

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

SECTION 1: Planning Applications SECTION 2: Appeals

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

1. PLANNING APPLICATIONS

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

Reference	Item	Place	Ward	Page
9/2017/0603	1.1	Mickleover	Etwall	5
9/2016/0010	1.2	Hilton	Hilton	21
9/2017/0508	1.3	Midway	Midway	28
9/2017/0821	1.4	Melbourne	Melbourne	34

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

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

26/09/2017

Item 1.1

Ref. No. 9/2017/0603/RM

Applicant:
Bloor Homes Ltd
Unit 7
Calico Business Park
Sandy Way
Tamworth
B77 4BF

Agent:
Miss Jennifer Towers
Bloor Homes Ltd
Unit 7
Calico Business Park
Sandy Way
Tamworth
B77 4BF

Proposal: APPROVAL OF RESERVED MATTERS OF APPEARANCE, LANDSCAPING, LAYOUT & SCALE PURSUANT TO PLANNING PERMISSION REF: 9/2015/0768 FOR THE ERECTION OF 252 DWELLINGS AND ASSOCIATED WORKS AT LAND AT SK2934 8494 WEST OF LADYBANK ROAD MICKLEOVER DERBY

Ward: Etwall

Valid Date 26/05/2017

Reason for committee determination

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

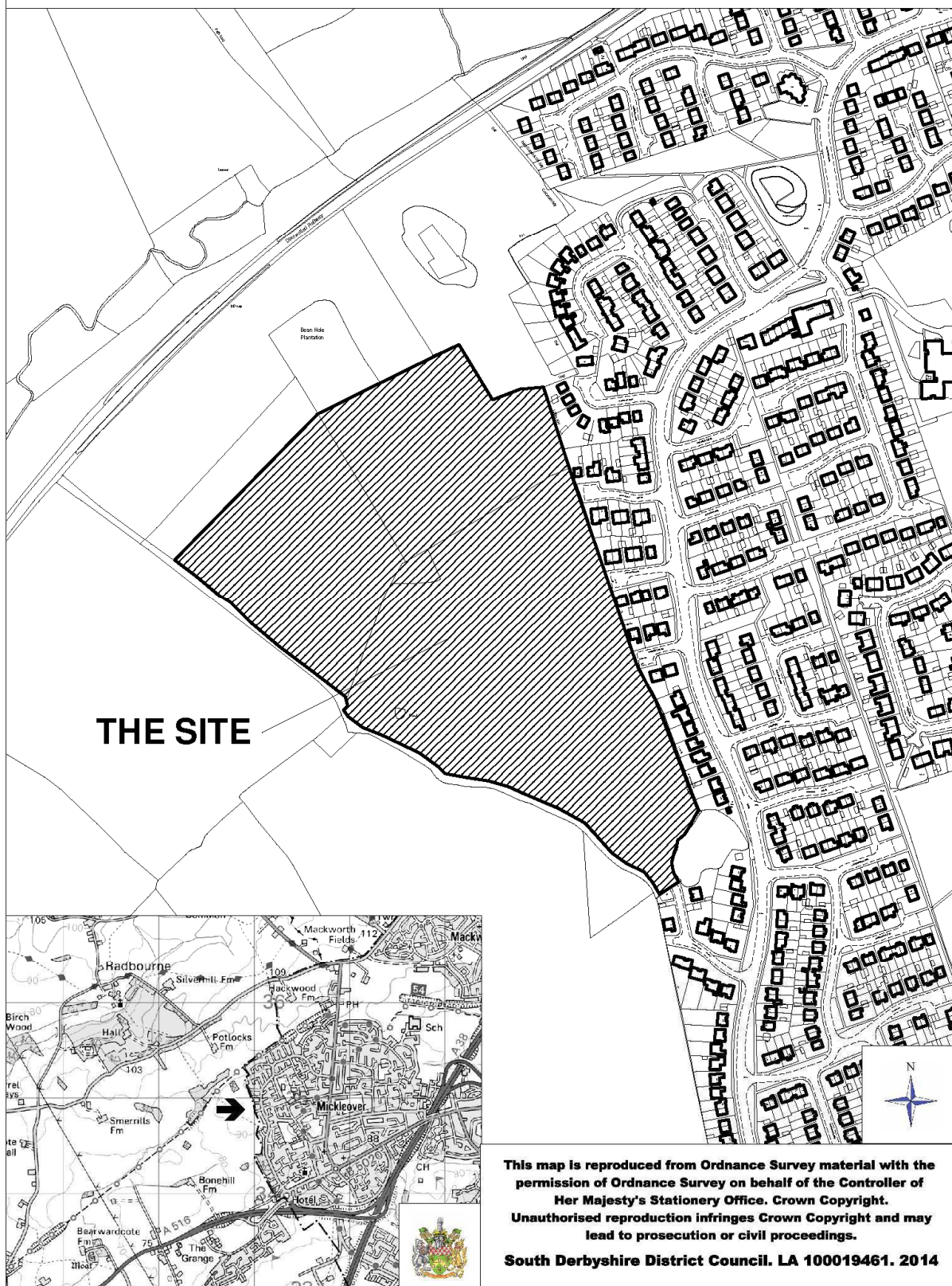
Site Description

The site is situated within South Derbyshire District Council's administrative boundary with land directly to the east sitting within Derby City. The site extends to approximately 14 hectares of arable land.

A public right of way (Radbourn Footpath 8) defines the site's western boundary which connects Greenside Court with National Route 54 of the Sustrans National Cycle Network, also referred to as the Greenway. Further arable land lies to the north, south-west of the site with the edge of Mickleover to the east and also to the south where it meets Greenside Court.

The site slopes gently from east to west but the northern part of the site experiences a significant fall in levels where the land drops down towards the cycle route.

9/2017/0603 - Land at SK2934 8494, West of Ladybank Road, Mickleover, Derby (DE3 0RN)



Proposal

The recent grant of outline permission included approval of the means of access with the main vehicular access to the majority of the development from Swayfield Close, Greenside Court as well as a bus only access from Taplow Close, the reserved matters of layout, scale, appearance and landscaping therefore require approval and this application seeks approval of those reserved matters. The maximum number of dwellings allowed under the outline permission, 252, is proposed in a similar layout to that indicatively shown at the outline stage, with the access positions 'fixed' under that permission. The layout includes a central area of public open space (POS) with a locally equipped area for play (LEAP), open space to the north and a series of interconnecting surface water drainage ponds along the western boundary including a realignment to Radbourne Footpath 8, widened it to allow its use for cyclists as well as pedestrians, connecting Greenside Court through the development to the Greenway. Dwellings would be provided as a mix of 2 and 2.5 storey detached, semi-detached and terraced houses with parking provided, in the majority of cases, as private driveways, garages and/or bays to the front. As required by the outline permission bus gates (points to allow bus penetration through the site to link the existing estate and bus route on Ladybank Road with the remainder of the housing allocation to the west/south-west) are provided adjacent to Taplow Close and the western boundary of the site, as well as a footpath connection between Taplow Close and the site, in line with the outline permission.

Planning History

99/2015/0768 - Outline application with access for approval now and all other matters to be reserved for future approval for the residential development comprising 252 dwellings with associated access, landscaping, open space and drainage infrastructure - Approved 25/5/17

It should be noted that the land to the west/south-west is also subject to an outline application which is under consideration for the remainder of this large housing allocation for up to 1100 dwellings, local centre, community facility and primary school etc. (ref: 9/2017/0349).

Responses to Consultations

The County Highway Authority has no objection subject to conditions and informatives.

The Environment Agency has no comments.

Peak and Northern Footpaths has no objection as Radbourne Footpath 8 is shown on the layout plan. The path should be protected, enhanced, surfaced and eventually adopted.

The Police Designing Out Crime Officer considers that the site is well laid out and the appearance and boundaries are good. Matters of detail include a security concern regarding houses with 1.2m high post and rail fencing to their rear

boundaries, unsecure rear boundaries on some other plots and changes to some dwellings to ensure there are windows in elevations adjacent to parking areas and open space for natural surveillance.

The County Archaeologist states that the proposed housing development is within an area of medieval ridge and furrow earthworks logged in the Derbyshire Historic Environment Record (HER 24308). These are of variable quality from slight to very well preserved, and are of local importance for their evidential and amenity value. The ridge and furrow resource was surveyed as part of the archaeological desk-based assessment carried out for the outline application 9/2015/0768, and the best preserved remains were identified in Fields 3 and 4, in the north-western part of the proposal site. The proposals incorporate part of the best-preserved ridge and furrow areas, at the site's north western corner (Field 4). On purely heritage grounds, incorporating Field 3 is considered the better option; however, it is for the Local Planning Authority to weigh the balance of issues that may make Field 4 the better option on the ground for other non-heritage reasons. Therefore, if this is the case the consideration should be given to visual connectivity between the development and the earthworks, with some thought given to its routing and design, working with the panels of earthwork and aiming for a recessive design and materials, rather than cutting diagonally across.

Amber Valley Borough Council has no comments.

The County Flood Team has no comments.

Derbyshire Wildlife Trust has no objection subject to a condition to secure the submission of a Bat and Bird Enhancement Scheme.

Responses to Publicity

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

- a) Greenside Court is the most dangerous exit onto Ladybank Road with bus stops either side, located on the brow of a hill and parked cars and trees obscuring visibility.
- b) An increase of 9 houses and cyclists exiting onto Ladybank Road is dangerous.
- c) The garages adjacent to the south-eastern boundary within the buffer zone are too close to existing houses as they are too high.
- d) There is no capacity at local schools for the new residents.
- e) Ladybank Road is not capable of taking the amount of traffic the development will cause.
- f) The road near Silverhill desperately needs a pelican crossing for the children as it is dangerous due to the volume of traffic.
- g) Mickleover does not have the capacity in relation to the traffic, schools and doctors to take this development.
- h) The development is unfair to the residents of Swayfield Close due to the proposed use by construction traffic and the associated disruption from noise, dirt should be compensated for.

