

Report of the Strategic Director (Service Delivery)

[Section 1: Planning Applications](#)

[Section 2: Appeals](#)

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

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.

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

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

Glossary of terms

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

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

Item No. 1.1
Ref. No. [DMPA/2023/0579](#)
Valid date: 15/05/2023
Applicant: Melbourne Sports Partnership (MSP)**Agent:** CT Planning
Proposal: **Installation of floodlighting system to the northern most tennis courts at Melbourne Tennis Club at Melbourne Sports Pavilion, Cockshut Lane, Melbourne, Derby, DE73 8DG**
Ward: Melbourne

Reason for committee determination

This item is presented to Committee as South Derbyshire District Council owns the land to which the planning application relates.

Site Description

The application site comprises 3no. artificial grass tennis courts that form part of the wider Melbourne Sports Pavilion, located on the eastern side of Cockshut Lane and to the south of the built edge of Melbourne. The wider sports facility incorporates 3no. hardstanding tennis courts to the south, the cricket pitch to the east, car parking and the pavilion building to the south and further sports pitches beyond this. The site is not located within Melbourne Conservation Area. The nearest residential properties are located on the southern side of Hope Street and to the west on Cockshut Lane. It is noted that there is already some lighting present within the sports facility, which has been positioned around the southern tennis courts, the sports pavilion building car parking and access routes.

The proposal

The proposal is to install 8no. floodlights around the perimeter of the site in the arrangement shown on the Proposed Floodlighting drawing ref. HLS2445 (dated 30 May 2023). The floodlights would comprise 8.0m tubular columns as shown on the elevation drawings dated 07/06/2023.

Originally, the proposal included 12no. 6.9m floodlight columns, with 2no. located centrally within the tennis courts. A revised plan was submitted by the applicant on 1 June 2023 that showed the central columns would be removed and reduced the total number of floodlights to 8no. 8m columns. Although the light spill plan showed that the new lighting arrangement would not result in light spill beyond the extent indicated in the original Lighting Report, this document and the elevation drawing were also updated for purposes of clarity.

Applicant's supporting information

Planning Statement

This document sets out an assessment of the scheme against the local development framework that has been undertaken by the applicant's agent. This statement was based on the original scheme of 12no. floodlights.

Melbourne Tennis Club, Justification for Floodlighting (April 2023)

A statement has been included by the applicant which provides some explanation for the floodlighting proposal. It notes that between September and the end of March, the Club loses players who do not want to play on the hardstanding courts and there is conflict between the coaching programme and general use. It notes that the provision of floodlighting to the northern courts would enable the club to retain more players during the winter months, as well as facilitating the year-round operation of the junior coaching programme and enabling matches to be played during the week.

DMPA/2023/0579 – Melbourne Sports Pavilion, Cockshut Lane, Melbourne, Derby, DE73 8DG



South Derbyshire District Council

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South Derbyshire District Council. LA 100019461.2020

Lighting Report (dated 20 June 2023)

This document provides technical information related to the levels of illuminance that would be provided across the tennis courts and the spill of light around the periphery.

Proposed Floodlighting drawing ref. HLS2445 (dated 30 May 2023)

This shows the position of the 8no. floodlights proposed together with light spill contours for different Lux values.

Relevant planning history

9/2011/0910 Proposed redevelopment to form new facilities for rugby, cricket, tennis and bowls. The erection of a new club house, floodlighting and creation of parking facilities – approved February 2012.

9/2013/079 Development of FA compliant 7V7 artificial turf pitch with associated fencing, floodlighting and access pathway – approved November 2013.

9/2018/1378 Creation of 3no. artificial grass tennis courts with 3m high perimeter fencing – approved November 2020.

DMPA/2021/0487 Formation of pedestrian access to car park – approved October 2022.

DMPA/2022/0865 Portal steel framed structure for the storage of equipment – approved October 2022.

Responses to consultations and publicity

Melbourne Parish Council

No objections (13 June 2023 and 15 June 2023 on re-consultation)

Melbourne Civic Society

No objections subject to a 21:30 curfew (28 May 2023), and no objection on re-consultation (29/06/2023)

County Highways Authority

No highway safety objections (24 May 2023).

Re-consultation on revised plan - response still applicable in relation to the revised lighting layout (12 June 2023).

Environmental Health

No objections to the proposed scheme but do suggest a condition to ensure that the lighting is installed in accordance with the Lighting Strategy Report (25 May 2023).

Re-consultation on revised plan - Revised plan - I can confirm that providing a condition is imposed requiring the lighting to be installed in accordance with the updated submission then this is acceptable (1 June 2023).

Final confirmation (following receipt of elevations to support the lighting contour plans) – I can confirm that this would be acceptable, and the timing of the lighting would be acceptable (20/07/2023).

Neighbour Responses

Four objections were received from members of the local community which raised concerns related to:

- a) Increased light pollution;
- b) Disturbance with lighting shining into neighbouring properties (which is stated in the context of the existing flood lights, which are asserted to be 'extremely bright' and 'overpowering'), and with the new lights being proposed in closer proximity to the neighbouring properties than the existing floodlights;
- c) Disturbance to nesting birds;

- d) The need for the floodlighting, with comments questioning the demand for evening use of the courts;
- e) Disruption to the highway, potential for incidents and accidents as lighting can be mistaken for oncoming traffic which causes confusion and hesitation with the current lighting;
- f) Noise from users of the tennis courts;
- g) Impact of the lights on the skyline;
- h) The lighting survey has taken into account boundary foliage and therefore not representative of the winter months or when the hedgerows.

Neighbours also commented that the previously approved application of the site did not include flood lights in this location due to the impact on the amenity of neighbouring residents. This was specifically discussed as a major concern as part of the previous approval and approval was given on the basis that flood lights were not included.

It was also requested that users of the courts be restricted to tennis only and not other sports such as netball, to control the level of noise.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

(2016) Local Plan Part 1 (LP1): SD2 (Presumption in Favour of Sustainable Development), BNE1 (Design Excellence), INF9 (Open Space, Sports and Recreation Facilities); INF2 (Sustainable Transport); BNE3 (Biodiversity);
Melbourne Neighbourhood Plan: OS3 (Biodiversity).

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF);
Planning Practice Guidance (PPG).

Planning considerations

The determining issues are as follows:

- Principle of the development;
- Amenity;
- Biodiversity;
- Other Matters.

Planning assessment

Principle of the Development

There is no specific planning policy related to the provision of floodlighting within the Local Plan Parts 1 or 2. There are policies related to the provision of open space, sports and recreation facilities, and Policy INF9 of the Local Plan states that the current provision of open space, sports and recreation facilities in the District is not sufficient; and opportunities for creating new or enhanced facilities will be sought. The site is located within the established Melbourne Sports Partnership complex. The proposal for floodlighting seeks to enhance the existing facilities to enable 3no. tennis courts to be used in the winter months, as explained further in the applicant's Justification for Floodlighting (April 2023). The proposal would therefore be in accordance with the aims of policy INF9 and acceptable in principle.

Amenity

Policy BNE1 sets out principles for design excellence, which is supported by the detail within the South Derbyshire Design Guide SPD. Policy SD1 states that the Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments.

The proposed lighting scheme has been accompanied by a light spill plan (which indicates the spilling of light beyond the boundary of the area being lit) and Lighting Report. The lighting has been designed in accordance with criteria in relevant guidance documents including the 2021 Guide on the Limitation of the Effects of Obtrusive Light from Outdoor Lighting Installations and 1997 Guidelines for Minimising Sky Glow. As shown in the submitted documents, the lighting would be downward directional that would result in limited light spill.

