.

Whilst DCityC concluded in November 2018 that the overall principle of the proposed two-part mitigation scheme was acceptable, there remained concerns as to how this design might compromise access to Boulton Moor Phase 3 (BM3), north of Shardlow Road:

*"The submission excludes the Boulton Moor Phase 3 (BM3) development access.... If this access is to be included in the future, this should be considered in the mitigation as I think it will be impossible to accommodate without negatively impacting upon the performance of the linked junctions...."*

Following receipt of further drawings and specific modelling work around the Snelsmoor Lane/Shardlow Road junction, the Highway Authorities are now satisfied that the proposed two-part mitigation package, subject to further refinement at detailed design stage, would not compromise the delivery of the allocated BM3 development at some future date.

The final outstanding issue related to the delivery of the two link roads between BM2 and SG. This is the subject of further discussion in the assessment section below, but conditions and notes are recommended for inclusion in any consent granted and there is no objection from the highway point of view.

Natural England (NE) notes the site is in close proximity to Boulton Moor Site of Special Scientific Interest (SSSI), but they are satisfied that the proposed development would not damage or destroy the interest features for which the site has been notified. NE therefore advises that the SSSI does not represent a constraint in determining this application. They also advise assessment and consideration of the other possible impacts when determining this application, including local sites (biodiversity and geodiversity), local landscape character and local or national biodiversity priority habitats and species. Biodiversity enhancements are also recommended.

Derbyshire Wildlife Trust (DWT) is aware of 5 'Great Trees of Derbyshire' present on the western boundary, records of badgers within the wider area and records of water vole, reptiles and brown hare in adjacent fields. DWT supports the provision of water attenuation areas and the provision of an Ecological Management Plan covering all retained and created habitats, which should be conditioned. They also accept that some removal of hedgerow will be required to facilitate the formation of internal access roads, but sufficient compensation should be provided by new native hedgerow planting to ensure there is no net loss overall. All trees, woodland and hedgerows to be retained should be adequately protected during works.

Breeding bird surveys were undertaken and the site supports a diverse range of confirmed and probable breeding birds. Of these, skylark, common linnet and house sparrows are birds of conservation concern and the development (and adjacent developments) would result in a (cumulative) loss of breeding habitats. Mitigating the impact on ground nesting birds is the most difficult ecological issue, but initial objection has been overcome by way of updated breeding bird surveys – these confirming no ground nesting birds were noted and the site is unlikely to support more than a single pair of skylark. Protection of nesting habitat during construction is however requested.

Some evidence of badgers using the site is noted, alongside knowledge of badgers in the locality. There is likely to be a cumulative impact resulting from this development and surrounding phased developments resulting in a reduction in foraging habitat and possibly increased restriction on the movement of badgers. It is essential that sufficient foraging habitat and green corridors are retained to allow movement and provide suitable sett sites. This is to some extent achieved by the landscape design, but impacts could be further reduced by increasing the buffers and creating suitable foraging habitat within the open space areas. Connectivity of the setts is essential for retaining the integrity of a badger social group. The increase in traffic within this site (and surrounding developments) also has the potential to increase road fatalities of badgers. As badgers are highly mobile animals and can establish new setts as population numbers and dynamics fluctuate over time, a pre-commencement survey is recommended prior to any removal of vegetation, earth moving or site preparation occurs. A condition to this effect should be applied. Compensatory planting for foraging should also be focused along the western boundary of the site. A condition to this effect should also be applied.

The proposals/ecology report indicate that trees would be retained and no further bat surveys are required if the trees remain unaffected by the works. A number of trees previously surveyed in 2015 were subject to activity surveys in July 2018. No bats were recorded emerging from or returning to any roost features in the trees although a small number of individual bats, namely common and soprano pipistrelle, were recorded foraging and commuting along the woodland edge. Establishment of grassland habitat within the field boundaries, a detailed lighting strategy as well as incorporation of artificial habitats is required as part of the overall design of the site. Retained hedgerows should also be buffered from the built development by at least 5 metres as part of the landscaping scheme and planning conditions. Enhancement measures for bats (i.e. incorporation of bat boxes/bat bricks within the fabric of the new buildings) are welcomed and should be detailed in a scheme approved in advance of development commencing.

Finally, the Landscape Strategy Plan is considered to provide opportunities for buffering and retaining existing habitats along the boundaries of the site, but there are no specific details of where and how particular habitats of biodiversity benefit can or will be incorporated. Areas within the site on the illustrative plan are unlikely to be suitable for displaced birds using the site. The potential to mitigate for these impacts would appear to exist to some extent within the retained areas of green space, subject to how the habitats can be managed, created or enhanced.

Overall, from submitted updated ecology information DWT advises that the conclusions of the Ecology chapter of the original Environmental Statement and the mitigation recommendations remain relevant.

The Environment Agency (EA) notes the site is situated in flood zones 1 and 2 and they no longer provide bespoke comments on developments of this nature in flood zone 2, directing the LPA to use their standing advice. They also note that the Lead Local Flood Authority should also be consulted as they are the statutory consultee for surface water. They also recommend liaison with DCityC to understand any drainage comments they might have.

The Lead Local Flood Authority (LLFA) notes that the Flood Risk Assessment (FRA) suggests that, apart from the north of the site, there are very significant constraints associated with infiltration. From the FRA it is understood that there are to be two outfalls for surface water drainage; one located on the northernmost boundary discharging into the Southern Brook and the other, located in the south-eastern corner of the site which would discharge into the Hardhurst Ditch. Prior to discharge into the above watercourses, surface water is to be attenuated via a series of swales and lined and unlined permeable/porous surface areas before entering attenuation basins. Although, reference is made to adoption, there are no details regarding maintenance, location and essential management of the drainage system for the lifetime of the development. The LLFA's surface water model outputs also indicate that, in its current land use, the central and southern parts of the proposed site are likely to be subject to surface water flooding during the critical storm duration in the 1 in 100 year return period.

As drainage would outfall to two separate ordinary watercourses, discharge rates should be calculated at the detailed design stage for each outfall based on the area of the catchment that is within the site boundary. This is to ensure there are no increases to flow and adequate volume of attenuation is

supplied based on the area of the site the watercourse currently drains. A re-assessment of storage calculations with 40% climate change allowance in line with up-to-date guidance was provided as part of a reconsultation on the application, and this is welcomed. It is also worth noting that a reduction in the number of dwellings (from 600 to 550) should mean a reduction in impermeable area, and change the storage requirement. Finally, the condition of the watercourse to which the developer intends to discharge is unknown and this is important since the watercourse would convey surface water from the proposed site. Conditions are recommended.

The Council's Land Drainage Officer notes that whilst the use of SuDS is likely to be included as part of the surface water management plan, the developer must investigate the suitability of the ditches to accommodate the outfall rates.

Severn Trent Water raises no objection subject to a condition to secure details of foul and surface water drainage in advance of development commencing. They also advise there is a public sewer located within the site and the developer must produce a comprehensive drainage strategy for the site, with surface water drained using sustainable techniques.

The Development Control Archaeologist notes the BM1 development is subject to phased archaeological conditions requiring a scheme of work within each phase to identify and record significant archaeological remains. This is due to the general potential of gravel terrace landscapes for prehistoric archaeology. Two areas of the development have been subject to evaluation and some controlled strip-and-record, identifying extensive Iron Age open settlement and land management features (pits, postholes, linears, pit alignments) and a 'pond' feature with Roman pottery. These are typical late prehistoric to Romano-British rural features and taken together will represent a regionally important resource. The proposed site is immediately adjacent to one of the areas already evaluated, and therefore has potential for similar archaeological remains. It is recommended that any permission is subject to the same requirement secured by condition. In common with other phases the archaeological work should comprise field evaluation (trial trenching) in the first instance, followed by targeted excavation of those areas shown to be significant, in advance of the commencement of development.

The Minerals Planning Authority confirms that the proposed application would not adversely impact the minerals safeguarding interest.

The Contaminated Land Officer (CLO) does not have any significant concerns with respect to contaminated land, but as the site is on and within influencing distance of historical features which could present hazards during development, as highlighted in an associated Phase 1 Desk Based Contamination Assessment, the recommendation to undertake an intrusive (Phase 2) site investigation is supported with conditions requested to identify and remediate any potential land contamination on the site.

The Environmental Health Officer (EHO) raises no objection and seeks conditions to ensure construction related activity is limited to weekdays and Saturday mornings only, that no generators or pumps are used without prior consent, that mitigation measures identified in the noise report are implemented and maintained thereafter, and that a dust mitigation scheme for the construction phase is secured.

The Force Designing Out Crime Officer (police) notes that whilst the layout is illustrative, there are some observations at this stage. This includes the wide use of Mews streets, some direct, some forming inner parking courts, and whilst not opposed to these as a concept, they do form a less formal street hierarchy and invite non-residents to walk through semi-public space skewing any sense of territoriality residents might possess. When overlooked by very active elevations, they do work well but the indicative layout parking looks poorly placed in many cases, up against garden boundaries and directly adjacent to public accesses. The school playing fields are also noted, and it is presumed these will be secured and this security shared with the housing backing on to them. The bridge footpath link onto Mill Hill should be wide and open in aspect (with lighting), similar to the existing link from Bembridge Drive to Meadow Nook in Boulton, with measures to prevent vehicular use implemented. Car parking spaces should also be properly overlooked with some parking courts indicatively shown

removed and replaced with front or side of plot parking, or the courts to be partially occupied with house plots.