- i) The use of Ladybank Road by large lorries is a concern and should be restricted to off peak hours.
- j) Construction traffic should be forced to access the site from an extension to the new island off Etwall Road.
- k) Who coordinates the combined impact on traffic in the area from this and the New House Farm development?
- l) Mickleover is expanding at an alarming rate and there are no facilities to support the increase.
- m) Countryside and wildlife is being lost for housing.
- n) Loss of privacy for their bungalow (10 Taplow Close) as houses are proposed adjacent.
- o) In a meeting with the developer, details of the landscaping buffer between properties on Ladybank Road was agreed to be 4m and maintained at a height of 3-4m to avoid shading.
- p) Garages are proposed 1.5m from the buffer within rear gardens of proposed dwellings at a height of 4m which would be a major eyesore for existing properties.
- q) At greater distance between existing and proposed dwellings is required as is assurances that loft conversions and extensions would be controlled to maintain privacy.
- r) The footpaths and cycleways using Greenside Court would be dangerous due to poor visibility at the access and an alternative route through the copse should be considered.
- s) Construction traffic over a 5 year period would damage the road surface and increase traffic noise for local residents.
- t) How would mud be prevented from spreading onto local roads during construction and damage to the roads prevented from heavy construction traffic?
- u) Who would maintain the landscape corridor and SUDS basins and would they be safe for small children.
- v) The planted buffer is native trees and a wildflower meadow rather than a densely planted impenetrable barrier and its width is inadequate.
- w) The width of the buffer should be increased to 10m and distances between new and existing dwellings increased to 30m as proposed by CEG for houses on Ladybank Road south of Greenside Court.
- x) There is little detail about how construction traffic will be managed or how the existing utilities will be linked/ extended to the development.
- y) Construction traffic may cause subsidence to existing properties.
- z) The Construction Management Plan should include no parking on Ladybank Road or any existing roads off it by construction vehicles; it should have a one-way route for HGV's, reduced construction hours than proposed, details of hedge protection and details of how mud and dust would be managed.
- aa) The relationship between Plots 244 and 248 and 4 Whenby Close do not comply with the distances required by the Council's space standards.
- bb) Plans indicate three trees are to be planting adjacent to 4 Whenby Close which would cause shading and may affect their house foundations. Plans submitted show different locations for the trees and clarity on the distance is required.
- cc) The relationship between Plots 251 and 7 Taplow Close relates to principle windows and should be 22m.

- dd) Plots 248, 249, 250 and 252 extend beyond the building line and would cause overshadowing, loss of privacy and outlook for 7 Taplow Close.
- ee) The proposed properties are not in keeping with the existing housing of low rise bungalows.
- ff) Properties on Swayfield Close and Taplow Close have suffered subsidence due to the proximity of a hedge adjacent to properties.
- gg) The submitted plans show inconsistency in relation to the retention of an existing hedge with one showing it retained and another showing it replaced by a fence. It is not clear whether a breakthrough for pedestrians is proposed at Whenby Close.
- hh) Would the existing footpath between Greenside Court and the railway line be retained as it is not shown on the plans submitted.
- ii) Fencing adjacent to the hedge should retain access for maintenance.
- jj) No. 194 Ladybank Road should have smaller trees and bushes proposed due to existing tree shading issues.
- kk) How will the construction management arrangements and retention of hedging be enforced?
- ll) There is gap left at the end of Taplow Close that was to be a emergency access point/potential bus route, however, in a meeting with the developer they stated no new bus route was proposed which does not encourages bus use.
- mm) Two and a half storey properties are proposed which together with the rising land level would disrupt views of the countryside from their property on Greenside Court.
- nn) There are concerns regarding the management of the SUDS due to large volume of water as run-off.
- oo) The proposal would take away Green Belt land and would spoil the Mickleover Greenway cycle track extensively used by local residents.
- pp) The developer should provide new shops, library, dentist, schools medical facilities and a new cycle route to Etwall, Derby and Rolls-Royce sites.
- qq) Would the footpath from Greenside Court and the Great Northern Cycle way route 68 be maintained?

A further period of neighbour consultation has been undertaken as a result of the amended plans which expire on 24th September 2017. Any further comments received as a result of the reconsultation will be reported to Committee at the Meeting.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), H18 (Land West of Mickleover), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF7 (Green Infrastructure) and INF9 (Open Space, Sport and Recreation)

- 1998 Local Plan (saved policies): EV9 (Protection of Trees and Woodland), EV11 (Sites and Features of Natural History Interest) and EV14 (Archaeological and Heritage Features)

Emerging Development Plan Policies

The relevant policies are:

- Draft Local Plan Part 2: BNE8 (Trees, Woodland and Hedgerows) and BNE11 (Heritage)

National Guidance

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

Local Guidance

- The Provision of Outdoor Playing Space in New Developments (as updated by the Section 106 Guidance for Developers)
- Housing Design and Layout SPG

Planning Considerations

The principle of the development is established through the extant outline permission and conditions on that permission control matters such as access provision, archaeological investigation, surface and foul water drainage, tree protection and habitat creation/management and construction management. The Section 106 agreement which accompanies the outline permission also established the parameters for matters such as affordable housing allowing for an off-site contribution to be paid in lieu of on-site provision, contributions towards off-site education, recreation facilities, etc. In this respect, some of the concerns raised by representations are not material considerations under this application which only seeks approval of details of appearance, landscaping, layout and scale.

Planning Assessment

Planning permission for the development of the site for up to 252 dwellings including the access to the development from Swayfield Close, Greenside Court and Taplow Close (for buses only) has already been granted and this application seeks approval of the details pursuant to that planning permission. As such this application needs to be assessed in terms of design details such as the layout and form of the development rather than the principle of the development. As such the proposals have to be assessed against Adopted 2016 Local Plan Part 1 Policies SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), INF2 (Sustainable Transport), INF7 (Green Infrastructure) and INF9 (Open Space, Sport and Recreation) Housing Design and Layout SPG.

The layout follows the general principles set by the concept Masterplan approved under the outline permission, with a largely outward facing development onto public

spaces created under the development. The western boundary benefits from a stand-off to the existing hedgerow and provides a series of surface water attenuation ponds as well as an upgrade for Radbourne Footpath 8 with its route realigned and widened to allow for use by cyclists. The layout largely respects the existing trees and hedgerows across the site where possible. The central POS with LEAP provides a welcome green corridor through the site to facilitate pedestrian movements and cycle movements as well as social benefit, with the hedgerow largely retained and the housing laid out to ensure long term legibility of this space. The overall level of POS adequately reflects the amount required by the outline.

At least 2 parking spaces per dwelling are provided and in many cases exceeded by way of a garage or further space. The pedestrian and cycle routes through the site are well overlooked and provided to a standard which will enable and encourage walking and cycling as alternative modes of transport and will link the development with the existing estate and bus stops on Ladybank Road as well as the Greenway which provides access to Etwall Leisure Centre and schools in Etwall as well as Derby City Centre. The delineation between public and private space is commended.

The scale of the dwellings is predominantly 2-storey with a small number of 2.5 storey dwellings which generally reflects the existing nearby housing estate. House types have been chosen to add interest to the prevailing character within the immediate locality and include bay windows, strong gable features and symmetry across the fenestration details where appropriate. The mix of house styles and scales creates an evolving built environment that sensitively reflects the local vernacular whilst providing its own identity. Feature properties set on prominent corners in the site provide a double frontage, improving the natural surveillance of the street and interest for the viewer.

The application site runs adjacent to the existing housing estate with the proposed properties along the eastern edge of the site backing onto existing properties on Ladybank Road, Whenby Close, Taplow Close, Swayfield Close and Naseby Close. This reserved matters submission generally accords with the concept Masterplan which accompanied the outline application which showed that generally relationship. However, in order to improve the relationship to those affected neighbours a landscaping area on the eastern boundary generally 4m in width is shown to soften the interface between the existing properties and the new properties supplemented by a 1.8m high close boarded fence on that side of the landscaping area which forms the rear garden boundary of the new properties to provide initial screening whilst planting matures. This approach is generally considered to be an appropriate approach which strikes a reasonable balance between protecting the amenity of neighbours whilst delivering the development.

Where the new properties back onto the existing properties on Ladybank Road the relationship is back to back with separation distances of between 21m and 31m meaning that the 21m detailed within the Council's SPG is complied with. The proposed properties which would be located adjacent to the existing properties at the end of Whenby Close are side to side and this siting of the proposed dwellings means that this interrelationship is acceptable and does not breach any aspect of the Council's SPG even taking into account the side windows in the existing properties, although these are not generally protected by the Council's SPG. The proposed

properties which would be located adjacent to the existing properties at the end of Taplow Close are set away from the eastern boundary with a rear garden and main habitable room windows facing east towards the sides of the existing properties on Taplow Close. This interrelationship is acceptable and does not breach any aspect of the Council's SPG even taking into account the side windows in the existing properties, although these are not generally protected by the Council's SPG. The proposed properties which would be located adjacent to the existing properties at the end of Swayfield Close are set away from the eastern boundary with a rear garden and main habitable room windows facing east towards the sides of the existing properties on Swayfield Close. The layout of the proposed houses means that the interrelationship between the existing and proposed does not breach any aspect of the Council's SPG. Where the new properties back onto the existing properties on Naseby Close the relationship is part back to back, with separation distances of between 25m and 28m meaning that the 21m detailed within the Council's SPG is complied with, or side on to the rear of the existing properties with a separation distance of between 15m and 17m exceeding the 12m separation distance detailed within the Council's SPG.

Overall the amenity of existing neighbouring occupiers will not be unduly affected by the proposed development in compliance with the Council's SPG as well as Policy BNE1 of the Council's Adopted Local Plan Part 1 which requires, amongst other things, new development not to have any undue adverse impacts on the privacy and amenity of existing occupiers.

The comments of the County Archaeologist in respect of the retention of fields containing the best ridge and furrow are noted however in order to provide the quantum of development approved at outline stage and balance other planning considerations such as landscape impact, drainage and open space, it is considered that the retention of field 4 and the ridge and furrow therein rather than the preferred field 3, is the most appropriate when weighing all these issues together. In regard to the comments relating to the route of the cyclepath which runs north connecting the central area of open space in the centre of the development to the Greenway to the north and the impact on ridge and furrow in the field it crosses are noted and it is considered that rather than the arbitrary alignment shown on the plans a route which better respects the profile of the ridge and furrow retained on that area ought to be provided, along with sympathetic materials, and a condition to this effect is recommended.