The EHO has been consulted on the planning application and raised no objections. It was recommended that conditions be attached to ensure that any forthcoming planning application to ensure that the lighting be implemented in accordance with the submitted details and specifications. The concerns of the neighbours related to increased light pollution in the area generally, and potential disturbance from lighting shining into neighbouring properties are noted. It is acknowledged that the proposal would result in lighting across part of the site that is currently unlit and that this would be noticeable. However, it would be viewed in the context of other lighting already present in the sports pavilion site and would add a relatively small area of lighting, close to the settlement edge of Melbourne. The light spill plan shows that there would be limited spill beyond the northern boundary of the tennis court and that this would not project into the boundaries of the nearest sensitive receptors. The lighting would be downward facing and not directed into the windows of any neighbouring properties. Whilst the EHO raised no objection to the proposal and had no concerns on the amenity of neighbouring properties, it would be reasonable to limit the timing of the lighting to follow the restrictions of the wider site which may overcome some of the concerns. With such conditions in place it is considered that the proposal would meet the requirements of policies BNE1 and SD1.

Highways

Policy INF2 sets the local policy framework for sustainable transport and states that planning permission will be granted for development where appropriate provision is made for safe and convenient access to and within the development for users of the private car and other modes of transport.

Cockshut Lane is subject to a 40mile per hour speed restriction and is separated from the site by a tall hedgerow. The nearest lighting columns would be c. 5m from the edge of the highway. The County Highway authority was consulted as part of the planning process and raised no objections to the proposals (either the original or revised plans).

The concerns of the neighbours related to the potential confusion between lighting at the site and oncoming traffic on Cockshut Lane are noted. Although it is not felt that the addition of 8no. more floodlights would materially alter the situation from the existing, and the static nature of the lighting compared to moving traffic should allow the floodlighting to be appropriately distinguished from vehicle headlights. Furthermore it would not be reasonable to refuse the lighting on highway safety grounds when the County Highway authority has raised no objections or highway safety concerns. It is considered that the scheme would comply with the requirements of policy INF2.

Biodiversity

Policy BNE3 supports development which contributes to the protection, enhancement, management and restoration of biodiversity. Policy OS3 of the Neighbourhood Plan supports new development that seeks to protect and enhance biodiversity.

The proposal would lead to an increase in lighting in the site that may disturb wildlife, such as bats or breeding birds. Given the small scale of the development, use of downward directional lighting and minimal extent of light spill it is considered that this impact would not be material, particularly in views of the other lighting already in place at the site and edge of settlement context. The restriction proposed to the timing of lighting to control amenity impacts would also serve to minimise any such disturbance. It is considered that the proposal would meet the requirements of policies BNE3 and OS3.

Other Matters

The local community questioned the need for the floodlighting. Although the question of 'need' is not a material planning consideration, it is relevant to an extent in the consideration of the principle of

development (as discussed above) for the specific policy INF9 and some explanation is offered in response to this in the Melbourne Tennis Club, Justification for Floodlighting (April 2023).

Neighbours commented that the previously approved application of the site did not include flood lights in this location due to the impact on the amenity of neighbouring residents; and highlighted that the potential for floodlighting was specifically raised as a major concern as part of the previous approval for the tennis courts (ref. 9/2018/1378) and that approval was given on the basis that flood lights were not included. Officers have reviewed the committee report for the aforementioned case. The matter of floodlighting was not specifically discussed, as it did not form part of the scheme originally applied for; and it is unlikely to have formed a material consideration in determination of the application by planning committee on the same basis. The current application for floodlighting should be assessed on its own merits and in consideration of the information submitted as part of this planning application.

Neighbours also commented that the lighting survey results would be impacted by the presence of boundary foliage and therefore not representative of the winter months or when the hedgerows. The applicant's agent was contacted to check this point and responded as follows: *the lighting engineer confirmed that 'no vegetation was included in the assessment and as such the light overspill plans are based on no vegetation. As such, the loss of leaves in winter would not result in any harm'.*

The assertion that the lights would impact on the skyline is given limited weight, as they would be viewed in the context of the urban edge of Melbourne and the existing floodlights.

Neighbours also requested that users of the courts be restricted to tennis only and not other sports such as netball, to control the level of noise. This would not comprise a material consideration as the application relates to the proposal for floodlighting and not for the use of the site. Nonetheless, it is noted that condition 4 of planning permission ref. 9/2018/1378 restricts the use of the site in this way.

Conclusion

The proposal for additional floodlighting within the established Melbourne Sports Partnership complex would be in accordance with the aims of policy INF9 and acceptable in principle. Having reviewed the material considerations related to the potential impact on the amenities of the area, highways and biodiversity, it is considered that the proposal would comply with the requirements of Policies BNE1, INF2, BNE3 and Policy OS3 of the Neighbourhood Plan and accordingly is recommended for approval.

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

Recommendation

Approve subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the following plans/drawings and details: Proposed Floodlighting drawing ref. HLS2445 (dated 30 May 2023), Lighting Report (dated 20 June 2023), 8m Tubular Column Elevations (dated 07/06/2023), unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of doubt and to ensure any future use of the premises does not adversely affect the amenities of the locality in general and in accordance with Policy BNE1.

3. The floodlighting hereby permitted shall not be used from 9:30 pm until 8.00 am the following day, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure any future use of the premises does not adversely affect the amenities of the locality in general and in accordance with Policy BNE1.

Item No. 1.2

Ref. No. [DMPA/2023/0648](#)

Valid date: 18/05/2023

Applicant: SDDC

Proposal: **The erection of a single storey rear extension and the installation of a hard standing at 27 Maple Road, Midway, Swadlincote, DE11 0EZ**

Ward: Midway

Reason for committee determination

South Derbyshire District Council Local Authority is both the applicant and the owner of the proposed site.

Site Description

The property is a semi-detached brick built and tiled two storey property. The property is a local authority property and was built around 1948, the property still has attached outbuildings which are used as coal shed and outside w.c and there are additional wooden outbuildings in the rear garden. The property is on a corner plot, has a relatively large garden and there is a well situated in the front garden. There is fencing all around the boundaries to the property. The character of the area is of similar style semi-detached properties with front gardens and low fencing around to enclose the properties and most rely on on-street parking. To the front of the immediate properties is a semi-circle of grassland with a footpath all the way round. It is noted that a number of the properties park their cars on this footpath to be able to park off the road as on street parking is at a premium in the area. There are some newer properties within the surrounding area which were built in 2001 and these are of a similar style and semi-detached like the ones built originally in 1948.

The proposal

The proposal is for a single storey rear extension and the installation of hard standing to the front of the property.

Applicant's supporting information

The applicant has submitted plans setting out the proposals for approval.

Relevant planning history

No relevant planning history.

Responses to consultations and publicity

2 responses have been received from members of the public. One raises no concerns. One raises a number of objections which can be summarised as follows:

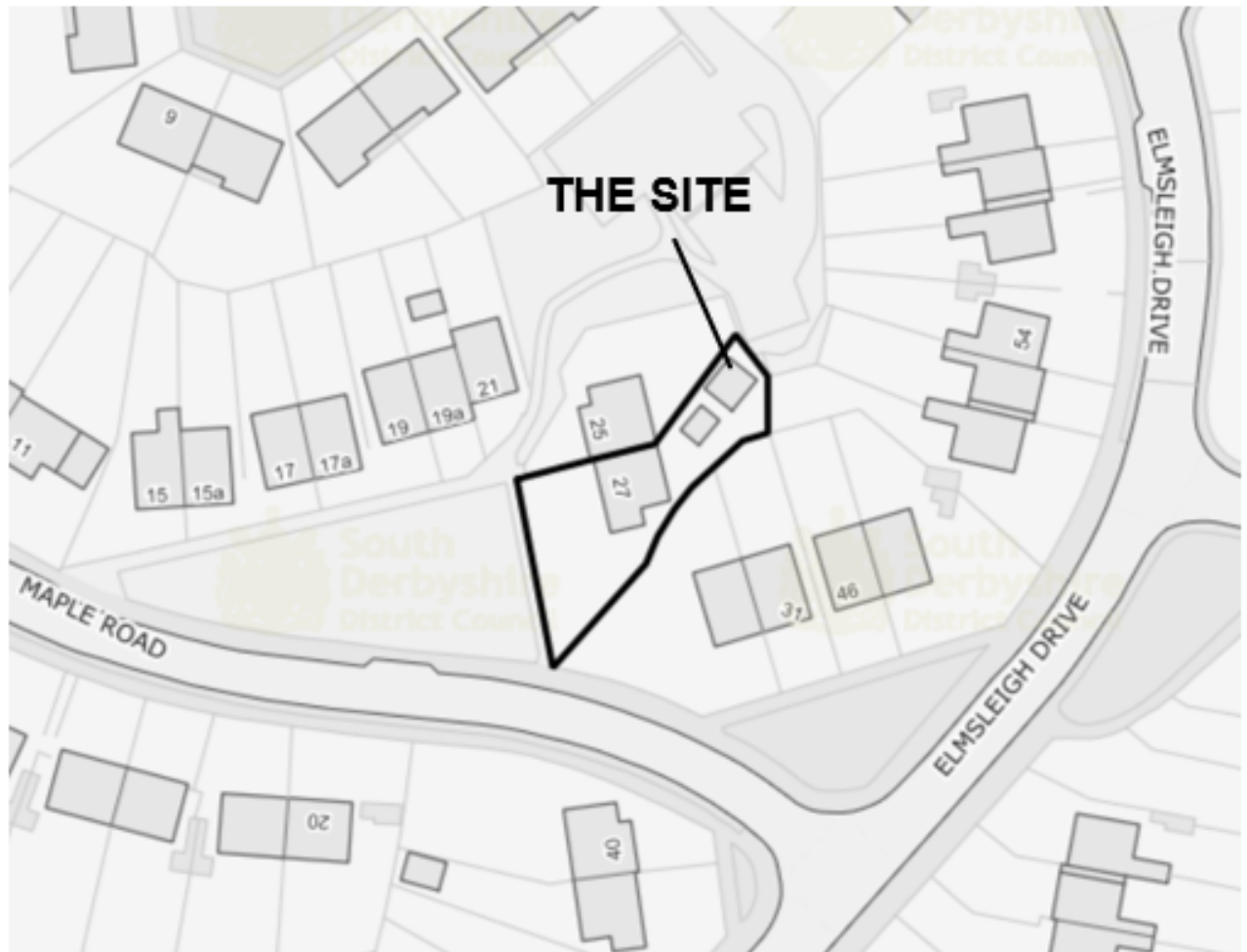
- a) Need to drive over the path to park on the hard standing.
- b) Highway safety / conflict with pedestrians, bikes and scooters and vehicles.

Relevant policy, guidance and/or legislation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications shall be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise.

The development plan for the purposes of this application comprises the South Derbyshire Local Plan Part 1 (LP1) adopted in June 2016 and the South Derbyshire Local Plan Part 2 (LP2) adopted in

DMPA/2023/0648 – 27 Maple Road, Midway, Swadlincote, DE11 0EZ



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November 2017. Material considerations include, albeit not limited to, the National Planning Policy Framework (NPPF) Planning Practice Guidance (PPG), together with the South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), SD4 - Contaminated Land and Mining Legacy Issues, BNE1 (Design Excellence), INF2 (Sustainable Transport) and INF8 (National Forest).

2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), H27 - Residential Extensions and other Householder Development.

The relevant national policy and guidance is:

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

Planning considerations

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

- Design;
- Amenity; and
- Highway safety

Planning assessment

Design

The single storey extension would not be visible from the street scene, due to its location at the rear of the property. It is considered that the scale, design and character would be subordinate and sympathetic to the host property. The extension would allow for the property to be adapted for use with a wet room and, whilst there are no similar extensions to the surrounding properties, it is considered that the extension is a relatively minor addition to the property, similar to many extensions to domestic properties across the district and would allow the property to be adapted to enable the current occupants to remain at the property. The materials are proposed to match the existing property resulting in acceptable assimilation with the dwelling.

The installation of hard standing on part of the front garden will result in the loss of some of the front lawn to accommodate off road parking, however there will be a relatively large front lawn which will be retained. It is a corner plot and will provide one off-street parking space for the occupants of the property. There are a small number of properties within the area with off road parking. At present there is not a dropped kerb to accommodate the property. Maple Road is a non-classified road so planning permission would not be required for a dropped kerb due to the classification of road. The materials to be used would be porous, so the hard standing could be carried out under householder permitted development rights. Due to the angle of the property relative to the road, path and green space to the front a vehicle would need to travel over the pathway and the corner of the green space to enter the site. Neither the path or green space have any formal designation and the area of space required is minimal in its context. It would appear that the footpath to the west of the site has been modified to allow the occupants of number 15 to do similar. Overall it is considered that its design is acceptable.

Amenity

The proposal is considered to comply with the space around dwellings requirements of the SPD, neither of a size or situation as to unduly overshadow or cause a reduction in privacy.

The proposed extension is to be built on the shared boundary with number 25. Whilst this property has not been extended and therefore the proposal would extend beyond its rear wall it is considered that, as the extension is single storey only and due to the existing boundary fence in situ, which will help

screen the extension, there would be no significant loss of privacy or overbearing impact to the occupants of this adjoining property.

Due to the position of the extension being away from the boundary, being at ground floor, and with the existing boundaries in place it is considered that there would be no additional impact on the residents of numbers 29 and 31 applicants than at present.

Overall due to the scale and siting of the proposed extension it is considered that the proposal would not cause any undue harm to any of the surrounding properties.

Highway Safety

The SPD strongly encourages the provision of two parking spaces per dwelling. Due to when the houses were built in 1948 off road parking was not required and therefore currently there is no on-plot provision. While adapting this property to deliver the requirements of the current occupants it is considered that some off-road parking would be an improvement and would help ease the on road parking pressures within the area. Whilst there is no dropped kerb to the property at present, due to the road being non classified planning permission would not be required to install one, but an application to Derbyshire County Council would be required. Whilst a vehicle would need to reverse out of the driveway it is considered that due to the speed restrictions along the road and visibility provided that a parking space could be provided within the site without any significant detriment to highway safety.

Other matters

In relation to the concerns raised in comments from members of the public in relation to safety and access amended plans showing where the entrance to the hard standing will be have been received. These demonstrate that the access point will be taken from the road and there would be no requirement to drive over the pathway. As above, planning permission would not be required for a dropped kerb from the local highways authority and the hardstanding, due to the permeable materials proposed could be carried out under householder permitted development rights. There are existing dropped kerbs to the right of the property which provide off road parking for nos. 29 and 31.

Mining Legacy Issues

The Site is within a low risk former coal mining area and an informative to this effect will be placed on any forthcoming grant of planning permission.

Conclusion

The proposal is considered to be acceptable in terms of character, design, and scale and its impact on the character of the area and street scene, with no unreasonable impact on the neighbouring amenity or highway safety. As such, the proposal is considered to be in accordance with the requirements of Policies S2, SD1, SD4, BNE1, INF2, INF8, H27, SDT1 together with the Council's Design Guide SPD and the NPPF.

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

Recommendation

Approve subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the Proposed plans (dwg no. 02 REV A) 27th June 2023; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of doubt.

Informatives:

- a. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is also available on the Coal Authority website at www.gov.uk/government/organisations/the-coal-authority.
- b. You should ensure that no part of the development extends onto, over or under your neighbours property without their express consent to do so, in particular respect of the foundations and thereafter verge/gutter details closest to the shared boundary with no 25 Maple Road, Midway
- c. To acquire a dropped kerb to the property, an application will need to be submitted to Derbyshire County Council at Matlock.