The County Planning Officer notes the proposal for the on-site 2-form entry primary school to accommodate primary school pupils generated by the proposed housing (both from BM1 and BM2). The proposal for 550 dwellings would generate 110 primary pupils. It is noted that the section 106 (s106) agreement for BM1 allows the developer to either construct a 1-form entry primary school on site or to pay a contribution to Derbyshire County Council (DCC). DCC has been notified by the developer that they would not wish to construct the school and, consequently, pro rata contributions towards the construction of additional primary capacity at the new school (over and above the 1-form of entry funded by BM1) would therefore be required from BM2. Based on 550 dwellings, a total of £1,849,346.40 is required. Furthermore, DCityC has advised DCC that Noel-Baker School is projected to fill as secondary pupil numbers increase and allocated places for BM1 and Fellow Lands Way are factored in. Based on 550 dwellings, a sum of £3,009,272.86 is requested, to be put towards the provision of 83 secondary places and 33 post-16 places at the new south Derbyshire secondary school. The developer is also encouraged to promote the installation of high speed broadband across the site.

The NHS Southern Derbyshire CCG has considered the GP practices that serve the area of new housing development in Boulton Moor and neighbouring areas and concluded the impact would be on a number of practices and not necessarily the one closest to the site. The CCG would therefore wish to secure section 106 funding and have the responsibility of distributing it to the affected GP practice/s according to the needs of the population and the capacity within. Whilst there are 6 practices potentially affected, the 4 most likely to be affected are Alvaston Medical Centre, Haven Medical Centre, Lister House Chellaston and New Parkfields Surgery. These practices do not have any spare capacity to manage increased patient demand. Space restrictions mean that the practices currently do not meet national benchmarked levels and population increases would exacerbate this situation. The practices are looking to increase space to provide additional capacity to meet the demand.

The Strategic Housing Manager (SHM) notes the level of on-site provision in BM1 to date and the general needs arising in this edge of City part of the District. Accordingly, a 50:50 split between on-site provision and a financial contribution is sought to enable affordable housing within the administrative area of the Council (the latter to be agreed and included within the s106 agreement). It is requested the contribution have a minimum ten year period for allocation/spend and should be paid in three tranches; one at 50% occupancy, one at 75% occupancy and the final close to completion. The on-site provision should comprise 40% shared ownership (consisting of an equal split of two and three bedroomed houses) and 60% affordable/social rent (comprising 10% one-bed houses, 40% two-bed houses, 6% two-bed wheelchair accessible bungalows including level access shower, 36% three-bed houses and 8% four-bed houses). The terms of the Affordable Housing SPD in respect of expected sizes and clustering of the affordable homes should be applied, with clustering of no more than 10 homes (regardless of tenure) and including any proposed in adjacent phases, regardless as to who the developer is. Homes should also meet the Nationally Prescribed Space Standards. Further provisions are also recommended, such as a financial cascade in case a registered provider (RP) cannot be secured and that the provider is a not-for-profit organisation or the Council. It is requested that an Affordable Housing Statement and Affordable Housing Scheme should be submitted and approved in writing prior to commencement of development.

The Open Space & Facilities Development Manager seeks contributions towards projects at Elvaston Cricket Club and Elvaston Country Park, to take up built, sports and open space contributions arising from the number of dwellings constructed.

The Derby City Section 106 Officer seeks contributions towards projects at Moorways sports centre (towards the development of swimming facilities) and Chellaston Park, to take up built, sports and open space contributions arising from the number of dwellings constructed.



## Responses to Publicity

Two representations have been received, raising the following questions:

- a) where the public right of way to Mill Hill is planned will a brick wall be built to the side of existing property to protect privacy?
- b) will the development include new fencing to existing boundaries as a barrier to the noise?
- c) what days and times will the development take place as the noise of vehicles is loud and distressing?

It is noted that the County Planning Officer's response records the views of local County Councillor Rob Davison, as part of their consultation process. The Councillor is aware that a key issue for local residents is congestion caused by parents dropping off and picking up children from school. He is keen that the design of the primary school anticipates this and provides an appropriate access route that does not rely on a residential street, and includes appropriate arrangements for dropping off/collection of children.

## Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H13 (Boulton Moor, South East of Derby), 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), SD5 (Minerals Safeguarding), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF6 (Community Facilities), INF7 (Green Infrastructure), INF9 (Open Space, Sport and Recreation); and
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage).

### National Guidance

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

### Local Guidance

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

## Planning Considerations

The application is accompanied by an ES, as outlined at the head of this report. Whilst the scope of the proposal has been refined during the course of the application, the substantive changes have been limited to:

- Development of the off-site highway mitigation proposals;
- Updated ecological walkover surveys; and
- A reduction in the quantum of housing proposed.

Each of these changes has been assessed with regard to Regulation 20 of the EIA Regulations and it is considered that none constitute substantive new information and therefore the requirements to advertise and (re)consult have not been triggered. This aligns with the applicant's ES Statement of

Conformity. Nonetheless, selective reconsultation has taken place to inform the LPA on its determination of the proposal.

In addition, there has been a considerable passage of time since the application was lodged. Whilst the red line of the application site has remained constant, the primary school is now to be delivered under the standalone outline and reserved matters consents. Nonetheless, there is no requirement in law for the scope of the proposal and site to be 'reduced' to reflect this, and thus the scope and purpose of the ES is unaffected by the matter. Furthermore, adopted planning policy has materially changed, whilst national planning policy has also been amended, since the policy chapter of the ES was authored. However, again, the changes are not considered to have a substantive effect on the ES and its scope, with the key policies discussed under matters of principle below.

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

- Principle of development;
- Environmental Impact Assessment, including topics within its scope;
- Other technical considerations outside the scope of the ES;
- Design and layout parameters; and
- Planning obligations and conditions.

## Planning Assessment

### Principle of development

The site forms part of the LP1 housing allocation set out under policy H13. This part of the overall allocation, BM2, is complementary to BM1 and the services to be provided under that phase, as well as SG within the City – which also provides for a country park and recreation opportunities to its west. Sandwiched by SG and BM1, along with existing residential form along its northern edge, it is a sustainable location in principle and such credentials would crystallise as the wider allocation is delivered. This achieves the strategy for housing delivery set out in policies S4 and S1, and assists in the delivery of housing across the Plan period and maintaining of a 5-year supply of housing land.

Policy H13 sets out a series of criteria against which the proposals must be assessed, in so far as relevant to the phase concerned (i.e. BM2, but with regard to what might be provided on BM1 and BM3 as well as SG, given the latter is referenced in the opening part of the policy):

- i) *"That [the Councils] and developers continue to work together to ensure that the proposals offer a holistic vision for an urban extension which is delivered in a comprehensive manner across the local authority boundaries. Delivery mechanisms will need to be established to ensure the necessary level of coordination to effectively deliver the infrastructure and facilities to support the development;*
- ii) *A jointly prepared development framework shall be produced;*
- iii) *A cross boundary approach to housing design, layout, density, open space and landscape shall be developed/undertaken;*
- iv) *A cross boundary approach to the provision of affordable housing shall be developed/undertaken;*
- v) *A plan of phasing for the delivery of this cross boundary site shall be submitted with any application;*
- vi) *The provision of sustainable transport measures, including contributions to the delivery of a new park and ride and bus service to serve the wider urban extension site;*
- vii) *Highway works, including improvements to Snelsmoor Lane to ensure that the impact on its junctions with the A6 and High Street are satisfactorily mitigated;*
- viii) *Flood mitigation measures, to address fluvial and surface water issues relating to the Thulston Brook watercourse and ground water levels;*
- ix) *An appropriate flood risk assessment shall be submitted with any application;*
- x) *Improvements to existing green infrastructure shall be made, along with the provision of new green infrastructure on the site;*



- xi) High quality pedestrian and cycle routes within the site and links between these and existing and proposed routes and green spaces beyond the site;*
- xii) A significant green buffer and landscaping boundary on the outer edges of the developments, to help soften the housing developments impact on the surrounding countryside, create a new defensible boundary and help mitigate the urbanising impact of new development upon Derby City's Green Wedge;*
- xiii) A new district centre shall be provided, anchored by a supermarket complemented by a range of smaller units providing for day to day needs of the wider neighbourhood;*
- xiv) The scale of the anchor store will be commensurate with the needs of the new community, the level of growth anticipated and the need to maintain the vitality and viability of other centres. The location of the centre should be the focal point at the heart of the new community;*
- xv) The provision of a two form entry primary school to cover phases 1 and 2, with separate primary provision to serve the site in Derby;*
- xvi) The urban extension as a whole shall protect and enhance Elvaston Registered Park and Garden (including its settlement), other heritage assets and will contribute towards softening the settlement edge around Boulton Moor;*
- xvii) Any built development to the east of the A6 and west of the B5010 shall be in accordance with Green Belt Policy;*
- xviii) In order to safeguard the operation of the Strategic Road Network an assessment of the impact of development traffic will be carried out and developer contributions will be sought”.*

The accordance with these policies will be considered where appropriate in the assessment below.