The layout of the scheme respects the concept Masterplan approved at outline stage and provides for good levels of connectivity for all modes of transport. The main vehicular access is via Swayfield Close with a secondary private drive access from Greenside Court. Additionally land is reserved adjacent to the end of Taplow Close and on the western side of the site to allow for bus gates to be provided if called upon in the future and as secured in the S106 on the outline permission. The proposed estate road between the two bus gate points has been designed to accommodate buses should the need arise in future if permission is granted for the 1100 which forms part of the wider allocation. Radbourne Footpath 8 would be upgraded to 3m in width to allow its use by cyclists and pedestrians allow cyclists from the exiting estate as well as the proposed development to access the Greenway to the north and realigned to run closer to the western boundary. Cycle

routes are also proposed east-west through the central POS as well as a secondary cycle route from that central open space linking to access the Greenway to the north. 2m wide pedestrian links are also provided to connect to the upgraded Radbourne Footpath 8 as well as linking the proposed development to Swayfield Close and Taplow Close to encourage links to the existing estate, District Centre and bus route.

In the context of permission having already been granted in outline considerable efforts have been made by both the applicant and officers to achieve a landscaping scheme which harmonises with the resulting built form, balancing the creation of appropriate streetscenes, open spaces as well as a suitable buffer adjacent to neighbours and also retaining areas for wildlife and ecology. However, whilst the proposals are generally considered to provide a sound basis on which the landscaping of the development should proceed, it is still considered that, notwithstanding those submitted details, the development would benefit from additional planting being provided within individual plots as well as in the open space, landscaping buffer and areas of POS, in the interests of creating a better sense of place and coherent development. With this in mind it is considered that further amended landscaping plans to secure these should be sought by condition.

Conclusion

The proposal represents an appropriate form of development that appropriately balances the competing and conflicting issues: layout; design; impact on trees and impact on neighbours and would provide a sound basis on which this development should proceed.

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

Recommendation

GRANT approval of reserved matters subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

MI103-LOC-001 - Location Plan

Site Layout Plans:

MI003-SL-001 (Site Layout North) Rev. N

MI003-SL-002 (Site Layout South) Rev. R

MI003-SL-003 (Site Layout 1-1000) Rev. R

MI003-SL-001 (Coloured Site Layout North) Rev. N

MI003-SL-002 (Coloured Site Layout South) Rev. R

MI003-SL-003 (Coloured Site Layout 1-1000) Rev. R

Revised House Type Pack received 4th September 2017

Garage Details:

GL01-PD-01 Rev. A

GL02-PD-01 Rev. A

HOG-PD-01

Swept Path Analysis Plans:

MI003-EN-050 (Misc Engineering + Bus Tracking)

MI003-EN-051 (Misc Engineering + Bus Tracking)

MI003-EN-052 (Misc Engineering + Refuse Tracking) Rev. B

MI003-EN-053 (Misc Engineering + Refuse Tracking) Rev. C

MI003-SL-007 - Kerbing height plan

MI003-CNT-001 - Connectivity and route hierarchy plan

MI003-PD-SE-001 (Street Elevations) Rev. A - Coloured Street Scenes

For the avoidance of doubt and notwithstanding the submitted details and the contents of the plans listed above, this permission does give approval in respect of the following matters required by the respective conditions on the outline planning permission ref: 9/2015/0768:

MI003-BD-004 Rev: A (Boundary Details)

MI003-MAT-001 Rev: C (Materials)

MI003-MAT-002 Rev: A (Surface Materials)

MI003-MOE-001 Rev: C (Means of Enclosure)

MI003-SL-CMP-001 Rev: A (Construction Management Plan)

MI003-LS-008 Rev. C (Tree Protection Plan)

You are advised that these matters will need to be subject to separate applications to discharge the respective conditions in place on outline planning permission ref: 9/2015/0768.

Reason: For the avoidance of doubt.

2. Notwithstanding the approved drawings/plans and submitted details, prior to the first occupation of a dwelling details of site wide landscaping along with a timetable for its implementation shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping scheme shall be implemented in accordance with the details approved and any trees or plants which, within a period of five years from the date of such landscaping works, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

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

3. Notwithstanding the submitted details no development involving the construction of the external wall of a dwelling hereby permitted shall take place until a Bat and Bird Enhancement Scheme as well as a timetable for its provision have been submitted to and approved in writing by the Local

Planning Authority. The development shall be implemented in accordance with the approved scheme and in the agreed timetable and the agreed measures shall be maintained as approved throughout the lifetime of the development.

Reason: In the interests of ecology.

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

- a. colour of fascia boards and mortar for verges;
- b. eaves/verges/string/dentil course/window reveal details; and
- c. utility cupboard colours (both wall and ground mounted);

For the avoidance of doubt, no fascia boards shall be placed over corbelling and there shall be no use of cloaking tiles/dry verges. The dwellings shall be constructed and thereafter maintained in accordance with the approved details and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the dwellings shall thereafter be maintained with no fascia boards placed over corbelling or cloaking tiles/dry verges throughout the lifetime of the development.

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

5. Notwithstanding approved drawings/plans and submitted details, gutters and downpipes shall have a black finish.

Reason: In the interests of the appearance of the buildings, and the character of the area.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), there shall be no alteration to any wall which forms the principal elevation or side elevation of any dwellinghouse and faces towards a highway or public open space and there shall be no alterations to any roof of any dwellinghouse which forms the principal or side elevation of the dwellinghouse and faces towards a highway or public open space.

Reason: In the interests of the appearance of the 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, no further boundary treatments shall erected other than any walls, fences or other means of enclosure fences which will ultimately be approved by way of condition 27 of the outline planning permission reference 9/2015/0768.

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

8. Notwithstanding the submitted details no development involving the construction of the external wall of a dwelling hereby permitted shall take

place until a timetable for the provision of the proposed cycle and pedestrian routes through the site and linkages with existing cycle routes and public highways outside the application site, as shown on Drawing Number: MI003-CNT-001- Connectivity and Route Hierarchy Plan, with the exception of the cycle path which links the central open space within the development and the Greenway to the north opposite plot 55, has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented and made available for use by the public in accordance with the approved timetable unless an alternative timetable for implementation of specific routes is agreed in writing by the Local Planning Authority.

Reason: In the interests of creating a sustainable development.

9. Notwithstanding the submitted details no development involving the construction of the external wall of a dwelling hereby permitted shall take place until an alternative route for the cycle path which links the central open space within the development and the Greenway to the north opposite plot 55 to take account of the ridge and furrow features within that field and to include the materials to be used in its construction and how the level changes will be accommodated, as well as a timetable for its provision, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and in the agreed timetable.

Reason: To reduce the impact of the cycle path on the historic ridge and furrow features on the site.

10. Notwithstanding the approved details no development involving the construction of the external wall of a dwelling shall commence until details showing the areas of the site which will form part of either individual plots, part of the public highway, part of the drainage infrastructure, part of the public open space or any other land not forming any of those typologies but which will be passed over to a Management Company, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details approved by this condition and retained for those designated uses throughout the lifetime of the development. Notwithstanding the submitted details, the landscaping buffer zone shown on the approved layout plans which runs north-south along the eastern boundary of the site, adjacent to existing properties, shall specifically be excluded from any of the gardens of any of the dwellings contained within the development.

Reason: To ensure that all areas of the development are appropriately maintained in the interests of visual amenity and to protect the amenity of neighbours.

11. Notwithstanding the approved drawings/plans and submitted details, no development involving the construction of that part of any path or hard surfaced area which is located within the root protection areas of any tree identified on the submitted drawings shall commence until a method statement relating to the construction of those paths or hard surfaced areas including their final finish have been submitted to and approved in writing by the Local Planning Authority and the development shall be implemented in accordance with the details approved by this condition.

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

12. No other development shall take place until a new estate street junction has been formed to either Swayfield Close if that is the access road from which the respective dwelling takes its access or Greenside Court if that is the access road from which the respective dwelling takes its access has been constructed in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

13. Prior to the occupation of any dwelling hereby permitted the car parking spaces, vehicular access and turning areas for the respective dwelling shown on the approved plans shall be provided. All such areas shall then be retained for their intended use thereafter.

Reason: In the interest of highway safety.

14. Unless alternative details are first submitted to and approved in writing by the Local Planning Authority, vehicular accesses to dwellings shall not be taken into use until they have been provided with 2m x 2m x 45° pedestrian intervisibility splays on either side at the back of the footway, the splay area being retained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.

Reason: In the interest of highway safety.

15. Where a new dwelling is fronted by a highway margin measuring less than 2m in width the entire frontage of the plot shall be cleared and maintained throughout the life of the development clear of any obstruction exceeding 600mm in height relative to road level for a distance of 2m back from the nearside carriageway edge.

Reason: In the interest of highway safety.

16. Unless alternative details are first submitted to and approved in writing by the Local Planning Authority, the approved accesses shall be no steeper than 1 in 20 for the first 5m from the nearside highway boundary.

Reason: In the interest of highway safety.

17. No gates shall be erected within 5m of any highway boundary and any gates erected elsewhere shall open inwards only.

Reason: In the interest of highway safety.

18. Within 12 months of the commencement of the operation of the approved surface water drainage scheme which will be provided in relation to condition 6 of the outline planning permission reference 9/2015/0768, it shall be certified as completed in accordance with the approved drawings/documents by a Chartered Surveyor or Chartered Engineer.

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

Informatives:

1. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and technical issues and suggesting amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
2. The Highway Authority recommends that the first 5m of the approved access driveways should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.
3. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
4. Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Strategic Director of the Economy, Transport and Environment Department at County Hall, Matlock (tel: 01629 533190). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 38 Agreement.
5. Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new bus gate on land adjacent to Taplow Close should be laid out and constructed to adoptable standards and financially secured.
6. Highway surface water should be disposed of via a positive, gravity fed system (i.e. not pumped) discharging to an approved point of outfall (e.g. existing public sewer, highway drain or watercourse) to be sanctioned by the Water Authority (or their agent), Highway Authority or Environment Agency respectively. The use of soakaways for highway surface water is generally not sanctioned.
7. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain

the roads in the vicinity of the site to a satisfactory level of cleanliness.

8. Pursuant to Section 50 (Schedule 3) of the New Roads and Streetworks Act 1991, before any excavation works are commenced within the limits of the public highway (including Public Rights of Way), at least 6 weeks prior notification should be given to the Director of Economy, Transport and Environment at County Hall, Matlock (tel: 01629 533190 and ask for the New Roads and Streetworks Section).

9. 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.