Item No. 1.3
Ref. No. [DMPA/2023/0583](#)
Valid date: 12/05/2023
Applicant: Barwood Homes
Proposal: The variation of condition no. 3b (Biodiversity Net Gain) of permission ref. DMPA/2019/0931
Ward: Woodville

Reason for committee determination

This planning submission is being reported to Planning Committee in conjunction with the planning application referenced DMPA/2022/1159 which covers Phase 1 of the wider site.

Site Description

The application site is addressed as Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote. The site comprises of some 21.5ha of open land associated with the former Dyson coal and clay workings site. The site is located to the south-west of Woodville and south-east of Swadlincote town centre.

The site adjoins existing residential and employment development off the A514 Swadlincote Road and Woodhouse Street/ Kiln Way to the north, existing housing off Moira Road to the east, employment development off Bridge Street/ John Street to the west, and residential dwellings and employment development off Occupation Lane/ Hepworth Road to the south.

The site falls within the settlement confines for Woodville and the wider Swadlincote Urban Area.

The proposal

The applicant is seeking the approval of the variation of Condition no. 3b (Biodiversity Net Gain) of the outline planning permission referenced DMPA/2019/0931 at the site under the address of Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote.

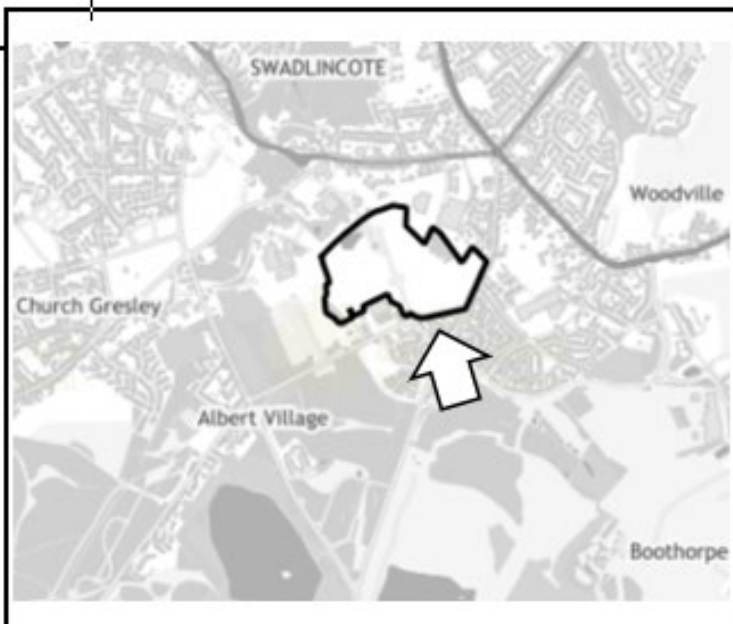
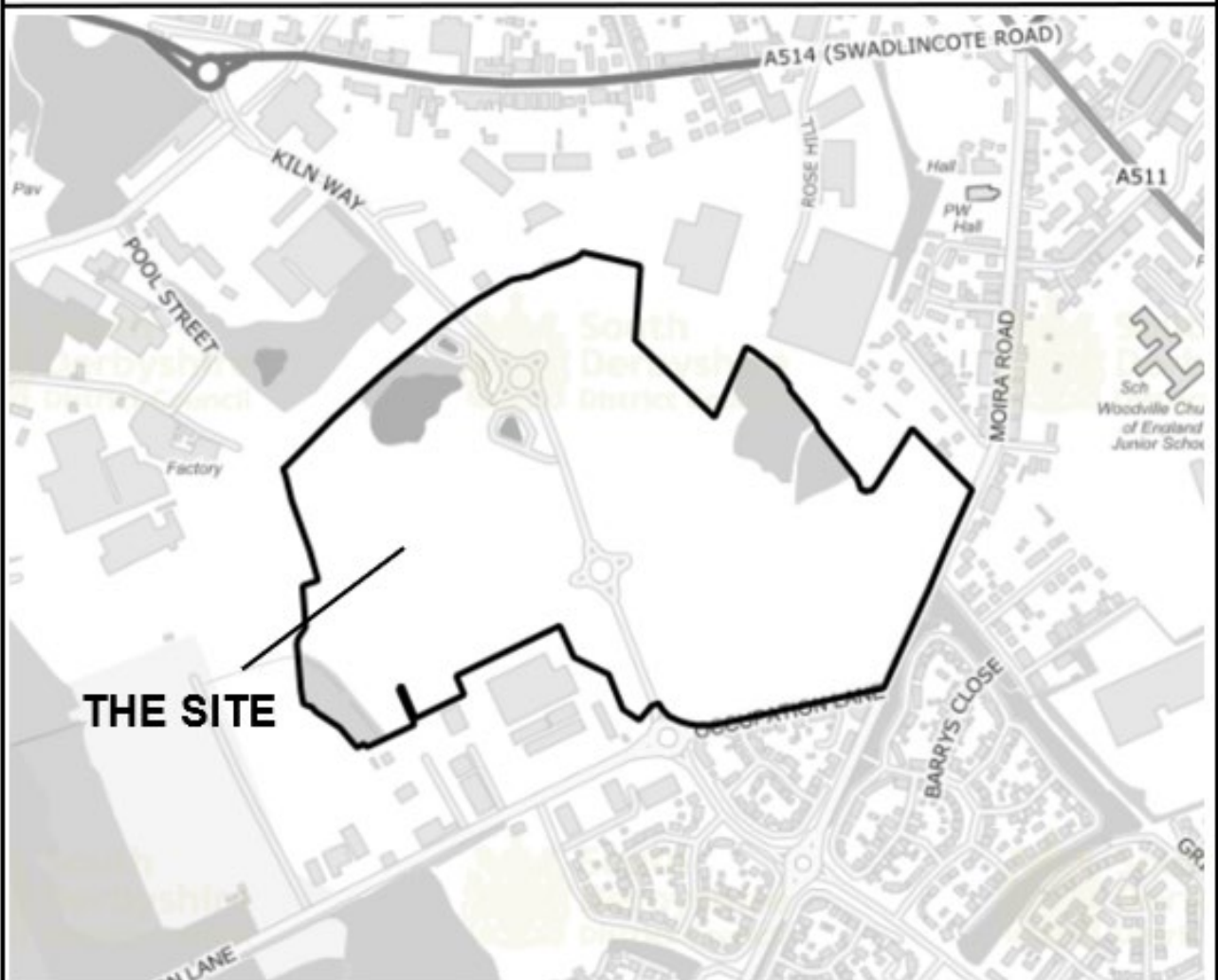
This application seeks to amend the wording of Condition no. 3b (Biodiversity Net Gain) to enable the delivery of biodiversity net-gain to off-site locations, through either a financial contribution or off-site biodiversity improvements. To facilitate this an amendment to the wording of Condition no. 3b (Biodiversity Net Gain) would therefore be required.

Condition no. 3b (Biodiversity Net Gain) of the permission referenced DMPA/2019/0931 reads as follows:

Condition 3 - The reserved matters shall be designed broadly in accordance with the illustrative plan ref. P16-1422_004 revision B and section 5 of the Design & Access Statement ref. P18-0670_200B dated August 2019 with the exception of pages 44 to 45 where the principle and extent of 3 and 4 storey dwellings would need to be justified through detailed design analysis, and include the following specific requirements and/or be supported by the following documents in so far as relevant to that matter:

Part b - a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain) compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework;

DMPA/2023/0583 – Land north of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote



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South Derbyshire District Council. LA 100019461.2020

The applicant is proposing to alter the wording of Part b of this condition to read as follows:

Part b - a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain), which in the first instance should be provided on site as part of any phase of the development, or subject to agreement with the LPA and Derbyshire Wildlife Trust on a suitable off-site location or via a financial contribution, compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework. For the avoidance of doubt, each phase should positively contribute to the delivery of a biodiversity net gain;

Applicant's supporting information

The applicant has submitted documentation setting out the proposals for approval.