## Environmental Impact Assessment

### Socio-economics

The social and economic benefits of the development are recognised, with the allocation providing for further benefits arising across the wider Boulton Moor area, such as the primary school site. Whilst being delivered pursuant to an existing permission, the benefits would still be realised in a grant of permission here, with connectivity to the school from the west and north in particular, improved. The associated population increase would also improve the sustainability of the school in the long term. There would be economic benefits through the construction and occupation phases of the development, these benefits being felt in the wider area. Whilst the ES identifies that there is currently capacity for new patients across the three healthcare practices affected, the CCG finds this is not the case. However, appropriate mitigation can be secured under a planning obligation. There would be further benefits arising from the scheme, it providing for contributions towards the improvement of existing facilities affected in the vicinity of Boulton Moor, largely those within the City. Again a planning obligation would be required to realise these and the wider sustainability of the area enhanced.

There would be some negative effects on the existing population, but these would be mainly limited to the short term, during the construction phase of this development. This is more so when considering the cumulative impacts, but these are not considered to be significant. The effect of traffic arising from the proposal has also been considered at this point, but the proposed mitigation and timing thereof would ensure that the local highway network and SRN are not compromised to the degree of having a significant impact on the socio-economics of the south-eastern Derby area.

The school catchment created would serve occupiers of the site, those on SG as well as those in the existing residential development to the north and east on BM1. The Country Park west of SG would be a main destination for occupiers of BM2, within the play space required walking distances, as would Field Lane Recreational Grounds. Occupiers on SG are also likely to need to access services and facilities pursuant to the BM1 allocation – particularly any healthcare facility. The site for this facility at BM1 may also serve a wider strategic need for the CCG as they review their approach to primary healthcare in the Southern Derby Area, so connectivity to it by a range of modes is important. The proposed bus service to be secured under BM1 is to be extended to serve BM2 and SG as well. These are just some of the reasons why east to west connectivity is of key importance in realising the sustainability of the wider Sustainable Urban Extension (SUE) as a whole, noting that

parts (i) and (ii) of policy H13 require collaboration so that a holistic vision for an urban extension is delivered in a comprehensive manner across the local authority boundaries. The policy refers to delivery mechanisms being established to ensure the necessary level of coordination to effectively deliver the infrastructure and facilities to support the development, and that a Development Framework Document (DFD) should be produced.

It is thus perhaps somewhat disappointing that both the applicant and the landowner/developer for SG have, to date, not agreed the final draft of the DFD. This appears to relate solely to the responsibility for providing the road links between the two sites, with the applicant of the view that their site does not require the links in order to be sustainable in the round – it is being a need of the SG allocation. For the reasons set out above, this is not considered correct. It is also at odds with the applicant's DAS which states the main influences for the design rational (of the site) includes connecting into adjoining developments, with the 'place making and legibility strategy' component of that Statement illustrating just this. The BM2 site is part of a wider jigsaw which makes the whole SUE appropriate in the strategy of Local Plans across the administrative boundary. Both the applicant and the SG developers have commissioned legal Opinion on the scope for each Council to impose controls to 'open up' access rights to one another to ensure the delivery of the links. Unsurprisingly each Opinion contradicts the other. However, the intended approach of the condition set out is, as with any development, for each developer to construct the links to the centreline of the site boundary – nothing more. How they obtain any associated access to achieve this is for the developers to agree, and thus leaves each authority clear of such dispute. Officers have taken independent legal Opinion on this proposed approach and it is advised there is nothing wrong in law in following it.

#### Landscape and visual effects

In landscape character terms, the site would appear in the context of a SUE, sandwiched between the consented and under construction BM1 phase, and SG. Moving north to south, the appreciation of the site in its developed condition would be comparable to the environment it is viewed from and the observer is moving through. From east to west, and vice versa, a similar context would be apparent – even when considering aspects from the Triangle to the east of the A6 spur and from the County Park green wedge in the City. From these points, aspects would still contain a full appreciation of the adjoining built urban form which influences the character of the area. Shorter distance visual impacts would be comparable to these observations so far. To the south, views from Snelsmoor Lane would be filtered by existing and enhanced landscaping. The development would thus have little impact on the status quo, with no further public footpaths or viewpoints in the vicinity which would allow discernible changes to be noted given the backdrop of urban form against the site. Hence, individually and cumulatively the impact on landscape character and the visual amenity of the area is considered to be low and acceptable in the context of policy BNE4.

#### Ecology and nature conservation

The site does not form part of a protected site, nor is it priority habitat. The ecological survey work has identified a low degree of impact on existing species identified at the site given the numbers observed and/or the ability to provide mitigation through layout and design or by specific measures. DWT advises that the proposed development will largely take previously arable land, so the ecological assessment work must play a pivotal role in informing the site layout and which areas are to remain unbuilt. The ecological assessment has identified that the network of hedgerows, woodland and mature trees provide the main habitats of interest within the site, and this is felt to be an accurate assessment. The Trust recommends a series of conditions to ensure that this network is adequately protected and promoted in the delivery of the development, and these would ensure that the proposal accords with policy BNE3 of the LP1.

#### Water environment

The response of the LLFA is of most relevance here. The site would be drained in two catchments but it is apparent that a feasible solution to adequate attenuation and limiting of outfall rates can be secured. Such work would need to advance before the submission of reserved matters so that

adequate above ground attenuation is provided in a safe and design and biodiversity positive manner, noting that water infrastructure can bring about wider benefits and improve water quality in urban environments. The permission for improvement of drainage provision away from the site, around Thulston Fields Farm, would also ensure adequate capacity exists downstream to receive flows from the wider SUE. The detailed drainage design can be deferred to conditions, as set out below, and the proposal is considered to accord with policies SD2 and SD3 of the LP1.

### Transport and access

Much of the discussion around this topic is set out in the responses of the relevant highway authorities above. The response of the CHA also aligns with the attitude from the City's highway authority to ensure a co-ordinated approach to the determination of this application and the one for SG. The mitigation package has been the main cause of the delay for both applications, with the initial solution deemed inadequate in terms of the impact on the SRN infrastructure and it uncertain for the local highway network. A revised solution then caused unacceptable impacts on the LHN. A co-ordinated approach to modelling was required to unlock this issue and extensive work has been undertaken to result in the proposed two-part mitigation package - the Interim Improvement Scheme and the Option 1b scheme. Suitable triggers have been agreed to bring forward this mitigation, whilst the CHA and City highway authority have advanced other conditions and obligations which are considered to address residual matters, such as on-site layouts, parking provision and sustainable transport measures.

In terms of sustainable modes of transport, the BM1 site is to support a new bus route in a figure-of-eight loop, crossing Snelsmoor Lane and linking across that allocation. This was secured in the s106 agreement some 10 years ago so it is no longer reflective of the wider emerging demand for a bus service across the SUE. Both BM2 and SG need to accommodate an 'extension' to this service, whether it be fully or partly so from the day it is implemented (depending on the availability of roads through each of the allocations and across boundaries between them). Whilst the principle of achieving this is possible, and there is agreement with this in the DFD; the detail of the service and the phasing of its delivery is still yet to be finalised. The recommendation below reflects this need for ongoing work before a s106 agreement is signed.

The above point regarding bus connectivity is also related to cycle and walking connectivity between the allocations and existing development and spaces adjacent to the SUE. This feeds back to the discussion under socio-economic impacts above. Pedestrian and cycle links to adjoining parcels are shown by way of the indicative access points through BM1 and to the boundary with SG, and that onto Mill Hill to the north. However, the existence of watercourses and likely inclusion of swales near or along boundaries to address drainage requirements (as per BM1) means there is a need to consider the movement desire lines across these. Consequently, further footbridges, etc. are likely to be required, and this is only partly acknowledged in the DAS and the updated land use parameters plan. These matters can be resolved at the reserved matters stage and with regard to the conditions set out below, ensuring compliance with policies S6 and INF2 of the LP1.

### Air quality

It is not anticipated that the proposal would give rise to unacceptable levels of Nitrogen Dioxide (NO<sub>2</sub>) and Particulate Matter (PM<sub>10</sub>) arising from traffic generation attributed to the site. The free movement of vehicles within the site, its nature and its layout means there are unlikely to be locations where such concentrations would begin to be of concern. The only location where this may be of potential concern is off-site, where the mitigation for transport effects would be deployed. However, this is not considered to be at a threshold where concerns might become apparent. The developer will however be required, through condition, to install electric charging points to facilitate a movement from fossil fuel powered vehicles over the next 20+ years. Short term construction impacts, in respect of dust, can be addressed by condition. The proposal is therefore considered to accord with policy SD1 of the LP1.

### Noise

The occupation of the site itself is not considered to generate noise which would require mitigation. The school site is positioned so that it is unlikely to materially alter conditions for existing occupiers, whilst the nature of noise impacts is focussed to disturbance arounds school start and finish times. During the construction phase, impacts can be mitigated by way of conditions as suggested below. The surrounding SRN and LRN is the dominant noise source in the environment. Construction of built form across it would provide for some amelioration of noise to existing and the majority of proposed properties, but it is noted that the design and orientation of properties on the southern edge of the site will need consideration at the reserved matters stage. The proposal is considered to accord with policy SD1 of the LP1.