26/09/2017

Item 1.2

Ref. No. 9/2016/0010/B

Applicant:
Aldi Stores Ltd
Holly Lane
Atherstone
CV9 2SQ

Agent:
Mr Scott Bryden
Stoas Architects
216 Fort Dunlop
Fort Parkway
Birmingham
B24 9FD

Proposal: RETROSPECTIVE APPLICATION TO VARY CONDITION 15 OF PLANNING PERMISSION REF: 9/2012/0505 TO READ:
THE STORE HEREBY PERMITTED SHALL NOT BE OPEN TO THE PUBLIC OUTSIDE THE FOLLOWING TIMES: 08.00 TO 22.00 MONDAY TO SATURDAY AND 10.00 TO 17.00 ON SUNDAYS; AND NO DELIVERIES TAKEN AT OR DESPATCHED FROM THE SITE OUTSIDE THE FOLLOWING TIMES: 07:00 - 19.00 MONDAY TO SATURDAY. 09.00 - 17.00 SUNDAY ALDI FOOD STORE LTD HUNTSPILL ROAD HILTON DERBY

Ward: Hilton

Valid Date 13/04/2016

Reason for committee determination

The application is refereed to Committee at the request of Councillor Plenderleith because the Committee should debate the issues in this case which are very finely balanced.

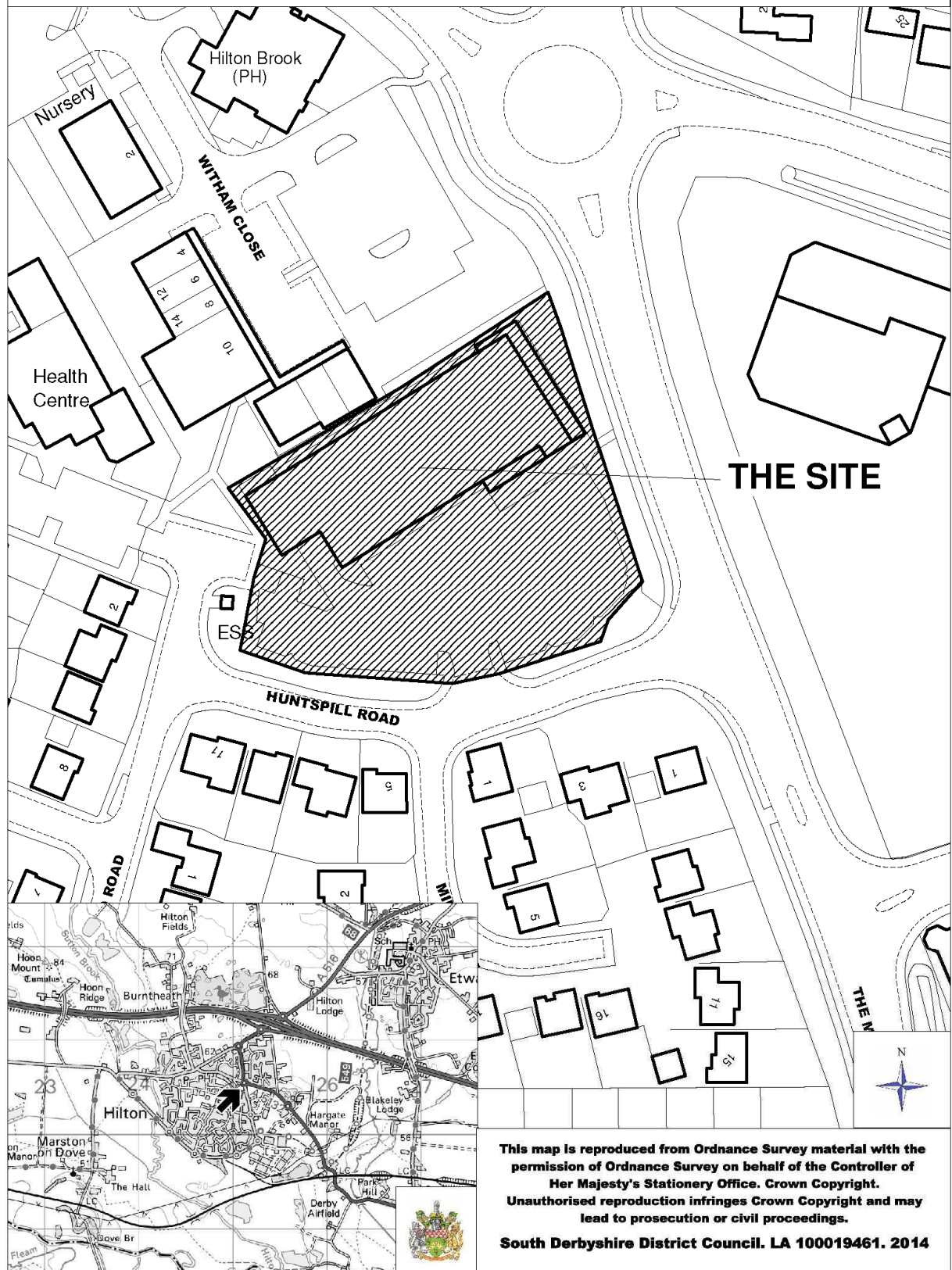
Site Description

The store is situated within a local centre in a residential area. In particular the site faces properties in Huntspill Road, Mill Fleam and Welland Road.

Proposal

The application seeks to vary a planning condition to extend opening times to 08:00 - 22:00 Monday to Saturday including Bank Holidays (from 08:00 - 21:00 with no Bank Holiday opening). Sunday opening would be 10:00 – 17:00 (09:00 – 17:00 at present). In addition extended delivery hours are proposed; 07:00 - 19:00 Monday to Saturday including Bank Holidays and (from 08:00 - 21:00 Monday to Saturday, with

9/2016/0010 - Aldi Food Store Ltd, Huntspill Road, Hilton, Derby DE65 5HD



no Bank Holiday Deliveries). Sunday delivery hours would remain unchanged (09:00- 17:00).

Applicants' supporting information

A Delivery Management Plan has been submitted, containing the following information:

- A typical daily delivery programme comprises one fresh goods delivery from the regional distribution centre (RDC) by articulated vehicle; one ambient goods delivery from RDC by articulated vehicle; one local milk delivery per day by rigid vehicle; one non-food delivery.
- The loading bay is situated away from the pedestrian entrance. Delivery vehicles can service the store without blocking access for other road users. Vehicles will always leave the site in forward gear to avoid manoeuvring in the highway.
- The loading bay has a 'dock shelter' shielding the gap between the vehicle and the building from weather and noise.
- Delivery drivers are requested to turn off refrigeration units 5 minutes before arrival at site.
- Reversing beepers will be turned off early morning and late evening.
- No tannoy system is used.
- External lighting will be switched off between 22:15 – 07:00 hours.
- There are weekly collections of waste.

The applicant adds:

- The newspaper cabinet could be relocated to avoid use of residential streets.
- The applicant would be prepared to monitor compliance with the Noise Management Plan.
- The landscaping is subject to constant damage by third parties. The applicant is willing to provide a fence to prevent headlamp glare to neighbours.

Planning History

9/2009/0436 - Food store.

9/2012/0505 - Amended scheme.

Responses to Consultations

The Environmental Health Manager does not object to the extended hours subject to conditions requiring compliance with the Noise Management Plan and monitoring.

Responses to Publicity

The Parish Council objects for the following reasons:

- a) The application is retrospective – the applicant has been in breach of condition.
- b) The hours should not be extended.
- c) The car park is too small, causing inconvenience, disturbance and pollution to local residents.
- d) Deliveries would cause additional disturbance and noise pollution.
- e) A proposed recycling centre would further reduce available parking.
[Comment – this is not part of the application].

11 objectors raise the following matters:

- a) There are noisy newspaper deliveries and recycling bin lorries active early in the morning (from 5.30 am) causing disturbance to sleep.
- b) There is congestion and danger from traffic entering and leaving the site.
- c) Customers use the local roads to park whilst visiting the store causing inconvenience and danger to residents.
- d) There should be residents only parking.
- e) Damage has been caused to vehicles as a result of congestion, parking and traffic on the roads.
- f) Lorries park with engines running.
- g) There is already extended hours and Bank Holiday opening in breach of existing conditions.
- h) Existing noise during permitted hours is already unacceptable. 7 am starts would be even worse.
- i) The landscaping is poor and allows headlight glare to neighbouring properties.
- j) The noise from refrigeration units and reversing alarms, and associated noise from loading would result in sleep deprivation and stress to local families.
- k) Lorries queue in the road when the delivery bay is already occupied.
- l) The car park is used for football games after hours.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: Policy S2 (Presumption In Favour of Sustainable Development), Policy SD1 (Amenity & Environmental Quality)
- 1998 Local Plan (saved policies): Shopping Policy 3 (Local Shopping),

National Guidance

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)
 Paras 11-14 (The presumption in favour of sustainable development)
 Para 17 (Core principles)
 Section 1 (Economy)
 Section 11 (Conserving and enhancing the natural environment)
 Paras 186 & 187 (Decision-taking)

Para 193 (Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.)

Para 196 & 197 (Determining applications)

Paras 203-206 (Planning conditions and obligations)

Annex1 (Implementation)

National Planning Practice Guidance

ID30 (Noise)

Planning Considerations

The main issue central to the determination of this application is the impact on residential amenity.

Planning Assessment

The main issue is whether increased impacts arising from extended hours would materially worsen the living conditions of the occupiers of nearby houses. The existing condition controls noise impacts solely by restricting the number of hours that the store can be used, in particular by safeguarding the quieter times of the night and early morning from intrusive noise and disturbance. The proposed extended opening hours and delivery times would inevitably increase the length of time that nearby residents would be exposed to noise from vehicles entering and leaving the site. In terms of increased store opening hours this would mean an extra hour at the end of the day and on Bank Holidays. For deliveries there would be an extra hour at the beginning of the day but none after 17:00 hrs (compared with 21:00 hrs at present) and also on Bank Holidays.

For both extra opening hours to customers and extended delivery times there would be increased impact on the amenities of local residents without mitigation. However the applicant has agreed to implement a delivery management plan and also to accept a condition monitoring compliance with it. Furthermore the applicant is prepared to provide a more permanent barrier in order to prevent glare from car headlights reaching the ground floor windows of houses opposite the car park. These mitigation measures would also provide some benefit within the existing permitted hours of operation. On balance and given the advice of the Council's Environmental Health Manager, the proposed measures would result in acceptable living conditions for neighbours, in accordance with Local Plan Policy SD1, whilst enabling the store to provide the services expected by its customers, in accordance with Policy S2.