Relevant planning history

DMPA/2019/0931 – Outline application with all matters reserved, except for part access into the site from Moira Road, for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure on Land north of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote – Approved 8th April 2022.

DMPA/2022/1159 - Approval of Reserved Matters (Landscaping, Layout, Scale and Appearance) pursuant to phase 1 (residential development of up to 75 dwellings) of outline application DMPA/2019/0931 for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure on Land north of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote – Pending consideration.

Responses to consultations and publicity

Woodville Ward - No comments received.

Woodville Parish - Woodville Parish Council requests hedgerows are retained and the footpath from Vicarage Road to Swadlincote Road is maintained as an important wildlife corridor. (14 June 2023)

Derbyshire Wildlife Trust - No fundamental objections to the variation of the condition as proposed. Key points of consideration highlighted. (19 July 2023)

SDDC Open Spaces/ Facilities/ Landscape - No comments received.

Responses to publicity - Following the formal consultation which included Neighbour Notification letters of 23 May 2023, a Site Notice displayed 26 May 2023, and a Press Advert published 02 June 2023, no formal comments of representation have been received in response to such.

Relevant policy, guidance and/or legislation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications shall be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan for the purposes of this application comprises the South Derbyshire Local Plan Part 1 (LP1) adopted in June 2016 and the South Derbyshire Local Plan Part 2 (LP2) adopted in November 2017. Material considerations include, albeit not limited to, the National Planning Policy Framework (NPPF) Planning Practice Guidance (PPG), together with the South Derbyshire Design Guide Supplementary Planning Document (SPD).

The relevant Development Plan policies are:

2016 Local Plan Part 1: S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); S3 (Environmental Performance); S4 (Housing Strategy); S5 (Employment Land Need); S6 (Sustainable Access); S7 (Retail); H1 (Settlement Hierarchy); H20 (Housing Balance); H21 (Affordable Housing); E1 (Strategic Employment Land Allocation); E6 (Woodville Regeneration Area); SD1 (Amenity and Environmental Quality); SD2 (Flood Risk); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); SD4 (Contaminated Land and Mining Legacy Issues); SD5 (Minerals Safeguarding); BNE1 (Design Excellence); BNE2 (Heritage Assets); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness); INF1 (Infrastructure and Developer Contributions); INF2 (Sustainable Transport); INF4 (Transport Infrastructure Improvement Scheme), INF6 (Community Facilities), INF8 (The National Forest), INF9 (Open Space, Sport and Recreation); INF7 (Green Infrastructure).

2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development); BNE7 (Trees, Woodland and Hedgerows); BNE10 (Heritage) and RTL1 (Retail Hierarchy)

The relevant local guidance is:

South Derbyshire Design Guide SPD

South Derbyshire District Council Strategic Housing Market Assessment January 2020 (SHMA)

South Derbyshire Affordable Housing SPD

Section 106 - A Guide for Developers

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF) (as updated)

Planning Practice Guidance (NPPG)

The relevant Development Plan policies are:

The relevant legislation is:

The Community Infrastructure Levy (CIL) Regulations 2010 (as amended)

The Conservation of Habitats and Species Regulations 2017 ("the Habitat Regulations")

Planning considerations

In taking account of the application documents submitted and the site and its environs; the main issues central to the determination of this application are:

- Principle of the Development
- Ecology and Biodiversity
- Other Matters

Planning assessment

Principle of the Development

The principle of the overall proposed scheme of development has already been established. As referenced above the Outline planning permission under the reference of DMPA/2019/0931 was on 08 April 2022 granted. The assessment of this Variation of Condition planning submission will now consider only the matters regarding the variation of Condition no. 3b (Biodiversity Net Gain).

Ecology and Biodiversity

Policy BNE3 seeks to protect, enhance, manage, restore and deliver net gains in biodiversity. Policy BNE7 states development proposals having a detrimental effect on important trees, woodland or hedgerows must satisfactorily demonstrate how the impact on biodiversity has been minimised and, wherever possible, a net biodiversity gain delivered through appropriate mitigation, compensation or offsetting. The NPPF has been updated since the adoption of these policies and requires net gains in biodiversity, and this forms a Corporate Plan objective. Policy BNE3 also aims to develop and maintain a District-wide ecological Network, support and contribute to the targets set out in the National Forest Biodiversity Action Plan (BAP) for priority habitats and species, and protect ancient woodland and

veteran trees from loss (unless the need for and benefits of the development clearly outweigh the loss). Proposals that could have a direct or indirect effect on sites with potential or actual ecological importance, including protected and priority habitats and species, must be supported by appropriate surveys or assessments, and where mitigation measures, or exceptionally, compensation cannot sufficiently offset the significant resulting harm, planning permission should be refused.

Policy BNE7 states where development that could affect trees, woodland and/or hedgerows which are important in terms of their amenity, ecological, landscape or historic value, developers will be expected to demonstrate that the layout and form of development have been informed by appropriate surveys, development would not suffer from undue shading either now or in the future, and appropriate measures are secured to ensure adequate root protection and buffers.

The applicant has noted within the submitted supporting documentation that Phase 1 of the proposed development, which broadly reflected the Illustrative Masterplan approved as part of the outline application, was unable to deliver biodiversity net-gain on-site. The proposed development was shown to result with the loss of 2.91 units (22.95% loss). Moreover, an assessment to calculate the land take required to deliver a net-gain was submitted to the Council and confirmed that a loss of 1.03 hectares of developable area is required. This would represent a loss of 33% in developable area and a loss of 25 of the 70 proposed dwellings for Phase 1. It is therefore clear that biodiversity net-gain cannot be delivered as part of this development as previously suggested. Alternative measures to secure net-gain are therefore required hence the re-wording of Condition no. 3b (Biodiversity Net Gain) of the permission referenced DMPA/2019/0931.

Local Plan Policy BNE3 does not require biodiversity net-gain to be delivered on-site and refers to wider ecological networks and corridors. Further to this, the biodiversity net-gain provisions within the Environment Act (2021) allow for biodiversity net-gain to be delivered via a combination of on-site habitat measures and off-site contributions. Off-site habitat gains can be secured either via habitat creation and enhancements to an off-site area or via a financial contribution to purchase biodiversity credits. The amended wording for Condition no. 3b (Biodiversity Net Gain) would enable the delivery of biodiversity net-gain for each phase of development at off-site locations. The primary intention of Condition no. 3b (Biodiversity Net Gain) would be on-site delivery, albeit with a greater flexibility for the route of delivery should on-site delivery not be possible.

Technical consultation input on this variation of condition planning application has been requested and received from the Derbyshire Wildlife Trust with regards to the proposed amendment to the wording of Condition no. 3b (Biodiversity Net Gain) to enable the delivery of biodiversity net-gain to off-site locations, through either a financial contribution or off-site biodiversity improvements.

The Derbyshire Wildlife Trust have advised that there are no fundamental objections to the variation of the condition as proposed. The development would need to follow the mitigation hierarchy as far as possible. Clearly the avoidance and retention of features of biodiversity value within the site is preferable to the provision of off-site compensation which should be a last resort only. A Biodiversity Metric assessment has not been completed for the site and the extent of net loss on-site is not clear. However, given the size of the site, it could be quite substantial requiring significant compensation.

The site is predominantly grassland so the likelihood is that grassland habitat creation will be a central feature of any off-site measures. If a suitable receptor site is found, the Biodiversity metric should include an assessment of the existing (baseline) value of the receptor site and the 'uplift' from whatever habitat creation and enhancement measures are employed. This should aim to provide a measurable net gain in line with the NPPF guidance set out under paragraph 174 and 180.