### Agriculture

Just under 20 hectares of grade 3b agricultural land would be permanently lost under this proposal. It must be recognised that this grade of land is not 'best and most versatile' (BMV) to which policy BNE4 or the NPPF seeks to protect. It is also notable that Natural England has not raised objection and that the site is allocated for development of the natural proposed, meaning the significance of this impact has already been considered at the Local Plan stage. In this light, the proposal accords with policy BNE4.

### Other technical considerations outside the scope of the ES

The consumption of energy and other resources is scoped out of the ES, but resource use would be comparable to other residential construction sites with the majority of materials likely locally resourced. Energy demands would be met by the wider grid network, although use of renewable technologies can be encouraged as part of the reserved matters submission. The CDM Regulations along with a construction management plan would also assist in minimising waste and encourage recycling during the construction phase.

Vibration impacts are not considered to be of concern, with it unlikely that piling methods for foundations are required, and with no other likely vibro-compaction required during the construction phase. There are similarly no concerns in respect of light radiation emissions.

The heritage interest of the site is limited to archaeological deposits, with no conservation areas or listed buildings affected – directly or by way of their setting. This is due to the general potential of gravel terrace landscapes for prehistoric archaeology. It is considered that the significance of any deposits can be safeguarded by way of condition, ensuring compliance with policies BNE2 and BNE10.

### Design and layout parameters

Matters of layout, scale, appearance and landscaping are reserved for later consideration. To a degree, matters of layout also relate to access, which is also reserved. Given the scale of the proposal and its relationship with BM1, SG and existing development to the north, a clear set of parameters for the reserved matters stage is necessary. This helps to ensure a degree of cohesion between individual development parcels carried out by different developers.

Site masterplanning and layout should have regard to the existing site constraints and opportunities, with existing landscape and biodiversity features retained and enhanced, wherever possible, providing a network around which a built development can be designed. It is noted that the illustrative layout shows that some consideration has been given to the layout of the built development in respect of the location of the existing hedgerows and mature trees, although it is suggestive that insufficient 'breathing' space to achieve a welcoming and attractive environment might be lacking in places. Again, this can be addressed at the reserved matters stage, noting that the 550 dwellings is not an absolute target, and various design solutions can be deployed to reduce or increase density in different parts of the site as appropriate. Similarly, the building heights parameters plan deviates from the DAS showing an extensive area of built form at up to three storeys where the DAS is more selective, pointing towards framing focal points (squares) and the main avenues through the site. This parameters plan is therefore excluded from the approved plans set out below, with reliance instead placed upon the text of section 12 of the DAS. In addition, the scale parameters fail to account for the specific housing mix required by

the SHM and also the need to provide a range of housing types and sizes to adhere to policy H20. Nonetheless, the DAS otherwise provides a largely suitable basis upon which to expect reserved matters proposals to follow. Furthermore, the latest DFD provides a significant degree of design parameters to which the proposal should adhere to. These documents are taken forward in the conditions below.

The indicative plans also fail to account for the intended cycle route along the north of this site and adjacent ones, running east to west, so it will be necessary to condition a cycle route in the northern area of open space which connects to the adjacent sites. Furthermore, 3 metre wide shared pedestrian and cycle routes also enter the site along the main tree lined avenues from the east in two places (one near the school and one in the south). These should be tree lined avenues with a 3 metre wide shared cycle route through the site and into SG. The one near the school should follow the main avenue until it exits the site in the west, and it should also have a branch off it heading north and south along the green corridor through the centre of the site. Again, a condition can require these routes.

Finally, it will be necessary to secure details of phasing of this site with sufficient detail shown to indicate when roads, cycle and pedestrian links are to be provided, connections to adjacent sites, drainage features and play and open space provision. The wider features of the SUE will also need to form part of this phasing plan so that it accords to any existing s106 obligations (e.g. the provision of the primary school or the bus route, etc.).

### Planning obligations and conditions

The conditions are set out below and reflect the discussion above. These have been discussed with DCityC planning officers to ensure a degree of consistency and so to follow the purpose of the DFD in cohesively guiding the development.

A section 106 agreement would be used to secure financial contributions in respect of primary, secondary and post-16 education matters, with the primary education sum used to develop the one-form entry provision on site to a two-form entry school. The remaining contributions would be used towards the new secondary school at Infinity Garden Village. The healthcare contribution can be earmarked for use in delivering the CCG's strategy towards primary healthcare provision in this area, either on the BM1 site or in redeveloping/expanding existing facilities nearby. Either option is considered to be CIL compliance and flexibility can be inserted into the s106 agreement.

The proposed bus service through BM1 would need to be extended to cover BM2 and SG. This service has not yet been delivered and is required to make each part of the SUE sustainable in its own right as well as cumulatively. A proportionate contribution should therefore be made to ensure the longevity of this service, particularly given in the early years of operation it would not draw on the same population potential arising from the SUE.

For indoor sports/community (built facility) needs, an off-site contribution towards built facilities improvements is required. This is based on £122.80 per person (bedroom) and it is presently intended to steer these funds towards the development of the 50m and leisure pool complex at Moorways in the City. For outdoor sports facilities, the off-site contributions would be directed towards improvements to the cricket pavilion at Elvaston Cricket Club as well as improvements of the outdoor sport provision at Chellaston Park or a shared facility at the secondary school. This is based on £220.00 per person (bedroom) and some flexibility could be added to the s106 agreement to allow funds to be redirected if one project falls away or takes priority.

In terms of open space, the s106 guidance sets out the need for 25.4m<sup>2</sup> of Public Open Space (POS) per person (bedroom). Using an indicative mix this equates to around 4.36ha. It should be written into the s106 that the calculation of this POS does not include land which is fettered or not publically accessible (i.e. swales and ponds, or 'closed off' tree buffers). There should be at least 2 LEAPs (applying the 400m walkability standard in the Design SPD) and a NEAP with MUGA (800-1000m standards). LAPs should also be provided in addition. The LEAPs and NEAP provision will need to be considered in the context of what is proposed on SG and BM2. A mechanism could be added to the s106 to ensure that any shortfall in POS would be chargeable, with these sums directed towards



improvements at Elvaston Country Park. However, given the age of the application, further guidance from The Head of Cultural and Community Services is being sought and will be reported at the Committee.

A s106 monitoring fee should be imposed as well as any other monitoring fee(s) which might be required by consultees, such as the CHA for monitoring the Travel Plan.

Finally, the quantum of affordable housing is proposed to fulfil the 30% requirement under policy H21. The split between on and off-site provision shall be secured by way of the s106 agreement, which can also include the various requirements in respect of clustering, registered providers, etc. as well as a the tenure/type mix to meet the identified needs of the area. This would ensure compliance with policies H20 and H21.

The above contributions are still under a degree of negotiation at the present time and thus some flexibility will be required in order to recognise the complexity in drafting a s106 agreement to which DCC, DCityC, the Council, the landowner and the promoters can all agree upon. Hence the recommendation seeks delegated authority to officers to conclude the negotiation and drafting of the agreement ahead of its signing.

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. Delegate authority to the Head of Planning and Strategic Housing to conclude negotiations on the planning obligations required as set out in the report, including the type and detailed amounts, and secure these through a s106 agreement;
  - B. Subject to A, **GRANT** permission subject to conditions as set out below but with delegated authority to the Head of Planning and Strategic Housing to agree the final wording in consultation with the Chair of the Planning Committee:
1. (a) Application for the first approval of the reserved matters listed at condition 2 shall be made to the Local Planning Authority before the expiration of two years from the date of this permission, whilst application for all subsequent approvals of the reserved matters shall be made to the Local Planning Authority before the expiration of five years from the date of this permission; and  
(b) The development hereby permitted shall be commenced before the expiration of one year from the date of approval of the first of the reserved matters to be approved, whilst in respect of all subsequent approvals the development subject of those approvals shall be commenced before the expiration of one year from the relevant date of approval of those reserved matters.  
Reason: To conform with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004), noting that a timely commencement on site is required to ensure the delivery of wider infrastructure and services across the sustainable urban extension as a whole, whilst also allowing adequate time for detailed approval of and delivery of the site in phases.
  2. Before any development is commenced the further approval of the Local Planning Authority is required with respect to the following matters (herein referred to as 'the reserved matters') on an application made in that regard:
    - (a) access,
    - (b) appearance,
    - (c) landscaping,
    - (d) layout, and
    - (e) scale.