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. Within three months of the date of this permission a physical barrier, designed to prevent glare from car headlamps to housing opposite, shall be provided across the Huntspill Road site frontage in accordance with details and specifications which shall have previously been submitted to and approved in writing by the local planning authority. Thereafter the barrier shall be retained in place as approved.

Reason: In the interests of the amenities of neighbours and the appearance of the area.

2. Other than as may have been previously approved pursuant to planning permission 9/2012/0505 no external lighting shall be installed unless precise details and specifications of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. Thereafter any such lighting shall be retained in conformity with the approved details and specifications.

Reason: To preserve amenity and/or prevent danger to road users.

3. Within three months of the date of this permission there shall be submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include a schedule of planting including species size and spacing, indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

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

4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following approval of the details required pursuant to Condition 3 above; and any trees or plants which within a period of five years therefrom die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

5. The land in advance of the sight lines measuring 2.4m x 45m from the centre of the site access shall be retained free of all obstructions to visibility over a height of 1 metre (600mm in the case of vegetation) above the adjoining carriageway level.

Reason: In the interests of highway safety.

6. The parking and manoeuvring areas shown on the amended drawing T08A94-004 Rev H shall be retained throughout the life of the development free from any impediment to their designated use.

Reason: To ensure that adequate parking provision is maintained available throughout the life of the building.

7. Other than as approved pursuant to planning permission 9/2012/0505 any new plant and equipment to be installed on the building, including air conditioning and refrigeration units, shall be implemented in accordance with details and specifications previously submitted to and approved in writing by

the local planning authority, and shall thereafter be maintained in accordance with the approved details and specifications.

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

8. The store hereby permitted shall not be open to the public outside the following times: 08.00 to 22.00 Monday to Saturday and 10.00 to 17.00 on Sundays; and no deliveries shall be taken at or despatched from the site on Bank Holidays and otherwise outside the following times: 07:00 - 19.00 Monday to Saturday and 09.00 - 17.00 Sunday.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

9. The Delivery Management Plan ref. C15A138, received on 7 August 2017, shall be operated continuously from the date of this permission and no reversing alarms shall be used before 08:00 hrs on any day.

Reason: In the interest of residential amenity

10. Within two months of the date of this permission a scheme for monitoring and recording compliance with the Delivery Management Plan subject to Condition 9 shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented on approval and the records shall be made available to the local planning authority on request.

Reason: In the interest of residential amenity

Informatives:

1. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

26/09/2017

Item **1.3**

Ref. No. **9/2017/0508/FH**

Applicant:
Mr Karl Williams
721 Burton Road
Midway
Swadlincote
DE11 0DL

Agent:
Robert Turner
Turner & Co Consulting Ltd
Hilltop Works
Pool Street
Swadlincote
DE11 8EG

Proposal: **THE ERECTION OF AN EXTENSION AT 721 BURTON ROAD**
 MIDWAY SWADLINCOTE

Ward: **Midway**

Valid Date **22/05/2017**

Reason for committee determination

Councillor Michael Stanton has requested that the Planning Committee determine this application as local concern has been expressed about a particular issue.

Site Description

The host property is a detached two storey dwelling of modern appearance. Houses in the locality are of a similar age and basic form. No 721 is accessed off a private drive and so sits behind Nos 723 and 725 Burton Road. There are no prominent views of the dwelling from any public vantage point but limited views can be had from the adjacent jitty that leads from Burton Road to Copse Rise. Levels across the site are flat; levels in the wider context fall from north to south. The site affords adequate parking.

Proposal

The proposal is to alter the current arrangement at the side of the house, the resultant form reading as a two storey side extension offset from the boundary by single storey part. The single storey part does exist already but would be altered to feature a flat roof.

Applicant's supporting information

None.

[illegible]

Planning History

Some pre application advice was given (ref PRE641) where the enquirer was made aware of the Councils Supplementary Guidance for Household development and the minimum distance requirements therein, in relation to new two-storey mass.

Responses to Consultations

None.

Responses to Publicity

6 objections have been received (four from one neighbour and two from another), raising the following concerns/points:

- a) The extension will be right on the boundary with our land, only 11m from our house;
- b) The extension will not be complicit with your guidance in terms of minimum separation distances;
- c) It will have a visually overbearing impact, depriving us from the sun/light;
- d) The two windows on the rear will have a side view of our garden taking away our privacy;
- e) The internal layout does not appear practical;
- f) Concern that the current foundations will not support the new loadings;
- g) Potential negative impact on a nearby mature tree;
- h) No builders will be allowed on our property;
- i) Location plans are out of date, both 723 and 725 not shown as having been extended;
- j) Concerns over the material to be used and potential for a mismatch of materials given the variance in finishing materials here already;

Amended plans were received (17th July 2017) which prompted further comment:

- a) The extension if built will be on and over the boundary of our garden;
- b) The amends to the application is not feasible as the side sloping roof and gutter will overhang our property;
- c) Drainage will go down on our fence and rot it;
- d) The bathroom relocation will cause drainage and sewage problems as may extra loading on a main sewage drain;
- e) If the extension is built we require written confirmation from your planning department that separation distances are complicit with SPG.
- f) Does this person need planning permission for the large extension he has just erected to the rear of his detached garage;
- g) Does this person need planning permission to use his double garage as a workshop (industrial use);

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: SD1, BNE1
- 1998 Local Plan (saved policies): H13

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: H27

National Guidance

- National Planning Policy Framework (NPPF) 11-14, 17, 58
- Planning Practice Guidance (PPG) ID21b, ID26

Local Guidance

- SPG Extending your Home

Planning Considerations

The main issue central to the determination of this application is the impact on neighbour's amenity assessed against the Council's adopted standards.

Planning Assessment

The house here in its current form sides on to the boundary with Nos 723 and 725 Burton Road to the point where the side wall of the host appears to form the boundary.

Plans show (revised for a second time on 28th August 2017) a two storey extension and some alteration to the current single storey mass that sits on the shared boundary with 723 and 725. Neighbours have principally expressed concern over its proximity to their boundary, the potential for overshadowing to their primary spaces (window and garden) and how it could cause a loss of privacy. The proposal however (since receipt of those amendments) does meet the basic requirements of SPG with the two storey mass now at least 12m (from those closest ground floor openings) and no significant breach in terms of privacy as no primary windows are directly overlooked within the prescribed 'sector of view'. There is no doubting that the proposed new arrangement will allow a new, elevated view over some of the adjacent garden at 725 but only by way of a peripheral view and nothing significantly different to a view that could exist without the need for planning intervention.

There is some potential for some overhang of the proposed new guttering on the altered flat roofed part. There are alternatives to simply fixing a gutter on that side wall, although this would not require significant alteration to the proposal.

Any trees of note in the locality are felt to be far enough away from the building work as to not be unduly affected.

The point raised about matching brick can be controlled by way of a condition.

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 drawings number P001 Revision C and P002 Revision C, received on 25th August 2017; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. A sample of the brick shall be submitted for approval in writing by the Local Planning Authority before work commences. Works shall be carried out in accord with the approved sample.
Reason: To ensure the extension is in keeping with its surrounding in the interest of the character and visual amenity of the area.
4. All roofing materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless prior to their incorporation into the development hereby approved, alternative details have been first submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.

Informatives:

1. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through suggesting amendments to improve the quality of the proposal and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
2. The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits);

shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place. It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com. If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. Further information is available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority.

26/09/2017

Item **1.4**

Ref. No. **9/2017/0821/FH**

Applicant:
Mr Arron Gee And Megan Wallis
46, High Street
Melbourne
Derby
DE73 8GJ

Agent:
Elisabeth Hackett Architect Limited
3 North Street
Melbourne
Derby
DE73 8FZ

Proposal: **THE DEMOLITION OF A DETACHED OUTBUILDING,
ALTERATIONS AND REPAIR WORK TO MAIN HOUSE TO
INCLUDE AN EXTENSION TO THE SIDE AND TO THE REAR AND
THE CONVERSION OF THE REAR ATTACHED OUTBUILDING TO
EXTEND LIVING ACCOMMODATION AT 46 HIGH STREET
MELBOURNE DERBY**

Ward: **Melbourne**

Valid Date **02/08/2017**

Reason for committee determination

The proposal is in conflict with the separation distances set out in Extending your Home supplementary planning guidance.

Site Description

The property is a former butcher's shop now in use as a single dwellinghouse. Although in poor condition the old shop front remains intact. The building occupies a prominent location in the Melbourne Conservation Area. There is an extensive range behind the frontage including a centrally located two-storey flat roofed section. So far as can be established this was built in the 1950s as an 'infill'. There are houses in Thomas Cook Close that face the rear range, between 6m and 7m from the flat roof part.

The building appears to show a lack of maintenance over a long period.

Proposal

The proposal is largely restorative, adapting the existing building to modern living accommodation. New additions would be a two-storey extension projecting from the central flat roof part of the rear range and the provision of a pitched roof to the

9/2017/0821 - 46 High Street, Melbourne, Derby DE73 8GJ



existing structure. A small detached outbuilding would be demolished to facilitate construction of the extension.

Works to the street frontage elevation aim to maintain and enhance the disused shop front, although precisely how much can be repaired/restored is not clear without further investigation of the fabric. A low wall and a gate are proposed to the entrance.

Applicants' supporting information

46 High Street sits within the conservation area and on a prominent street within the town centre. Therefore, careful consideration to its restoration is proposed for the host building, while removing any additions which harm its character. As a result of the restoration, the site lends itself to continuing evolution, adding layers of new fabric, just like before. The new additions would work in harmony with the street scene as well as providing a functional home and place for the owners. The use of new materials would be matched like for like and where possible materials found on the site reused.

The proposal would not harm the character or appearance of its setting and in turn would add to the town and community by bringing back a vacant building into use.

Planning History

9/0390/1285 - Change of use of shop to dwelling.

9/2016/0800 - the insertion of conservation rooflights in the north and west facing roof slopes and the removal of concrete render.

Responses to Consultations

The Highway Authority would not object to the proposed altered access so long as there is an existing right to gain vehicular access to the site. However it recommends that gates be omitted or be set back 5m from the highway boundary.