The submission and approval of these details would be required at the discharge of condition stage when the applicant comes to discharge details with regards to Condition no. 3b (Biodiversity Net Gain) as amended.

Other Matters

Should planning approval be recommended the wording of Condition no. 3b (Biodiversity Net Gain) of the original Outline planning decision notice will be updated together with any conditions which have been addressed since the permission was granted. A full and up to date decision notice would then be formally issued.

Conclusion

The proposed variation of Condition no. 3b (Biodiversity Net Gain) of the Outline planning permission referenced DMPA/2019/0931 at the site under the address of Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote is considered to be acceptable, and is considered to be in accordance with the relevant local and national level planning policy. None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Approve subject to the following conditions:

Condition no. 3b (Biodiversity Net Gain) of the Outline permission referenced DMPA/2019/0931 has been amended to read as follows:

Condition 3 - The reserved matters shall be designed broadly in accordance with the illustrative plan ref. P16-1422_004 revision B and section 5 of the Design & Access Statement ref. P18-0670_200B dated August 2019 with the exception of pages 44 to 45 where the principle and extent of 3 and 4 storey dwellings would need to be justified through detailed design analysis, and include the following specific requirements and/or be supported by the following documents in so far as relevant to that matter:

Part b - a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain), which in the first instance should be provided on site as part of any phase of the development, or subject to agreement with the LPA and Derbyshire Wildlife Trust on a suitable off-site location or via a financial contribution, compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework. For the avoidance of doubt, each phase should positively contribute to the delivery of a biodiversity net gain;

Updated Conditions of the Outline planning consent under the reference of DMPA/2019/0931 ...

1. (a) Application for the first approval of the reserved matters listed at condition 2 shall be made to the Local Planning Authority before the expiration of two years from the date of this permission, whilst application for all subsequent approvals of the reserved matters shall be made to the Local Planning Authority before the expiration of eight years from the date of this permission; and
(b) The development hereby permitted shall be commenced before the expiration of two years from the date of approval of the first of the reserved matters to be approved, whilst in respect of all subsequent approvals the development subject of those approvals shall be commenced before the expiration of one year from the relevant date of approval of those reserved matters.

Reason: To conform with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004), noting that a timely commencement on site is required to capture existing land value and bring forward employment opportunities at an early stage, whilst also allowing adequate time for detailed approval of and delivery of the site in phases.

2. Before any development is commenced the further approval of the Local Planning Authority is required with respect to the following matters (herein referred to as 'the reserved matters') on an application made in that regard, with the exception of matters of access to phase 1 (which shall serve no more than 75 dwellings from Moira Road and be constructed in accordance with the 1:250 tracking detail on drawing ref. 067895-CUR-00-00-DR-TP-05001-P01, having a 5.5 metre wide carriageway, two 2 metre wide footways and 8 metre radii):

- (a) access,
- (b) appearance,
- (c) landscaping,
- (d) layout, and
- (e) scale.

Reason: With the exception of the matter of access to phase 1, this permission is granted in outline under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015 and section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

3. The reserved matters shall be designed broadly in accordance with the illustrative plan ref. P16-1422_004 revision B and section 5 of the Design & Access Statement ref. P18-0670_200B dated August 2019 with the exception of pages 44 to 45 where the principle and extent of 3 and 4 storey dwellings would need to be justified through detailed design analysis, and include the following specific requirements and/or be supported by the following documents in so far as relevant to that matter:

- (a) a Landscape and Ecological Management Plan (LEMP) for all retained and created habitats demonstrating provision for the establishment of the approved landscaping scheme for a period of no less than thirty years and details of the legal and funding mechanism(s) by which the long-term implementation of the LEMP will be secured by the developer with the management body(ies) responsible for its delivery;
- (b) *a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain), which in the first instance should be provided on site as part of any phase of the development, or subject to agreement with the LPA and Derbyshire Wildlife Trust on a suitable off-site location or via a financial contribution, compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework. For the avoidance of doubt, each phase should positively contribute to the delivery of a biodiversity net gain;*
- (c) a suitable off-site compensatory habitat scheme for ground nesting priority bird species, including skylark;
- (d) details of enhancement measures for bats and birds in the form of incorporated bat boxes/bat bricks and nesting boxes both on existing mature and early-mature trees and within the fabric of the new buildings, as appropriate, set out in paragraph 6.2 of the Ecological Appraisal dated July 2019 (revision A);
- (e) details of hedgehog holes/tunnels within boundary fences and walls at ground level to residential gardens;
- (f) the layout shall accord with the Highway Authority's 6C's Design Guide (or equivalent guidance that may update or replace it); and national guidance laid out in Manual for Streets issued by the Departments for Transport and Environment and Local Government (or equivalent guidance that may update or replace it);
- (g) the gradient of any access shall not exceed 1:30 for the first 10m into the site from the existing highway boundary and/or the Woodville to Swadlincote Regeneration Route (WSRR) and 1:20 thereafter;
- (h) pedestrian and cycle links between residential cul-de-sacs and Occupation Lane, Moira Road and the WSRR, as well as pedestrian and cycle links between the local centre car parking/pedestrian circulation areas and the WSRR;
- (i) each dwelling to be provided with designated space for the parking of 1.5 vehicles per 1 bedroom dwelling, two vehicles per 2-3 bedroom dwelling and three vehicles per 4+ bedroom dwelling. Parking spaces shall be no less than 5.5m in depth and 2.4m in width, increasing to 3m in width where the space is abutted by a building or boundary treatment. Where a garage or car port is counted as a parking space, the internal dimensions shall not be less than 3m x 6m, whilst

further spaces in front of garage doors shall be no less than 6m in depth;

(j) domestic bin collection points, sufficient for holding no less than 2 bins per dwelling on collection days, at the entrance to shared private accesses to prevent refuse bins and collection vehicles standing on the new estate street(s) for longer than necessary causing an obstruction or inconvenience for other road users;

(k) commercial bin stores, positioned discretely within the curtilage of the proposed premises so to allow refuse vehicles to enter, collect and leave in a forward gear;

(l) the provision of an employment estate road up to and including the western site boundary so to facilitate a contiguous adoptable highway into the remaining land forming part of the policy E6 allocation in the Local Plan Part 1;

(m) a revised Travel Plan for that phase or premises, as the case may be, based upon the Framework Travel Plan submitted in support of this application;

(n) bike stores/racks with weather shelters located close to the pedestrian entrances to employment and retail, café/restaurant and public house premises;

(o) a Local Area for Play (LAP) as part of the phase 1 residential scheme and a Local Equipped Area for Play (LEAP) as part of the phase 2 residential scheme;

(p) public footpaths to be retained on their existing line where practicable and complimented by new routes through areas of public open space, with a compacted and/or bound surface applied for the length of these routes (supplemented by root protection measures/techniques where these routes pass through woodland);

(q) position, cross-sections and construction details of no less than three footbridges to span the existing watercourse running through the residential element of the site;

(r) a green corridor and new pond designed specifically for Common toad to the east of the WSRR as part of the Common Toad mitigation strategy required under the WSRR permission so to allow unimpeded movement of common toads across the site from the scrub/woodland areas alongside the public footpath on the eastern boundary of the site to the existing breeding pond;

(s) a landscape management plan (LMP) for all non-domestic areas of landscaping created on the site (i.e. public open spaces, shared gardens and landscaped areas to non-domestic premises), including the location and type of litter and dog waste bins along with benches throughout the areas of public open spaces within the site;

(t) retained hedgerows and trees shall not form boundaries to gardens to proposed dwellings and be incorporated into public spaces/green infrastructure;

(u) details of subterranean tree and hedgerow root growth facilitation measures, including use of subterranean cage methods in or adjoining areas of hardstanding; and

(v) details of the proposed glazing and ventilation specifications to proposed dwellings and the specification and location of any noise/acoustic barriers.