Reason: This permission is granted in outline under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015 and section 92

of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

3. The reserved matters shall be designed broadly in accordance with the illustrative plan ref. RG-M-114 revision L, the land use parameters plan ref. RG-M-105 revision K, sections 12 to 16 of the Design & Access Statement revision M dated February 2016 - excluding the building heights parameters plan on page 29, and the most current version of the Development Framework Document (DFD) (latest draft as of the date of this permission 17 May 2019); and include the following specific requirements and/or be supported by the following documents in so far as relevant to that matter:
- (a) a landscaping buffer along the western boundary to include the provision of suitable fruit-bearing trees and/or shrubs suitable for foraging badgers;
  - (b) built development, including parallel roads and driveways, to be no closer than 5 metres, as a minimum, to retained hedgerows and trees within and adjoining the site;
  - (c) details of enhancement measures for bats in the form of incorporated bat boxes/bat bricks within the fabric of the new buildings as set out in paragraph 8.120 of the Environmental Statement dated February 2016 (ref. 6748/A5/ES2015);
  - (d) the layout shall accord with the Highway Authority's 6C's Design Guide (or equivalent guidance that may update or replace it); and national guidance laid out in Manual for Streets issued by the Department of Communities and Local Government (or equivalent guidance that may update or replace it). For the avoidance of doubt and to accommodate the proposed bus route through the site, the spine roads shall have a minimum carriageway width of 6.75m;
  - (e) the gradient of the new roads to be constructed shall not exceed 1:30 for the first 10m into the site from the existing highway boundary and 1:20 thereafter;
  - (f) each dwelling to be provided with designated space for the parking of two vehicles per 2-3 bedroom dwelling and three spaces per 4+ bedroom dwelling. Parking spaces shall be no less than 5.5m in depth and 2.4m in width, increasing to 3m in width where the space is abutted by a building or boundary treatment. Where a garage or car port is counted as a parking space, the internal dimensions shall not be less than 3m x 6m, whilst further spaces in front of garage doors shall be no less than 6m in depth;
  - (g) bin collection points, sufficient for holding no less than 2 bins per dwelling on collection days, at the entrance to shared private accesses to prevent refuse bins and collection vehicles standing on the new estate street(s) for longer than necessary causing an obstruction or inconvenience for other road users;
  - (h) a swept path analysis to demonstrate that service and emergency vehicles can successfully enter and manoeuvre within the site;
  - (i) retained hedgerows and trees shall not form boundaries to proposed dwellinghouses and be incorporated into public spaces/green infrastructure; and
  - (j) details of subterranean tree and hedgerow root growth facilitation measures.

Reason: In the interests of achieving sustainable development, having particular regard to the potential impact of the development on the character of the surrounding area, views from the surrounding countryside, biodiversity, highway safety and sustainable modes of transport, flood risk and drainage.

4. No development, including preparatory works, shall commence until a site-wide phasing programme including the proposed sequence of providing:
- (a) housing units including associated parking and boundary treatments,
  - (b) public and private highways including street lighting,
  - (c) sustainable drainage systems and associated infrastructure,
  - (d) public open space including play areas and footpath links,
  - (e) any off-site works required under this permission, a planning obligation or agreement under the Highway Act 1980, and
  - (f) the relationship (timing and location of) to the provision of off-site infrastructure and services by others on Boulton Moor phase 1 and Snelmoor Grange;



has been first submitted to and approved in writing by the Local Planning Authority. The details shall be provided with reference to plan(s) and a Gantt chart and define the extent and location of individual development phases or sub-phases and any associated interim arrangements for access, drainage, etc.. The development shall not be carried out other than in accordance with the approved programme.

Reason: To ensure that the impacts of the development are appropriately mitigated at all stages of the construction phase, and so occupiers of the development are able to reach and access services and facilities at an appropriate time, in the interests of achieving sustainable development.

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

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

6. All noise mitigation measures identified in paragraphs 12.76 to 12.92 of the noise chapter to the Environmental Statement dated February 2016 (ref. 6748/A5/ES2015) shall be implemented (a) throughout the construction phase for those temporary measures of noise mitigation, inclusive of there being no generators or pumps used during this stage of the development without details having first been submitted to and approved in writing by the Local Planning Authority, and (b) incorporated into the development for those permanent measures of noise mitigation and thereafter, 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, maintained accordingly.

Reason: In the interests of protecting the living conditions of prospective occupiers and the amenity of the area and adjoining occupiers, recognising that initial preparatory works could also cause unacceptable impacts.

7. No development shall take place within a phase or sub-phase until a scheme of dust mitigation measures for the construction period within that phase or sub-phase has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented throughout the construction period of that phase or sub-phase.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers, recognising that initial preparatory works could cause unacceptable impacts.

8.
  - a) No development shall commence within a phase or sub-phase until a scheme to identify and control any contamination of land or pollution of controlled waters has been submitted to and approved in writing by the Local Planning Authority, and until the measures approved in that scheme have been implemented in so far as that phase or sub-phase. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated' (herein referred to as 'the Guidance'), unless the Local Planning Authority dispenses with any such requirement specifically and in writing.
  - b) Prior to occupation of the development (or parts thereof) an independent verification report which meets the requirements given in Box 2 of Section 3.1 of the Guidance shall be submitted to and approved in writing by the Local Planning Authority. With the prior written agreement of the Local Planning Authority pursuant to part (a) of this condition, this may be carried out on a plot-by-plot basis.
  - c) In the event that it is proposed to import soil onto site in connection with the development, this shall comply with the specifications given in Box 3 of Section 3.1 of the Guidance.
  - d) If required by the conceptual site model, no development shall commence until monitoring at the site for the presence of ground gas and a subsequent risk assessment which meets the requirements given in Box 4, Section 3.1 of the Guidance has been completed in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the health of the public and the environment from hazards arising from previous uses of the site and/or adjacent land which might be brought to light by development of

it, recognising that failure to address such matters prior to development commencing could lead to unacceptable impacts even at the initial stages of works on site.

9. 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, a written scheme to identify and control that contamination within a phase or sub-phase shall be submitted to and approved in writing by the Local Planning Authority prior to any further works taking place on the phase or sub-phase. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA (or equivalent guidance which may subsequently update or replace it), and appropriate remediation/mitigation proposals. The approved scheme shall be implemented in accordance with the approved remediation/mitigation proposals.

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.

10. a) No development, including preparatory works, shall commence within a phase or sub-phase until a Written Scheme of Investigation for archaeological work (WSI) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:

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

b) The development shall take place in accordance with the approved WSI and the phase or sub-phase concerned shall not be occupied until the 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.

11. No development shall commence until a reasonable assessment is undertaken of the existing watercourse(s) in and within the curtilage of the site, identified to be the point of surface water discharge.

Reason: To ensure that the development will not give rise to unacceptable changes to the hydrology of the area in the interests of ensuring adequate conditions to receive flows from the site and noting that certain works may compromise the ability to subsequently achieve this objective.

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

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

13. No construction of a building or hard surface, setting of site levels or installation of services/utilities within a phase or sub-phase shall take place until a detailed design of, and associated management and maintenance of, surface water drainage of the phase or sub-

phase, in accordance with Defra non-statutory technical standards for sustainable drainage systems, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that, as a minimum, suitable capacity is proposed to attenuate peak flows from the phase or sub-phase, making allowance for climate change and urban creep, and where necessary include measures to capture overland flows between proposed and existing properties. The scheme shall also include drawings and details, including the colour and appearance of safety railings, of all inlet and outfall structures to attenuation ponds. The surface water drainage infrastructure shall be installed in conformity with the approved details prior to the first occupation/use of each respective building/road/hard surface served by the surface water drainage system within that phase or sub-phase or in accordance with a phasing plan first submitted to and approved in writing by the Local Planning Authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.

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

14. Upon completion of the surface water drainage system, including any attenuation ponds and swales, and prior to their adoption by a statutory undertaker or management company; a survey and report from an independent surveyor shall be submitted to and approved in writing by the Local Planning Authority. The survey and report shall be carried out by an appropriately qualified Chartered Surveyor or Chartered Engineer and demonstrate that the surface water drainage system has been constructed in accordance with the details approved pursuant to condition 13. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be included for approval in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed by an independent surveyor, with their findings submitted to and approved in writing by the Local Planning Authority.

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

15. No construction of a building or hard surface, setting of site levels or installation of services/utilities shall take place within a phase or sub-phase until a scheme for the drainage 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 approved details prior to the first occupation of each respective dwelling served by the foul water drainage system within that phase or sub-phase.

Reason: In the interests of minimising the likelihood of flooding incidents and pollution of the environment.

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

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

17. No removal of trees, hedges, shrubs, buildings or structures 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, shrubs, buildings or structures 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 and/or priority species from undue disturbance and impacts.

18. No development, including preparatory works, shall commence within a phase or sub-phase until a walkover badger survey has been undertaken by a suitably qualified ecologist to ensure that there have been no setts created within the site since the date of the badger survey provided in support of the application. The results of this survey work and the scope and timing of any necessary mitigation measures shall be submitted to and approved in writing by the Local Planning Authority prior to any works within that phase or sub-phase commencing, with the mitigation measures implemented and retained in accordance with the approved timetable.

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

19. No development, including preparatory works, shall commence until a Construction Environmental Management Plan for biodiversity (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 and/or priority species from undue disturbance and impacts, noting that initial preparatory works could have unacceptable impacts; and in order to secure an overall biodiversity gain.

20. Prior to the first occupation of the development 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, including mitigation and enhancement for species identified on site and as advocated by the response of the Derbyshire Wildlife Trust (dated 17 October 2016);
  - 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.