Responses to Publicity

Melbourne Civic Society comments as follows:

- a) There are no details of the proposed entrance wall and gates.
- b) Whilst agreeing with restoration of the front, the scheme currently lacks detail.
- c) There is no objection to demolition of the outbuilding to enable extension. The pitched roof would be an improvement, although the new extension would appear rather disarticulated.
- d) Overall, no objection as the proposal is expected to be an improvement.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: Policy S2 (Presumption In Favour of Sustainable Development), Policy SD1 (Amenity & Environmental Quality), Policy BNE2 (Heritage Assets) INF2 (Transport)
- 1998 Local Plan (saved policies): Housing Policy 13 (Residential extensions), Environment Policy 12 (Conservation Areas), Environment Policy 13 (Listed or other buildings of architectural or historic importance)

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: H27 (Residential extensions and other householder development), BNE10 (Heritage),

National Guidance

- National Planning Policy Framework (NPPF) paragraphs 6-10 (Achieving sustainable development), paragraphs 11-14 (The presumption in favour of sustainable development), paragraph 17 (Core principles), paragraphs 56, 57, 58 and 61 (Requiring good design), Chapter 12 (Conserving and enhancing the historic environment), paragraphs 186 and 187 (Decision-taking), paragraphs 196 and 197 (Determining applications) and paragraphs 203-206 (Planning conditions and obligations) and Annex 1 (Implementation)
- National Planning Practice Guidance (NPPG) – ID:21b-006 and ID:21b-014 (determining an application), ID:26 (good design), ID:18a-001 and ID:18a-018 (historic environment)

Local Guidance

- Extending your Home Supplementary Planning Guidance (SPG) – May 2004
- Historic South Derbyshire Supplementary Planning Guidance (SPG) – November 1991
- Melbourne Conservation Area Character Statement (CACS) – Adopted 2011

Planning Considerations

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

- Heritage impact
- Amenity of neighbours
- Parking and access

Planning Assessment

Heritage impact

Whilst not specifically mentioning the subject property, the CACS notes that the character of this side of the street is predominantly domestic, with many examples of the locally distinctive stone wedge lintels. The entrance to Thomas Cook Close, framed by splayed corners incorporating old shopfronts, is a focal point on this side.

The restoration of the frontage building would be an enhancement to the character and appearance of the conservation area, reinforcing the qualities identified in the CACS. Similarly the provision of a pitched roof to the central two-storey part of the rear range would be beneficial to the heritage asset. The removal of the small building in the yard and the new two-storey extension would yield an essentially neutral impact on the character of the conservation area.

The proposal would therefore conform to the requirements of Policy BNE2 of the 2016 Adopted Local Plan Part 1, Saved Environment Policies 12 and 13 of the 1998 Adopted Local Plan and emerging Policy BNE10 of the Submission Local Plan Part 2 in that the proposed design, form and scale of the additions to the listed host would be sympathetic and would minimise harm to the heritage assets.

Amenity of Neighbours

The new two-storey extension would be compliant with the guideline distances set out in the SPG. However the provision of a pitched roof to the existing flat roof cannot comply with the distance guidelines because the neighbouring properties in Thomas Cook Close are only 6- 7 metres away. The SPG seeks a normal separation distance of 12 metres from a ground floor main window to a two-storey building. In this case the neighbouring properties already face a two storey mass at fairly close quarters. Because the eaves line will remain as it is, with the roof sloping away from the neighbours, the increased impact would be marginal. It is notable that the affected neighbours have not expressed concern. This very close knit pattern of development is typical of Melbourne's historic core, with many existing houses falling short of normal guidelines for new development. The resulting situation would therefore not be untypical.

In the particular unusual circumstances of this case the proposal would conform to Policy SD1 of the 2016 Adopted Local Plan Part 1 in that it would not lead to significant adverse impacts on the environment or amenity of existing and futures occupiers within and around the proposed development.

The enhanced quality of the site as a heritage asset, arising from the provision of the pitched roof, is another material consideration in favour of the proposal when weighing the social and environmental strands of sustainable development.

Parking and access

On the balance of probability, having regard to the established dropped highway kerb and the position of the existing boundary wall and gate, the present vehicular access appears to be lawful. The proposal would modify the access, by centralising it, thereby effecting a modest improvement to pedestrian intervisibility. There would be adequate provision for parking.

The main highway related matter therefore relates to the proposed gates. Were it not for the Article 4 Direction that affects the property, gates to a height of 1 metre would not require an express grant of permission. In a separate case in the town (9/1097/0623) an inspector observed that the central purpose of the Article 4 Direction is to protect the conservation area and that wherever possible, residents

should continue to enjoy the same freedom to undertake development as residents elsewhere. From a heritage perspective, gates aligned with the low walls either side of the access would be preferable to being set back. In these particular circumstances the ostensible conflict with Policy INF2 (highway safety) is balanced by the other factors described above.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with drawing nos. 209.01 and 209.02 submitted with the application, 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. Samples of the roof tile, brick and stonework shall be submitted for approval in writing by the Local Planning Authority before being incorporated in the development and development shall thereafter be carried using the approved materials.
Reason: To ensure the building/extension is in keeping with its surrounding in the interest of the character and visual amenity of the area.
4. Pointing of the existing/ proposed building shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand).
Reason: In the interests of the appearance of the building.
5. Large scale details to a minimum scale of 1:10 [or other details and specifications which may be agreed with the local planning authority] of eaves, verges, the entrance gates and external joinery, including horizontal and vertical sections, precise configuration of opening lights and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before being incorporated in the building. The items shall be constructed in accordance with the approved details.
Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
6. Prior to installation of window W1 and door D1 annotated on drawing no. 209.01, a specification for restoration of the existing shop front shall be

submitted to and approved in writing by the local planning authority and shall thereafter be undertaken in strict accordance with the approved specification.

Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.

7. Except where specified as aluminium on drawing no 209.01, external joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

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

8. Prior to installation, details and specifications of new gutters shall be submitted to and approved in writing by the local planning authority. Gutters shall be in accordance with the approved details and fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

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

9. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

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

Informatives:

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

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result	Cttee/Delegated
9/2016/0470	Church Broughton	Hilton	Dismissed	Committee
9/2016/1132	Repton	Repton	Dismissed	Delegated
9/2017/0202	Drakelow	Linton	Dismissed	Delegated
9/2017/0389	Overseal	Seales	Dismissed	Delegated

Appeal Decision

Site visit made on 3 May 2017

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 2 August 2017

Appeal Ref: APP/F1040/W/16/3165167

Plot 2, Broughton Caravan Park, Sutton Road, Church Broughton, Derby, DE65 5DB.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr John Casey against the decision of South Derbyshire District Council.
 - The application Ref. 9/2016/0470, dated 8 June 2016, was refused by notice dated 28 September 2016.
 - The development proposed is the subdivision into two gypsy pitches and the erection of amenity buildings.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed subdivision and additional amenity buildings on the character and appearance of the area and whether the enlarged overall site would be of a scale which would dominate the settled community.

Reasons

Background

3. Broughton Caravan Park is situated in relatively flat open countryside away from any defined settlement but lies to the west of the hamlet of Mount Pleasant. Initially 5 gypsy/traveller pitches were allowed on appeal in 2011, however, I also note that planning permission was granted in May 2016 under ref. 9/2015/0943 for the creation of 3 additional pitches on plot 4 and the erection of an amenity building. The appeal site, plot 2, is an elongated pitch located towards the centre of the overall site and it is proposed to subdivide this to accommodate an additional family and erect an amenity building on each plot. The amenity building would provide a bathroom, toilet utility area, kitchen and dining area and other space. At the time of my site visit I noted that generally the pitches are served off an internal driveway separated from the highway by electrically operated entrance gates and plot 2 contained a small amenity building, a touring caravan and some minor sheds for pets.

Policy context

4. The development plan for the area includes saved policies in the South Derbyshire Local Plan 1998 (the 1998 Plan) and the South Derbyshire Local Plan Part 1 adopted in June 2016 (LPP1). I will consider the degree of accord of any saved policy with the more recent National Planning Policy Framework (the Framework) as it arises in the issues below. The Council is also producing a Local Plan Part 2 (LPP2) which is being examined about the same time as this appeal. Although the plan is not formally adopted, the policies in the submitted plan can be given some weight at this advanced stage in the process.
5. The Council accepts that at the moment there is an undersupply of gypsy and traveller pitches within the district compared to the need identified in the updated Gypsy and Traveller Accommodation Assessment (2008) (GTAA) and that the five year supply of suitable sites, as required by the national 'Planning policy for traveller sites' (PPTS), cannot be met.

Effect on character and appearance

6. The visual impact of the additional pitch and amenity block has to be assessed in the context of the existing caravan site. There are glimpses of the caravans and buildings and the gravel surfaced access and manoeuvring space through the gates at the entrance way but otherwise views of the caravans and amenity buildings on the site are mostly screened from Sutton Road by a roadside hedge.
7. The Council also refers to the visual impact from the footpath (Church Broughton 6) which locally runs in a north-south direction in the adjoining field. The Council refers to views from the public footpath to the present visually harsh form of a 1.8m high close boarded fence along the boundary of the site. The tops of caravans appear over this fence but otherwise the presence of the additional touring caravan and static caravan would not be prominent in the general landscape or when viewed from the public realm.
8. However, I have concerns about the scale of the amenity buildings now proposed. The present amenity building on plot 2 is low key with a simple mono-pitch roof which results in the building having a similar height to a static caravan. The Council also refers to other amenity buildings on the site having a floor area of 8m by 4.5m and a ridge height of 4.1m. In contrast, the amenity buildings now proposed to be erected on both of the proposed halves of plot 2 are considerably larger with a footprint of 11m by 8m and a ridge height exceeding 5.5m. This is of the scale of a small bungalow.
9. I note that the appellant says that the Council have granted planning permission for an amenity building on plot 1 with similar dimensions to the ones proposed in this appeal scheme. However, it appears to me that the further subdivision of the plot and the greater bulk of the structures would result in a materially intensive form of physical development on the overall site if this scale of amenity building was further repeated.
10. The inspector who allowed the original appeal for the development of the site concluded in the balance of considerations that the development would cause some harm to the character and appearance of the area but that it was capable of being satisfactory assimilated into the environment. However, to my mind the scheme now proposed is materially different in that the scale of permanent

buildings proposed would be significantly larger and be of much greater building bulk. These buildings are likely to be very visible in the surrounding countryside landscape over the local vegetation and screen fences and walls and the touring caravans, static caravans and most of the utility buildings on neighbouring pitches and are unlikely to be capable of being satisfactorily assimilated into the landscape, even if some additional screening was possible along the south west boundary of the site.