Reason: In the interests of achieving sustainable development, having particular regard to the potential impact of the development on the character of the surrounding area, biodiversity protection and net gain, highway safety and sustainable modes of transport and site connectivity.

4. No development, including preparatory works, shall commence until a site-wide phasing programme including the proposed sequence of providing:

(a) housing phases including associated parking and boundary treatments,

(b) employment units including associated parking and landscaping,

(c) the local centre including associated parking and landscaping,

(d) public and private highways including street lighting, including those provided by others,

(e) sustainable drainage systems and associated infrastructure, and

(f) public open space including play areas and footpath links,

has been first submitted to and approved in writing by the Local Planning Authority. The details shall be provided cognisant of the delivery of the WSRR (timing and location of junctions/access points) and with reference to plan(s) and a Gantt chart.

Other than applications for enabling works, each Reserved Matters application made pursuant to this permission shall be accompanied with an update to any previously approved phasing programme(s) with the same details, as relevant, and define the extent and location of individual development phases or sub-phases and any associated interim arrangements for access, drainage, etc. The development relevant to that reserved matters approval shall not be carried out other than in accordance with the approved programme for that development.

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

5. No development involving the construction of a dwelling shall commence until a marketing scheme to market the availability of the employment land/plots has been submitted to and approved in writing by the Local Planning Authority. The approved marketing scheme shall thereafter be implemented and carried out for a period of no less than 5 years unless all employment land/plots has been transferred for development. The owner of any undeveloped employment land/plots shall submit to the Local Planning Authority quarterly updates on all remaining employment land/plots for a period of up to 5 years outlining the range and scale of interest in said land/plots.

Reason: To secure the continual promotion of employment land and timely delivery of the employment units in accordance with policy E6 of the Local Plan Part 1.

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

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

7. The mitigation measures described in Table 7.1 of the Air Quality Assessment submitted in support of the application (WYG Air Quality Assessment July 2019 ref. A112309 Issue 1) shall be adopted for the duration of the construction phase of the development.

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

8. a) No development shall commence within a phase or sub-phase until a remediation scheme to control all forms of contamination identified in the Ground Investigation Report (ref. 067895.101-CUR-00-XX-RP-GE-001) dated 23 July 2019 has been submitted to and approved in writing by the Local Planning Authority. The measures approved in the remediation scheme shall be implemented in full unless the Local Planning Authority dispenses with any such requirement specifically and in writing.

b) Prior to occupation of the development (or parts thereof) an independent verification report which meets the requirements given in Box 2 of Section 3.1 of Council's 'Guidance on submitting planning applications for land that may be contaminated' (herein referred to as 'the Guidance') shall be submitted to and approved in writing by the Local Planning Authority. With the prior written agreement of the Local Planning Authority pursuant to part (a) of this condition, this may be carried out on a plot-by-plot basis.

c) In the event that it is proposed to import soil onto site in connection with the development, this shall comply with the specifications given in Box 3 of Section 3.1 of the Guidance.

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

9. The mitigation strategy as detailed in Section 10 of Ground Investigation Report (ref. 067895.101-CUR-00-XX-RP-GE-001) dated 23 July 2019 shall be implemented as set out therein unless an alternative mitigation strategy is first submitted to and approved in writing by the Local Planning Authority, whereafter that approved mitigation strategy shall be implemented.

Reason: To protect the health of the public and the environment from hazards arising from coal mining legacy, recognising that failure to address such matters prior to construction of buildings and subsequent occupation/use could lead to unacceptable impacts.

10. If during development of a phase or sub-phase any contamination or evidence of likely

contamination is identified that has not previously been identified or considered, a written scheme to identify and control that contamination within a phase or sub-phase shall be submitted to and approved in writing by the Local Planning Authority prior to any further works taking place on the phase or sub-phase. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA (or equivalent guidance which may subsequently update or replace it), and appropriate remediation/mitigation proposals. The approved scheme shall be implemented in accordance with the approved remediation/mitigation proposals.

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

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

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

12. No construction of a building or hard surface, setting of site levels or installation of drainage services/utilities within a phase or sub-phase shall take place until a detailed design of, and associated management and maintenance plan for, surface water drainage of the phase or subphase, in accordance with the technical notes and principles outlined within:

- a) the Flood Risk Assessment and Outline Drainage Strategy (06785-CUR-00-XX-RP-D-001 Revision 4) dated 24th July 2019 and the Technical Note (067895-CUR-00-XX-RP-D-72901-P01) dated 2nd April 2020, including any subsequent amendments or updates to those documents as approved by the Lead Local Flood Authority;
- b) Defra non-statutory technical standards for sustainable drainage systems; and
- c) Development Proposals within the River Mease Catchment: Standing Advice for Local Planning Authorities (LPAs) - Third Issue Including Detailed Advice on Sustainable Urban Drainage Systems (SuDS)

has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that, as a minimum, suitable capacity is proposed to attenuate peak flows from the phase or sub-phase, making allowance for climate change and urban creep, and where necessary include measures to capture overland flows between proposed and existing properties.

The scheme shall also include drawings and details, including the colour and appearance of safety railings, of all inlet and outfall structures to attenuation ponds, as well as details of any management company, responsible person(s), the mechanism of funding of the management company (including the details of any proposed service charge payable by the owners of the dwellings, justification for any amount proposed and the mechanism for calculating future increases in the service charge) so that the management company will be capable of carrying out the inspection, management and maintenance of the retained surface water drainage features.

Attenuation ponds shall be fully designed and constructed in line with CIRIA SuDS manual C753. The surface water drainage infrastructure shall be installed in conformity with the approved details prior to the first occupation/use of each respective building/road/hard surface served by the surface water drainage system within that phase or sub-phase or in accordance with a phasing plan first submitted to and approved in writing by the Local Planning Authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.

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

13. Upon completion of the surface water drainage system, in part or in whole, including any attenuation ponds and swales, and prior to their adoption by a statutory undertaker or management company; a survey and report from an independent surveyor shall be submitted to and approved in writing by the Local Planning Authority. The survey and report shall be carried out by an appropriately qualified Chartered Surveyor or Chartered Engineer and demonstrate that the surface water drainage system has been constructed in accordance with the details approved pursuant to condition 12. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be included for approval in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed by an independent surveyor, with their findings submitted to and approved in writing by the Local Planning Authority.

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

14. No construction of a building or hard surface, setting of site levels or installation of drainage services/utilities shall take place within a phase or sub-phase until details of the finished floor levels of the building(s) or hard surface(s), and of the proposed ground levels of the site relative to the finished floor levels and adjoining land levels, for that phase or sub-phase has been submitted to and approved in writing by the Local Planning Authority. Such details shall be supplemented with locations, cross-sections and appearance of any retaining features required to facilitate the proposed levels. The development shall be constructed in accordance with the approved details.

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

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

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

16. No removal of trees, hedges, shrubs, buildings or structures shall take place between 1st March and 31st August inclusive unless a survey to assess the nesting bird activity on the site during this period and a scheme to protect the nesting birds has first been submitted to and approved in writing by the Local Planning Authority. No trees, hedges, shrubs, buildings or structures shall be removed between 1st March and 31st August inclusive other than in accordance with the approved bird nesting protection scheme.

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

17. No development, including preparatory works, shall commence within a phase or sub-phase until a Construction Environmental Management Plan for biodiversity (CEMP) for that phase or sub-phase has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:

- (a) a risk assessment of potentially damaging construction activities;
- (b) identification of biodiversity protection zones (e.g. buffers to trees and hedges or to protected wildlife habitat);
- (c) practical measures (both physical measures and sensitive working practices, such as protective fencing, exclusion barriers and warning signs) to avoid or reduce impacts during construction (particularly in relation to works within canopy and root protection areas for hedgerows or protected trees);
- (d) the location and timing of sensitive works to avoid harm to biodiversity features (in relation to breeding birds in particular);
- (e) the times during construction when specialist ecologists need to be present on site to oversee

works (as required);

(f) responsible persons and lines of communication; and

(g) the role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person (as necessary).