21. Prior to the installation of any street lighting, including that to shared drives and courtyards, or lighting affixed to external faces of building(s), an external lighting strategy shall be submitted to

and approved in writing by the Local Planning Authority. The strategy shall demonstrate that light spill onto foraging corridors for bats has been minimised as far as is practicable. This strategy shall be implemented in full as part of the installation of external lighting across the site, with the lighting thereafter subsequently maintained as such.

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

22. No development, including preparatory works, shall commence until a scheme for the protection of trees and hedgerows has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be based on best practice as set out in British Standard 5837:2012 (or equivalent document which may update or supersede that Standard) and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The approved scheme of protection shall be implemented prior to any works commencing on site and thereafter retained throughout the construction period.

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

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

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

24. No part of the development hereby permitted shall be occupied until a scheme in broad accordance with that shown on Highways England preliminary design drawing Proposed Alterations Option 1b, has been submitted to and approved in writing by the Local Planning Authority in consultation with Highways England. The scheme shall comply with the design requirements and procedures of the Design Manual for Roads and Bridges as required by Highways England, including those relating to road safety audits and Walking, Cycling & Horse-Riding Assessment and Review (WCHAR) as set out in HD 42/17, formerly known as non-motorised user (NMU) audit. The approved scheme shall be implemented and completed in full, in accordance with the approved details, prior to the first occupation of the 50th dwelling, calculated as being those provided on the site combined with those provided on Snelsmoor Grange and accessed from Snelsmoor Lane.

Reason: To ensure that the A6 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic by minimising disruption on the trunk road resulting from traffic entering and emerging from the application site and in the interests of road safety.

25. No part of the development hereby permitted shall be occupied until a scheme in broad accordance with that shown on Highways England preliminary design drawing Snelsmoor T-Junction Option 9 – Signal Stages, (amended version of Cannon Consulting drawing E702/224 rev A) has been submitted to and approved in writing by the Local Planning authority in consultation with Highways England. The scheme shall comply with the design requirements and procedures of the Design Manual for Roads and Bridges as required by Highways England, including those relating to road safety audits and Walking, Cycling & Horse-Riding Assessment and Review (WCHAR) as set out in HD 42/17, formerly known as non-motorised user (NMU) audit. The approved scheme shall be implemented and completed in full, in accordance with the approved details, prior to the first occupation of the 450th dwelling, calculated as being those provided on the site combined with those provided on Snelsmoor Grange and accessed from Snelsmoor Lane.

Reason: To ensure that the A6 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic by minimising disruption on the trunk road resulting from traffic entering and emerging from the application site and in the interests of road safety.



26. No development shall take place until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for the storage of plant and materials, site accommodation, loading, unloading of goods' vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway and any proposed temporary traffic management.

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

27. Prior to the first occupation of each dwelling hereby permitted, the new street(s) between each respective plot/unit and the existing public highway shall be laid out in accordance with the plan(s) approved under condition 2, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageway and footway(s) in front of each respective plot/unit shall be completed with the final surface course within 12 months (or 3 months in the case of a shared surface road) from the first occupation of that plot/unit.

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

28. Prior to the first occupation of any new dwelling, a revised Travel Plan comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall then be implemented, monitored and reviewed in accordance with the agreed travel Plan Targets.

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

29. Prior to the occupation of the 275th dwelling on the site the two highway links on the western boundary with the adjoining Snelsmoor Grange (SG) development, as set out in the most up to date DFD, shall be constructed to an adoptable standard, as far as reasonably possible, up to the site boundary line. Prior to any construction work taking place, with respect to the highway links, details of the specification, vertical and horizontal alignment, and of any ancillary construction works (such as bridges or culverts) shall be submitted to and approved in writing by the Local Planning Authority. Within 3 months of the two reciprocal highway links at SG having been constructed up to the boundary, any additional works that are necessary (on land under the applicant's or developer's control) shall be carried out to facilitate the contiguous completion of the two highways.

Reason: In order to ensure the provision of a holistic road network across the wider urban extension, allowing for vehicular (including servicing and bus routing), cycle and pedestrian movement.

30. The proposed traffic signal and widening scheme at the junction of Blue Peter Island and London Road Roundabout, as shown for indicative purposes on drawings T13058 11 to 14, shall be constructed prior to the occupation of the 100th dwelling on the site, details of which shall first be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details to the satisfaction of Derby City Council's Highway Authority.

Reason: In order to ensure satisfactory mitigation of the impacts arising from the development on the City's highway network.

#### Informatives:

- a. 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.

- b. The remaining phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 2A. 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.
- c. Any phased risk assessment for contamination 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. For further assistance in complying with planning conditions and other legal requirements, applicants and developers 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 at [www.southderbyshire.gov.uk/our-services/environment/pollution/contaminated-land](http://www.southderbyshire.gov.uk/our-services/environment/pollution/contaminated-land). Reports in electronic formats are preferred. 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: [environmental.health@southderbyshire.gov.uk](mailto:environmental.health@southderbyshire.gov.uk). 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; and
  - Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency (ISBN 0113101775).
- d. Any works in or nearby to an ordinary watercourse may require consent under the Land Drainage Act (1991) from Derbyshire County Council (e.g. an outfall that encroaches into the profile of the watercourse, etc.). Upon receipt of any application (including the legislative fee) Derbyshire County Council has an 8-week legislative period in which to make a decision and either consent or object the proposals. If the applicant wishes to make an application for any works please contact [Flood.Team@derbyshire.gov.uk](mailto:Flood.Team@derbyshire.gov.uk).
- e. The County Flood Risk Team advises:
  - Any alteration to existing impermeable surface area of the site may exacerbate surface water flood risk, so new impermeable surfaces should be limited where possible. Where an increase in impermeable area is unavoidable, Derbyshire County Council (DCC) strongly promote Sustainable Drainage Systems (SuDS) to be incorporated within the design of a drainage strategy for any proposed development, applying the SuDS management train with an appropriate number of treatment stages. The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water in line with Table 4.3 of the CIRIA SuDS Manual C753. This type of development usually requires >2 treatment stages before outfall into surface water body/system which may help towards attainment of the downstream receiving watercourse's Water Framework Directive good ecological status. Surface water drainage should be designed in line with the non-statutory technical standards for SuDS (March 2015) where reasonably practicable, and ground infiltration to manage the surface water is preferred over discharging to a surface water body or public sewer system.
  - Any SuDS should be designed to ensure that the maintenance and operation requirements are economically proportionate and that a maintenance plan is available to the persons/organisations that will be responsible for ongoing maintenance.
  - The applicant is advised to contact the Environment Agency (EA) that hold modelling data for Main Rivers and some ordinary watercourses if fluvial flood risk is a concern.
  - Due to the historic mining and mineral extraction operations in Derbyshire, adits may exist beneath the surface. The applicant is therefore advised to investigate the potential for hidden watercourses existing on the land prior to any works being undertaken.
  - Development located in areas where the water table is at a shallow depth may be susceptible to groundwater flooding. Development site drainage should be considered carefully to avoid any increased risks associated with groundwater. DCC would not recommend infiltration as a means of development site surface water disposal in areas where geohazards or ground instability are



deemed likely without appropriate analysis of the risks involved. Infiltration of surface water to the ground is also not advised in sensitive groundwater areas without an appropriate SuDS management train.

- f. The watercourses, attenuation pond(s) and/or swale(s) hereby permitted or which would be incorporated into public areas on the site should be designed to accord with health and safety guidance as set out in the CIRIA SuDS Manual 2015 (C753) or guidance that may update or replace it, and to meet the requirements of the Construction (Design and Management) Regulations (CDM) 2015 through assessing all foreseeable risks during design, construction and maintenance of the pond, minimising them through an 'avoid, reduce and mitigate residual risks' approach.
- g. Effective monitoring is an essential requirement of a successful Travel Plan. The Highway Authority recommends the use of the STARSFor Travel plan toolkit: <https://www.starsfor.org> , although other monitoring methods are available. Use of this system ensures a consistency of quality and puts in place a straightforward system for subsequent updating and monitoring. Fees are levied for the use of this system. Contact: [sustainable.travel@derbyshire.gov.uk](mailto:sustainable.travel@derbyshire.gov.uk) for more details.
- h. Pursuant to Sections 219/220 of the Highways Act 1980, relating to the Advance Payments Code, where development takes place fronting new estate streets the Highway Authority is obliged to serve notice on the developer, under the provisions of the Act, to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.
- 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. In granting planning permission the Local Planning Authority has taken into account the environmental information submitted in the Environmental Impact Assessment. A summary of reasons for the grant of permission can be found at [planning.southderbyshire.gov.uk](http://planning.southderbyshire.gov.uk).
- k. This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990. All formal submissions to discharge obligations of the undertaking or agreement, or queries relating to such matters, must be made in writing to [s106@southderbyshire.gov.uk](mailto:s106@southderbyshire.gov.uk) with the application reference included in correspondence.
- 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.southderbyshire.gov.uk](http://www.southderbyshire.gov.uk) or by calling (01283) 228706.