11. Overall on this issue, I find that while the increase in the number of pitches on plot 2 from one to two would not be prominent or harmful in the countryside landscape, the erection of the proposed amenity buildings would have a significantly greater impact on the local landscape than the existing form of development and the amenity building already permitted in Plot 1. As such I find that the proposal would not accord with the criteria set out in Policy H22(i) of the Part 1 Local Plan.

Whether overall scale would dominate settled community

12. The Council is concerned that the proposal to double the pitches on plot 2, in addition to the original number of 5 pitches, and the further three additional pitches, would lead to a scale of development at the Broughton Caravan Park that would dominate the settled community. The Council refers to there being 13 residential properties within the hamlet of Mount Pleasant whereas the overall gypsy and traveller site started at 5 pitches, which the inspector considered would not dominate the settled community, but this has now grown to 8 pitches and the proposal would increase the total to nine pitches.
13. New gypsy and traveller sites being of an appropriate scale is a factor set out in Policy H22 of the Part 1 Local Plan but the policy does not put forward a test about whether the scale of the gypsy site as enlarged would dominate the settled community. The decision notice refers to Policy BNE5 of the emerging Part 2 Local Plan which is concerned with 'development in the countryside' but the criteria set out in parts A and B of the policy do not make reference to this concern about the settled community being dominated.
14. The PPTS advises in 'Policy C - Sites in rural areas and the countryside' that when assessing the suitability of gypsy and traveller sites, local planning authorities should ensure that the scale of such sites 'does not dominate the settled community'. The PPTS does not clarify how this test should be assessed but I have also had regard to the Council's reference to the Minister's response¹ where he referred to the PPTS as quoted above. I have also had regard to the representations submitted by Church Broughton Parish Council and Mrs H Wheeler (then the local MP).
15. Comparing the two sets of communities in terms of the households present, the scale of gypsy and traveller sites envisaged at 9 pitches would still be less than the existing number of settled households. Further, the physical and visual relationship of the two communities appears to be a relevant factor. At my site visit I considered that the siting of Broughton Park is materially away from the scattered collection of houses that make up the hamlet of Mount Pleasant. Broughton Caravan Park is therefore likely to be beyond the general 'sight and sound' of other residents of the hamlet although the presence of the site is

¹ Brandon Lewis MP - Secretary of State for Housing and Planning

apparent through the gateway into Sutton Road and the degree of traffic coming and going to the site may also be noticeable.

16. Nevertheless, viewed in the round, I do not consider that the additional pitches proposed in this application would give rise to a scale of gypsy and traveller accommodation locally which would dominate the settled community.

Planning balance

17. Bringing together my conclusions on the main issues, I have found that while the scale and nature of the additional pitch, together with the number originally approved and subsequently added to, would not dominate the settled community, the proposal would have a significant adverse effect on the open rural landscape setting of the site. This would be caused not by the addition of a further touring caravan and static van but by the height and bulk of the amenity buildings proposed, especially when compared to the existing modest single amenity building. This visual impact renders the proposal to be in conflict with the criteria set out for acceptable forms of gypsy and traveller development in Policy H22(i) of the Part 1 Local Plan.
18. This harm needs to be balanced with the other considerations. I note that there was an officer recommendation of approval for the application which was not accepted by the Council's Planning Committee, but I have considered the proposal on its individual merits and in relation to the provisions of the development plan and other material considerations including relevant national policy, particularly in the PPTS. The latter requires that a five year supply of new sites is planned for but this is not met by the Council at the moment and there is a recognised undersupply of available sites for gypsies and travellers.
19. Nevertheless, I do not consider that these general factors outweigh the specific and permanent harm that would arise with this development, nor would the harm be addressed by a temporary permission and in any event the proposal is for permanent buildings. The environmental harm identified means that the proposal does not fulfil the environmental role of sustainable development and I find that the proposal does not constitute 'sustainable development' as set out in the National Planning Policy Framework when this is considered as a whole.
20. I conclude that the other considerations that apply do not outweigh the conflict with the development plan and the adverse effects that would arise with the development proposed.

Conclusions

21. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR

Appeal Decision

Site visit made on 30 August 2017

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 15th September 2017

Appeal Ref: APP/F1040/W/17/3176356

Land rear of 122 Main Street, Repton DE65 6FB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr M Warren against the decision of South Derbyshire District Council.
 - The application Ref 9/2016/1132, dated 31 October 2016, was refused by notice dated 23 December 2016.
 - The development proposed is erection of single detached dwellinghouse and associated works.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal site is situated to the rear of a former public house which is a detached white rendered building with significant extensions to the rear. The proposal is for a detached dwelling in the garden area of the host property which rises towards the rear boundary.
4. Saved Environment Policy 1 of the South Derbyshire Local Plan (Local Plan) 1998 states that outside settlements new development will not be permitted unless essential to a rural based activity. Saved Policy H8 of the Local Plan only permits new housing development where it is essential to a rural based activity. There is no suggestion in the documents in this appeal that the proposal would meet this test.
5. Policy H1 of the South Derbyshire Local Plan Part 1 (LPP1) 2016 defines the settlement hierarchy for the District. The village of Repton is identified as a key service village; however, the site lies within an area of predominately ribbon development outside the defined settlement boundary. Consequently, the location is defined as a rural area where only development of limited infill and conversions of existing buildings will be acceptable.
6. Saved Policy H6 of the Local Plan states that in other rural settlements, new housing development will be permitted provided it represents *'the infilling of a small gap, for normally not more than two dwellings within small groups of*

houses and it is in keeping with the scale and character of the settlement'. The supporting text states that development will be limited to infilling only comprising normally of not more than two dwellings within small groups of houses.

7. As the proposal is for one dwelling the determinative issues in this case are whether the proposal constitutes 'infilling of a small gap'; whether the proposal is within a small group of houses; and whether it is in keeping with the scale and character of the settlement.
8. In respect of the first issue, the Council consider that infilling is normally taken to involve the development of a gap in an otherwise built-up frontage or on land that is substantially surrounded on at least two sides by existing development. However, the appellant contends that the Council's definition of infill as defined in submissions is not set out in Policy H6 or the supporting text and that the proposal constitutes infilling as residential curtilages and buildings surround the site and as the site lies within a small group of houses.
9. The definition of 'infilling' is not set out in the development plan and so whether a proposal would represent 'infilling of a small gap' is a matter of planning judgement. Taken in its everyday meaning, 'gap' means a break or hole between two objects; a space or interval; or a break in continuity. 'Infilling' means to 'fill-in' or close a gap in something. Thus in a planning context, in my view 'infilling' means to fill or close a gap in between buildings or fill a gap in the continuity of development and consequently there must be development on at least two sides of that gap.
10. To the north of the appeal site lies the private driveway to number 118 Main Street whose garden abuts the appeal site on its western boundary. To the east of the appeal site is 122 Main Street and neighbouring properties which front the road. To the south of the appeal site is a parcel of land which accommodates two small buildings of a temporary and ancillary appearance, however, these are on the opposite side of the site and the southern boundary of the site is hence unenclosed.
11. The appellant contends that the site is bound by residential curtilages and within a small group of houses. He also suggests that there is no definitive visual break from domestic land. However, the plot of land is an open and currently undeveloped space which is not bound by built development, except on one side and consequently there is a clear visual break in built development either side of the appeal site. I agree with the appellant that the appeal site is not isolated as there are other properties within the vicinity. However, even were the appeal site deemed to be generally within a small group of houses, it is not actually situated between houses. Consequently, in my view, the proposal would not constitute 'infilling of a small gap'. It would not, therefore, meet the first requirement of Policy H6.
12. Nonetheless, even if the appeal proposal were deemed to meet the first requirement, Policy H6 also requires that new housing development is in keeping with the scale and character of the settlement.
13. This part of Main Street is characterised by predominately linear two storey terraced, semi-detached and detached houses fronting onto the road. The host property and properties to the south immediately abut the pavement whilst properties to the north are set slightly back with small gardens to the front.

When viewed from the road and the public footpath to the east of the site, the garden of the host property together with the gardens of neighbouring properties contributes to the sense of spaciousness behind the frontage development.

14. The Council has not raised concerns regarding the scale or design of the proposal itself and on the basis of submissions and my site visit; I have no reason to disagree. However, the proposal would introduce a principal dwelling within an area defined predominately by gardens/open land and ancillary structures and would, therefore, detract from the legibility of the host property as a principal dwelling and its relationship with the garden to the rear. It would, therefore, be at odds with the prevailing pattern of historic development along the road, whereby the principal elevations of the houses face onto the street, rather than another property. Furthermore, it would reduce the sense of spaciousness created by the gardens and open land to the rear.
15. Moreover, the appeal site is set higher than the main road and whilst there is a boundary hedge which would restrict views to an extent when approaching from the north, the proposal would be very apparent in views from the road along the access drive. The current view of the appeal site and adjacent terraces from the public footpath to the east is one of frontage development with gardens/open land behind. Although the ridge height of the proposal would be below the hedge line, it would, nevertheless, sit above and behind the existing built form and be highly prominent in views from the public footpath.
16. Taking these factors in combination, I consider that the proposal would be an incongruous addition which would not reflect the predominant pattern of development and would, therefore, harm the character and appearance of the area.
17. The appellant contends that due to the presence of some properties set back from the road that the character of this part of Main Street is not one of uniform linear frontage development and that there already exists a pattern of tandem development. He considers that the submitted aerial images demonstrate the depth of development beyond the frontages.
18. Attention is specifically drawn to number 118 Main Street which is served by an access road to the west of the appeal property and sits well back from the road. However, I note that this is a historical situation and that the property does not sit immediately behind another property as it is set within its own grounds and also does not share an access road. Attention is also drawn to number 112 Main Street which although set back from the road, nevertheless, maintains a frontage. Whilst these cases may increase the depth of the frontage in places, the predominant pattern is that of linear frontage development. Furthermore, these cases do not represent tandem development. Neither case is, therefore, directly comparable to the appeal proposal which limits the weight which I can attach to them in my Decision.
19. For the reasons stated, I conclude that the proposal would harm the character and appearance of the area. It would, therefore, be contrary to Policy H1 of LPP1, and saved Environment Policy 1 and Policy H6 of the Local Plan. It would also conflict with criterion e of Policy BNE1 and Policy BNE4 of LPP1 which together seek to ensure that development is well designed and reflects local character and distinctiveness. Conflict also arises with

paragraphs 17 and 58 of the National Planning Policy Framework (the Framework) which seek to secure high quality design which responds to local character and establishes a strong sense of place.