- m. 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.
- n. The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.
- o. The developer is encouraged to install recharge points for electric vehicles to comply with the following criteria:
  - Residential: 1 charging per unit (dwellinghouse with dedicated parking) or 1 charging point per 10 spaces (or part thereof) where individual units have shared or courtyard parking;
  - Commercial/Retail: 1 charging point for every 10 parking spaces;
  - Industrial: 1 charging point for every 10 parking spaces;To prepare for increased demand in future years, appropriate cable provision should be included in scheme design and development. Residential charging points should be provided with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket should be located where it can later be changed to a 32amp EVCP. Non-residential charging points should be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2 (or equivalent standard that may replace it). Measures should be taken to prevent subsequent occupiers of the premises from removing the charging points.

**Item**                **1.2**

**Ref. No.**           **9/2019/0043**

**Valid Date**       **08/02/2019**

**Applicant:**  
Mrs Reeves

**Agent:**  
Mr Wall  
30 Packington Hill  
Kegworth  
Derby  
DE74 2DF

**Proposal:**       **THE ERECTION OF A DETACHED DWELLING AT 1 YEW TREE LANE THULSTON DERBY**

**Ward:**            **Aston**

### **Reason for committee determination**

This item is presented to Committee at the request of Cllr Watson as local concern has been expressed about a particular issue.

### **Site Description**

The application site is situated within the village of Thulston and is currently part of the domestic curtilage of the host property, 1 Yew Tree Lane. The host property is on the corner of Oak Road and Yew Tree Lane and is a traditional two and a half storey dwelling with attached single storey outbuildings, converted to residential accommodation. Boundary treatment to the existing dwelling is predominantly brick wall but also some tall hedgerow exists on the western side of the dwelling. To the south of the application site immediately on the boundary is 3 Yew Tree Lane which forms part of the southern boundary and its primary elevation faces west. To the east is a more modern two storey dwelling fronting Oak Road. The site is predominantly flat but the garden and properties are slightly higher than the highway and public footpath.

### **Proposal**

The application seeks full permission for the erection of a detached two storey dwelling and separate garage in part of the garden of 1 Yew Tree Lane. The new dwelling would be located between 1 Yew Tree Lane and 2 Oak Road with vehicular and pedestrian access onto Oak Road. Over the course of the application the garage has been removed from the proposal.

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

A Design and Access Statement sets out the principle of new development in this location and explains the rationale behind the design and layout of the proposed dwelling taking account of existing neighbours to minimise the impact of the new dwelling on neighbour amenity. Existing boundary treatments will be retained where possible.

### **Planning History**

9/2005/0659 – Outline application (all matters to be reserved except for siting) for the erection of two dwellings – Refused 15/07/2005

9/2019/0043 - 1 Yew Tree Lane, Thulston, Derby DE72 3FG



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South Derbyshire District Council. LA 100019461. 2014

9/2005/1036 – The erection of a granny flat – Approved 24/10/2005

9/2014/0531 – The erection of an extension – Approved 30/07/2014

9/2015/0365 – The erection of a detached garage with direct vehicular access to/from the highway –  
Refused 22/06/2015

## **Responses to Consultations**

The Highway Authority initially recommended refusal as the required visibility splays were not clearly shown on the supplied plan. Oak Road is a classified road and visibility splays of 2.4m x 43m in each direction are required. In addition, sufficient space within the site for parking and turning to exit the property in a forward gear will be necessary. Following the submission of an amended plan which clearly showed the required visibility splays and parking and turning within the site, the Highway Authority withdrew its objection.

## **Responses to Publicity**

Seven objection letters have been received, raising the following concerns/points:

- a) Proposed new access will be dangerous to other road users close to the bend and opposite other driveways on Oak Road.
- b) Oak Road is a busy cut through and additional dwelling with inadequate visibility not appropriate.
- c) Dwelling in this location not in keeping with the area not least because it is in greenbelt.
- d) Neighbours are concerned about overlooking despite assurances in the design and access statement.
- e) Unsustainable location in a rural area.
- f) Layout suggests the dwelling will be at least six feet higher than the road. Such a tall building will block light to dwellings on the north side of Oak Rd.
- g) Proposal totally out of character with the pub, the white House itself and other properties on Yew Tree Lane.
- h) Reduction in size of garden at host dwelling and very small garden for proposed dwelling will encourage children to play in the street.
- i) Proposed property appears to have no turning space within the site.
- j) Garden patio area at No 2 Oak Rd very close to proposed dwelling and overlooked by first floor windows.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): Policies S2 (Presumption in Favour of Sustainable Development) S6 (Sustainable Access) S8 (Greenbelt) H1 (Settlement Hierarchy) SD1 (Amenity and Environmental Quality) SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure) BNE1 (Design Excellence)
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development) BNE5 (Development in Rural Areas)

## **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;
- Scale and design;
- Residential amenity; and
- Highway safety

## Planning Assessment

### Principle of development

The site lies within the village of Thulston. This settlement does not have a settlement boundary but is listed in policy H1 of the Local Plan Part I as a rural village in which *'development of a limited nature will be allowed'*. Policy SDT1 of the Local Plan Part II states that *'within settlement boundaries as defined in the on the policies map and in Appendix A, development will be permitted where it accords with the development plan'*. The policy goes on to state that *'outside settlement boundaries and allocated sites, within the rural areas as defined in policy H1, development will be limited to that considered acceptable inter alia by Policy BNE5'*. Part iv) of BNE5 supports limited development outside settlement boundaries allowing for *'the infilling of a small gap of not normally more than two dwellings, within small groups of buildings.'* The proposed site clearly complies with BNE5 being within a settlement and surrounded by other dwellings. Thulston is also a village washed over by greenbelt. Policy S8 states that *'there is a presumption against inappropriate development within the greenbelt and will be assessed against national policy.'* Paragraph 145 of the NPPF states that, whilst local planning authorities should treat the construction of new buildings in the greenbelt as inappropriate, there are exceptions to this and criterion e) of paragraph 145 highlights 'limited infilling in villages'. The principle of development in this location would therefore appear to be justified, being supported by national policy where the Council's Local Plan clearly defers to such.

### Scale and design

1 Yew Tree Lane is an imposing two and a half storey dwelling on the corner of Oak Road and Yew Tree Lane with the principle boundary of the property along Oak Road being a brick wall of approximately three metres in height. Part of the reason for the height of the wall is the slight difference in levels; the garden to the property being slightly higher than the public footway on Oak Road. The relatively large garden is of a size to enable its sub-division to provide the site for this proposal whilst allowing the host dwelling to retain a reasonable sized garden. The design of the proposed dwelling is traditional in character and, being the same level as the footway, sits down next to the host dwelling, its ridge height being lower than the host dwelling, its eaves being around the same level as the ridge height of the single storey accommodation attached to the main dwelling. Whilst the ridge height of the proposed dwelling is higher than 2 Oak Road, the gap between the proposal and 2 Oak Road is 14m. The amended Design and Access Statement states that the design of the proposed dwelling has been carefully considered to be in keeping with the surrounding dwellings. Following discussion about design and layout an amended internal layout led to a more traditional external form with main windows facing north and south. The kitchen/dining living area is now proposed with primary windows facing the highway and the rear garden with secondary windows facing west. The bay window in the single storey element of 1 Yew Tree Lane that currently faces east is proposed to be demolished and a flat window inserted to avoid overlooking due to the slightly elevated position. Externally the building is more traditional in appearance with small gable front and rear denoting its slightly modified footprint. This revised design also incorporates a chimney breast on the east elevation which, together with the two gables adds character to the amended design reflecting other dwellings in the area. Whilst the proposal is a large property, it is not considered to be too large for the plot and would sit comfortably on the site. The applicant proposes to retain all existing boundary treatments with the exception of the front boundary wall. An access is to be created as shown on the amended plans; to the north east of the site the remaining frontage would be the existing boundary wall reduced to approximately 900mm. This change affects 19 metres of the existing boundary wall but is not considered to be a loss that would materially change the character of the area. Indeed, the wall could be removed at any time under

permitted development rights. It is therefore considered that the amended design complies with BNE1 of the Local Plan.

### Residential Amenity

The amended design differs slightly to the original proposal. The creation of a more traditional design by incorporating a gable at the front and rear means the distance between the rearmost part of the western side of the dwelling is 1.2m closer to the side elevation of 3 Yew Tree Lane. This makes the minimum distance between the rear elevation and the side elevation of No 3 Yew Tree Lane to be approximately 8.8m. However, the ridge height of the proposed dwelling is lower than that of No 3 and as such is not considered to be overbearing. This revised scheme also removes the open sided garage with ancillary space over which was located in the south eastern corner of the plot which was clearly visible from the adjacent property. There is no minimum distance set out in the Council's Design SPD for new dwellings facing a blank elevation. Taking the above into account the proposal complies with the distance standards and guidance against overlooking such that the proposal complies with BNE1 and SD1.

### Highway Safety

Oak Road is a classified road and subject to a 30 mph speed limit and the proposed access is relatively close to a bend in the road. The Highway Authority initially objected to the proposal as the submitted plans did not clearly set out on plan the required visibility splays. In addition the Highway Authority did not consider that sufficient parking and manoeuvring space had been provided. Revised plans were provided demonstrating that the required visibility splays of 2.4m x 43m are achievable and the removal of the three bay open-sided garage meant that sufficient parking and manoeuvring space can now be provided. The Highway Authority has subsequently withdrawn its objection and the proposal is considered to comply with INF2.