20. The South Derbyshire Part 2 Local Plan is not yet adopted and, therefore, cannot be afforded full weight in my Decision. Nevertheless, conflict with emerging Policy BNE5 relating to development in the countryside weighs against the proposal.

Other matters

21. I have concluded that the proposal would harm the character and appearance of the area. Conflict, therefore, arises with paragraphs 17 and 58 of the Framework.
22. On the other hand, the proposal would make a contribution, albeit limited, to housing supply and make efficient use of land. It would also have some economic benefits in the short term during the construction phase and in the longer term as occupiers would support local businesses. These factors weigh in favour of the proposal.
23. Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of housing sites.
24. The appellant has challenged the Council's assertion that it has a 5 year housing supply and refers to an appeal decision¹ in support of his case. However, I am not aware of the evidence which was before the inspector in this case. Furthermore, the evidence before me in relation to housing land supply is very limited and consequently I find it to be inconclusive.
25. However, even if there is not a five year supply of housing land as the appellant suggests, and that as a result paragraph 14 of the Framework is triggered, having regard to the Framework as a whole, I conclude that the adverse impacts of granting permission for this scheme would significantly and demonstrably outweigh the benefits.

Conclusion

26. For the reasons stated and taking all other considerations into account the appeal should be dismissed.

Caroline Mulloy

Inspector

¹ Appeal reference: APP/F1040/W/17/3167940

Appeal Decision

Site visit made on 30 August 2017

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 15th September 2017

Appeal Ref: APP/F1040/D/17/3175103

35A Rosliston Road South, Drakelow, Swadlincote DE15 9UD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Lee Wilson against the decision of South Derbyshire District Council.
 - The application Ref 9/2017/0202, dated 26 February 2017, was refused by notice dated 24 April 2017.
 - The development proposed is addition of a 1st floor dormer window to the front of the property to provide usable headroom to an existing habitable bedroom.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the proposal on the character and appearance of the host property and surrounding area.

Reasons

3. The appeal property is a semi-detached bungalow situated in a row of semi-detached and detached bungalows with predominately hipped roofs. The roof of the property has been altered from a hipped roof to a gable roof. Some properties, including the appeal property, have dormer windows on the rear roof slope; however, roofs are largely free of front dormer windows.
4. The appeal proposal is for a large flat roof dormer window to the front of the property in order to create additional headroom for the bedroom in the roof space. The dormer would occupy a significant proportion of the front roof slope and although the dormer would be set in from the sides of the roof, it would not be set down from the ridge and would, therefore, fail to appear subservient to the host property. Furthermore, due to the location of the proposal, it would be an incongruous and highly visible addition in the street scene where front dormer windows are not a characteristic feature.
5. Although the roof line has been altered from a hipped to gable roof this, is mainly only visible when approaching from the south. The proposed front facing dormer would protrude significantly beyond the existing roof plane and would be highly visible in views when approaching from both directions along the road resulting in a significantly harmful effect on the character and appearance of the area.

6. Attention is drawn to a flat roof front dormer window on a property approximately 4 houses to the south of the appeal property. However, no details of this case are provided and I cannot, therefore, be certain that it benefits from planning permission or that if it does, it was determined within the same development plan context. In any event, I consider that the appeal property relates visually to the bungalows to the north which have similar design characteristics. These factors limit the weight which I can attach to it in my Decision. In any event, I have determined the appeal proposal on its own merits.
7. Attention is also drawn to cases in Pear Tree Avenue relating to front dormer windows. However, from the limited evidence before me, the front dormer windows are smaller, set down from the eaves and with a pitched roof. These cases are not, therefore, directly comparable to the appeal proposal which limits the weight which can be attached to them in my Decision.
8. For the reasons stated, I conclude that the proposal would have a harmful effect on the character and appearance of the host property and the surrounding area. It would, therefore, be contrary to Policy BNE1 of the South Derbyshire Local Plan Part 1 (2016), saved Policy H13 of the South Derbyshire Local Plan (1998) and the Council's Extending your Home Supplementary Planning Guidance (2004) which collectively seek to ensure that development is well-designed and that extensions are of a scale and character which is in keeping with the property and the general area. Conflict also arises with paragraphs 17 and 56 of the National Planning Policy Framework which seek to secure high quality design.
9. The proposal is also contrary to emerging Policy H27 of the pre-submission Local Plan Part 2 (LLP2) (2016) which seeks to ensure that extensions and alterations to dwellings are of a scale and character in keeping with the property and the general character of the area. The LLP2 is not yet adopted and cannot, therefore, be afforded full weight in my Decision. Nonetheless, the identified conflict weighs against the proposal.

Other matters

10. I am aware of the appellant's concerns regarding the Council's handling of the application; however, this is a matter between the parties and I have in any event determined the appeal proposal on its own merits.

Conclusion

11. Whilst the proposal may have some benefits in terms of improved living accommodation, this benefit is outweighed by the significant harm which I have identified.
12. For the reasons stated and taking all other considerations into account, the appeal is dismissed.

Caroline Mulloy

Inspector

Appeal Decision

Site visit made on 22 August 2017

by Brendan Lyons BArch MA MRTPI IHBC

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

Decision date: 7th September 2017

Appeal Ref: APP/F1040/D/17/3178220

36 Lullington Road, Overseal, Swadlincote, Derbyshire DE12 6NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Nathan Kinson against the decision of South Derbyshire District Council.
 - The application Ref 9/2017/0389, dated 11 April 2017, was refused by notice dated 19 June 2017.
 - The development proposed is the creation of a vehicular access and hardstanding.
-

Decision

1. The appeal is dismissed.

Procedural matter

2. The description of development used in the heading above is taken from the Council's notice of refusal of planning permission, as it provides a technically slightly more accurate description than that stated on the planning application form.

Main Issue

3. The main issue is the effect on highway safety of the formation and use of the proposed access.

Reasons

4. Lullington Road leads from the centre of the village of Overseal and is lined on both sides by suburban-type housing. No. 36 forms the end unit of a row of semi-detached houses on the north side of the road, from which it is set back behind a long front garden. Permission is sought to make a vehicular access onto the road and to form a T-shaped area of hard standing immediately inside the front boundary.
5. The house occupies a wedge-shaped plot, as a result of which the garden frontage is some way wider than the others in the row, and is more akin to that of No.34 and other bungalows to the east. The proposed access would be formed next to the western boundary of the plot, adjoining the garden of No.38. At the time of my visit to the site, there was an existing narrow access at the other side of the frontage that gave entry onto a more confined area of hard standing. The appellant has explained that this was installed by a previous owner. The Council has not commented on its planning status but

reports that a previous application for an access in this location was refused permission in 2016¹. The access appeared to be informally made, as there was no dropped kerb and two blocks of wood were laid in the carriageway to ease the transition onto the footway.

6. That application was refused on grounds that the proposed access would not have adequate visibility and that vehicles emerging onto the highway would therefore pose a safety hazard. This remains the Council's concern about the current proposal, based on the advice of Derbyshire County Council as highway authority.
7. The appellant does not dispute that the visibility standard sought by the highway authority (2.4m x 43m) is appropriate. The appeal is not supported by sufficiently detailed scale plans that would show the precise dimensions of the access or the amount of visibility that would be achieved in each direction. The highway authority also seeks to impose further requirements² with regard to the alignment of the crossing and to pedestrian intervisibility splays at the back of the footway. These would have a bearing on the design and precise location of the footway crossing.
8. Instead the appellant seeks to rely on photographs showing the likely view from a vehicle exiting the site at the proposed location. But because of the curved alignment of Lullington Road, there is a marked change of direction at the boundary between Nos.36 and 34, and the grass verge in front of the row of houses runs out, resulting in a pinch point and reduced visibility. The photographs give some indication that there would be reasonable views of oncoming traffic from both directions, but they show that part of the carriageway would be hidden. They are not sufficiently precise to give full confidence that an emerging vehicle, particularly one reversing onto the carriageway, would not have its view to the east significantly obscured by the pinch point. Without more accurate plans, the site visit evidence is also rather inconclusive.
9. I acknowledge that this length of road has many accesses on both sides, so that drivers should be alert to the possibility of vehicles emerging. All others in the row of similar houses, except No.38 next door to the appeal property, currently have footway crossings. I have some sympathy with the appellant's concern that some of these, including a recently formed access at No.40, which would allow two vehicles to reverse onto the road³, might have slightly worse visibility than the appeal proposal would have. I have not been informed of the history of these accesses or whether planning permission was given for their formation. But a concern that there might already be sub-standard visibility does not provide good justification for potential additional risk.
10. I am mindful of the government-backed advice of the *Manual for Streets*⁴ and the *Manual for Streets 2*⁵ that direct frontage access even to heavily trafficked roads has not been found to be linked to high accident rates. It is unlikely that either volume or speed of traffic would make this location any different. The Council has not provided evidence of any history of accidents on this stretch of road. The *Manual for Streets* advises that one of the factors to be taken into

¹ Application ref. 9/2016/0567

² By means of conditions in the event that the appeal were to be allowed and planning permission granted.

³ This was also being used at the time of my visit to allow a car to park on the grass at No.38.

⁴ Section 7.9

⁵ Paragraph 9.10.5

account in providing access would be the distance between the property boundary and the carriageway. In this instance, the presence of some depth of grass verge would undoubtedly assist visibility in both directions.

11. Nevertheless, because of the double-curved alignment of this stretch of road and the speed limit currently in force, I consider that the formation of an additional access in this location requires careful justification. On the evidence currently available, I am unable to conclude that the proposal would not result in a safety hazard. As it stands, the proposal would be contrary to Policy INF2 of the South Derbyshire Local Plan Part 1, which seeks safe and convenient access. The other policies referred to in the Council's reason for refusal do not appear to be directly relevant.

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

Brendan Lyons

INSPECTOR