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

### **Recommendation**

**GRANT** permission subject to the following 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 Proposed Plans and Elevations Rev 06, received on 18 April 2019, Proposed Site Section Rev 01, received 30 August 2019 and Proposed Site Plan Rev 06 received on 18 April 2019; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

3. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of residents vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

4. Before any other operations are commenced a new vehicular and pedestrian access shall be created to Oak Road in accordance with the Proposed Site Plan revision 06, laid out, constructed and provided with visibility splays of 2.4m x 43m to the north east and 2.4m x 36m to the south west, the area in advance of the sightlines being maintained throughout the life of the

development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: In the interests of highway safety.

5. 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.

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

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

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the dwelling hereby permitted shall not be enlarged, extended or altered, no buildings, gates, walls, fences or other means of enclosure (except as authorised by this permission or allowed by any condition attached thereto) shall be erected on the site without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the historic significance of the site, the proximity to existing features on or adjacent to the site, and the effect upon neighbouring properties and/or the street scene.

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

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

#### Informatives:

- a. 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.southderbyshire.gov.uk](http://www.southderbyshire.gov.uk) or by calling (01283) 228706.
- b. 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.

- c. The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.
- d. The developer is encouraged to install recharge points for electric vehicles to comply with the following criteria:
  - Residential: 1 charging per unit (dwellinghouse with dedicated parking) or 1 charging point per 10 spaces (or part thereof) where individual units have shared or courtyard parking;
  - Commercial/Retail: 1 charging point for every 10 parking spaces;
  - Industrial: 1 charging point for every 10 parking spaces;To prepare for increased demand in future years, appropriate cable provision should be included in scheme design and development. Residential charging points should be provided with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket should be located where it can later be changed to a 32amp EVCP. Non-residential charging points should be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2 (or equivalent standard that may replace it). Measures should be taken to prevent subsequent occupiers of the premises from removing the charging points.

**Item No.** 1.3

**Ref. No.** DMPA/2019/1130

**Valid date:** 24/09/2019

**Applicant:**  
Amy O'Brien

**Agent:**  
Darren Johnson-Rose  
4 Thorn Tree  
Elmhurst Business Park  
Park Lane  
Elmhurst  
Lichfield  
WS13 8EX

**Proposal:** Change of use from Retail (Use Class A1) to Beauticians (Use Class Sui-Generis use) at 10 West Street, Swadlincote, DE11 9DE

**Ward:** Swadlincote

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

The item is presented to Committee because the application does not strictly comply with Local Plan Policy RTL1 but the Committee needs to take into account other material considerations.

#### **Site Description**

The site is a vacant retail property located within the Town Centre and is located on the Primary Frontage on West Street and within the Swadlincote Conservation Area. The property is currently vacant and has not been occupied for some years.

#### **The proposal**

Consent is sought to change the use from retail (use class A1) to beauticians (Use Class Sui Generis), no external alterations are proposed as part of the application.

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

A Design and Access Statement and Executive Summary provides information on the unit as existing and the business proposed. The proposed change of use is assessed against local and national policy, with justification provided as to the sustainable use of a currently vacant unit.

Supporting Marketing Evidence has been submitted to demonstrate that the retail unit has been fully marketed as a retail unit, this details the dates, number of enquiries and the type of marketing used.

#### **Relevant planning history**

9/2018/0472: Change of use of ground floor from retail (Use Class A1) to a hot food takeaway (Use Class A5) and change of use of first floor to create 2 flats (Use Class C3) with the creation of a mezzanine floor and change of use of second floor to create 1 flat (Use Class C3) - Granted September 2018

9/2011/0856: The Change of Use from A1 (use as shop mobility) to D1 (community use) - Granted January 2012



**DMPA/2019/1130 - 10 West Street, Swadlincote DE11 9DE**



## Responses to consultations and publicity

The County Highway Authority has no objection.

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

- The approval of a beauticians next door will seriously harm the neighbouring business which is a sunbed and beauty salon.
- The neighbouring business currently has two self-employed therapists working, they would be impacted if the business was to close.
- The proposed business would seriously effect the clientele visiting the neighbouring salon.

## Relevant policy, guidance and/or legislation

- Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets) and INF2 (Sustainable Transport).
- Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE10 (Heritage) and RTL1 (Retail Hierarchy).

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)
- Swadlincote Town Centre Character Statement

The relevant national policy and guidance is:

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

## Planning considerations

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

- Principle of Development;
- Neighbouring Amenity; and
- Highway Safety.

## Planning assessment

### Principle of Development

The site is located within the primary retail frontage of Swadlincote Town Centre, the retail unit is currently vacant and has been for several years, with previous permissions to change the use not implemented resulting in the unit being marketed for rent earlier this year.

Part F of Policy RTL1 refers to the loss of retail within local centres; it states that that the loss of retail units in centres will be permitted where:

- i) The current use can be demonstrated to be no longer viable; and*
- ii) The unit has been sufficiently and actively marketed for a range of retail uses over a 6 month period; and*

*iii) The impacts arising from the resulting use do not cause an adverse effect on amenity, parking needs or highway safety.*

As a result of this requirement, supporting marketing evidence has been submitted as part of this application. The report submitted states that marketing of the unit began in April 2019, with evidence of the marketing provided, terms were agreed with the applicant in July 2019, as a result, the unit was not marketed for a period of 6 months, as required by the policy. Therefore it is considered that the marketing evidence submitted fails to demonstrate that the current retail use of the unit is no longer viable and as such it is considered that the proposal does not fully comply with policy RTL1.

Notwithstanding this, it is considered that the proposed use would be of benefit to the town centre and would return to use a unit which has been vacant for an extended period of time. With other units within the local centre also under the retail use class, if permission was granted as a beauticians, it would allow for a more mixed-use local centre and community hub, with residents within the town centre able to walk to their appointments and also use the other retail units before or after. It is therefore considered that the proposed change of use would be a sustainable business location for what is currently a vacant unit within the town centre and therefore is supported by Policy S2.

The Council's Conservation Officer has raised no objections to the proposal and is satisfied that the proposal would 'preserve' the special architectural and historic character and appearance of the Swadlincote Conservation Area, as is described as being a 'desirable' objective within section 72 of the Planning (Listed Buildings and conservation areas) Act 1990. It is noted that are listed buildings (3no. Grade II listings) at the Sharpes Pottery Museum site to the south-west of the application site, however as the proposal involves no external alterations and would retain the ground floor shop in an active use, it is considered that the proposal would not affect the setting of these buildings.

Given the similarities in character of the use as a beauticians when compared to other uses falling within the retail use classes (e.g. a hair salon), it is considered to be acceptable in principle and indeed could attract linked trips to the other units within the town centre, helping to improve the retail sustainability of the centre as a whole. Concerns have been raised during the public consultation over the potential impact on a neighbouring business of a similar use. Competition of local businesses is not a material planning consideration and therefore does not warrant further consideration. Policy RTL1 seeks to maintain and enhance the role and function of local centres within the district, as the proposal is for a retail unit located within the local centre, it is supported by the policy.

#### Neighbouring Amenity

The applicant proposes that the opening hours of the unit would be 0900 to 1900, Monday to Friday and 0900 to 1700 Saturday, which is similar to the hours of operation for most of the units within the town centre. It is considered that the proposed business hours and subsequent noise/traffic generated as a result of the change of use would not unduly impact on the amenity of neighbouring properties and businesses within the locality of the site, and no more so than the current permitted retail use; and as such the proposed use is considered to comply with Policy SD1 and iii) of part F of Policy RTL1.

#### Highway Safety

There are no car parking spaces included within the red line of the application site, as shown on the location plan. However, the unit is located within Swadlincote town centre and therefore within walking distance of several public car parks. It is noted that the County Highway Authority raises no objection to the proposal. It is therefore considered that the car parking provided for the town centre is sufficient parking provision for the requirements of the change of use and as such it is considered that the proposal complies with Policy INF2 and iii) of part F of Policy RTL1.

## Conclusion

Although technically the applicant has failed to demonstrate that the current retail use of the unit is no longer viable for the location and therefore not compliant with Policy RTL1, when considering the planning balance, the benefits of adding a beauticians to a vacant unit within Swadlincote Town Centre, would outweigh the negative impacts of the potential loss of a retail unit.

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 approved shall be begun before the expiration of three years from the date of this permission.

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

2. The development hereby permitted shall be carried out in accordance with Drawing No.'s 004240, 004241 and the Location Plan; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. The premises shall not be open to the public other than between 0900 and 1900 hours Mondays to Fridays, and between 0900 hours and 1700 hours on Saturdays. The premises shall not be open to the public whatsoever on Sundays, public holidays and bank holidays.

Reason: To safeguard the amenities of nearby occupiers and/or in the interests of highway safety.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, or any order revoking and re-enacting that Order with or without modification, the proposed change of use shall be used only as a beauticians (Use Class Sui Generis) and for no other purpose.

Reason: Only the approved use has been considered in establishing whether the proposal would have acceptable impacts in this location, and other uses would require further detailed consideration by the Local Planning Authority.

## Informatives:

- a. The applicant is advised to contact the Council's Licensing and Environmental Health Department as certain beauty treatments require registration with the Council before they can commence.