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless the ECoW otherwise sets out alternative details which are subsequently agreed by the Local Planning Authority.

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

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

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

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

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

20. No development, excluding demolition and site clearance, shall take place within a phase or subphase until a temporary access for construction purposes has been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The detailed design shall include measures for warning other highway users of construction traffic entering or emerging from the access. The access shall be retained in accordance with the approved scheme throughout the construction period free from any impediment to its designated use until it is either replaced/completed pursuant to an approval of reserved matters or the requirements of condition 2 (as the case may be).

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

21. The access to Moira Road hereby approved shall be provided with visibility sightlines of 100 metres in a northerly direction and 108 metres in a southerly direction, both measured to the nearside edge of the carriageway, as measured from a point located centrally and 2.4 metres back into the access, the area forward of which shall be levelled and constructed as footway/verge and put forward for adoption as part of the public highway and thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level, unless a scheme to reduce vehicle speed limits along Moira Road can first be agreed with the Local Highway Authority by way of first submitting details to the Local Planning Authority for their approval in writing and first implemented in full including relocation of associated signage, etc., allowing for visibility splays of 43 metres in both northerly and southerly directions. The area within the approved sightlines shall be levelled and constructed as footway/verge and put forward for adoption as part of the public highway and thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.

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

22. No development shall commence on site, excluding site clearance, remediation and other such preparatory works necessary for the future development of the land, relating to phase 2 of the development hereby permitted (as described in paragraph 3.3 of the Planning Statement ref. P18-0670 dated July 2019) until the new link road, permitted under County planning permission ref. CD9/0519/20 (or any subsequent variation to or equivalent of that permission) has been constructed and taken into use.

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

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

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

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

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

25. Prior to the first occupation of each employment unit, a Low Emissions Strategy providing full details of controls from fleet transport emissions shall be submitted to and approved in writing by the Local Planning Authority. The Strategy shall include details about the mix of the vehicle engine and fuel types and fleet management measures which will be taken to minimise the emissions of respirable particulate (PM) and nitrogen dioxide (NO₂). The Strategy shall include specific targets and timescales. The measures in the agreed Strategy shall be delivered in accordance with the agreed timescales and maintained throughout the life of the development.

Reason: In order to safeguard the amenities of the occupiers of the proposed development and wider area in respect of atmospheric pollution.

26. Prior to the first occupation of a dwelling within Zone A as identified in Figure 7 of the Odour Assessment (ref. A112309 dated July 2019) until at least 1 of the 3 requirements below has been satisfied:

- i) a mitigation scheme for the control of odour within or to the proposed dwellings and/or external residential amenity spaces has been submitted to and approved by the Local Planning Authority and subsequently implemented;
- ii) a mitigation scheme for the control of odour at the has been submitted to and approved by the Local Planning Authority and subsequently implemented; or
- iii) updated assessments or surveys can satisfactorily prove that average odour levels within Zone A have fallen to below 3 OUE/m³.

Where mitigation is applied, such measures shall be subsequently retained in situ and maintained in working order.

Reason: In order to safeguard the amenities of the occupiers of the proposed development in respect of atmospheric pollution.

27. Prior to the first occupation of each respective dwelling, the glazing and ventilation as approved pursuant to the requirements of condition 3 shall be installed. Such glazing and ventilation shall be retained as approved and maintained accordingly and thereafter, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, where replacement windows

or means of ventilation are required these shall achieve the same or better in terms of noise attenuation. Where complimentary noise/acoustic barriers are required and also approved pursuant to the requirements of condition 3, then these barriers shall be installed in accordance with the approved details prior to the first occupation of any dwelling they are intended to attenuate noise to and thereafter, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, maintained accordingly.

Reason: In order to safeguard the amenities of the occupiers of the proposed development in respect of noise pollution.

28. The rating level of sound emitted from any fixed plant and/or machinery associated with the A1, A3, A4, B2 and B8 elements of the development shall not exceed the following noise levels at the façade of any noise sensitive residential receptor location:

- 07:00 – 23:00 hours: 40dBA Measured as LAeq(15mins)
- 23:00 – 07:00 hours: 35dBA Measured as LAeq(5mins)

All measurements shall be made in accordance with the methodology of BS4142:2014 Methods for rating and assessing industrial and commercial sound and/or its subsequent amendments. Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property.

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

29. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, or any order revoking and re-enacting that Order with or without modification, the B1(b), B1(c), B2 and B8 units shall be used only for B1(b), B1(c), B2 and B8 uses of the Town and Country Planning (Use Classes) Order 1987, as amended, or any order revoking and re-enacting that Order with or without modification, and for no other purpose in Class B of the schedule to that Order.

Reason: In recognition of the purpose of the employment allocation at this location and that any main town centre uses hereby permitted have been established by way of a Sequential Test, their presence otherwise contrary to the Development Plan and sustainable delivery of growth.

30. The retail unit hereby permitted (use class A1) shall not exceed 1,600 sq m gross internal area floorspace and the net sales area (defined as all internal areas to which customers have access) shall not exceed 1,280 sq m. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, or any order revoking and re-enacting that Order with or without modification, the retail unit shall be used primarily for the sale of convenience goods, with a maximum of 320 sq m of the net sales area being devoted to the sale and display of comparison goods.

Reason: In recognition that this main town centre use has been established by way of a Sequential Test and Retail Impact Assessment, so to ensure that the projected impact on existing town/local centres remains acceptable.

31. Recharge points for electric vehicles shall be provided within the development to comply with the following criteria:

- Residential: 1 charging point dwelling with dedicated parking and 1 charging point per 10 spaces where the individual units have no allocated parking;
- Non-residential: 1 charging point for every 10 parking spaces (this may be phased with 5% provision initially and a further 5% trigger).

Residential charging points shall be provided with an IP65 rated domestic socket 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket should be located where it can later be changed to a 32amp EVCP. Non-residential charging points shall be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2.

Alternative provision to the above specification must first be submitted to and approved in writing by the Local Planning Authority. To prepare for increased demand in future years suitable and appropriate cable provision shall be included in the scheme design in accordance with details first

submitted to and approved in writing by the Local Planning Authority.

The electric vehicle charging points shall be provided in accordance with the stated criteria and approved details prior to the first occupation or use of the respective premises and shall thereafter be maintained in working order and remain available for use throughout the life of the development.

Reason: In the interests of protecting and enhancing air quality through reducing and minimising emissions from vehicles.

Item No. 1.4

Ref. No. [DMPA/2022/1159](#)

Valid date: 20/10/2022

Applicant: Barwood Homes

Proposal: Approval of Reserved Matters (Landscaping, Layout, Scale and Appearance) pursuant to phase 1 (residential development of up to 75 dwellings) of outline application DMPA/2019/0931 for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure

Ward: Woodville

Reason for committee determination

This item is presented to the Committee given it is a major application and seeks off site BNG provision.

Site Description

The site is Phase 1 of the wider Woodville Regeneration Area which was granted outline permission for comprehensive redevelopment of the site including up to 300 dwellings a new local centre and significant employment space served by a new access through road as well as wider open space, landscaping and drainage.

The site is located in the east of the wider outline permission. The site is irregular in shape and approximately 3.1 hectares. It is north of the junction between Moira Road and Chapel Street. It is bound by Moira Road to the south east. The site boundary then running north west follows an established hedgerow and PROW SD51/5/1 both of which are included in the redline, and then cuts north east along a watercourse and through a woodland to the north eastern boundary of the south where it runs south following established plot line to Moira Road given the adjacent residential development at this point.

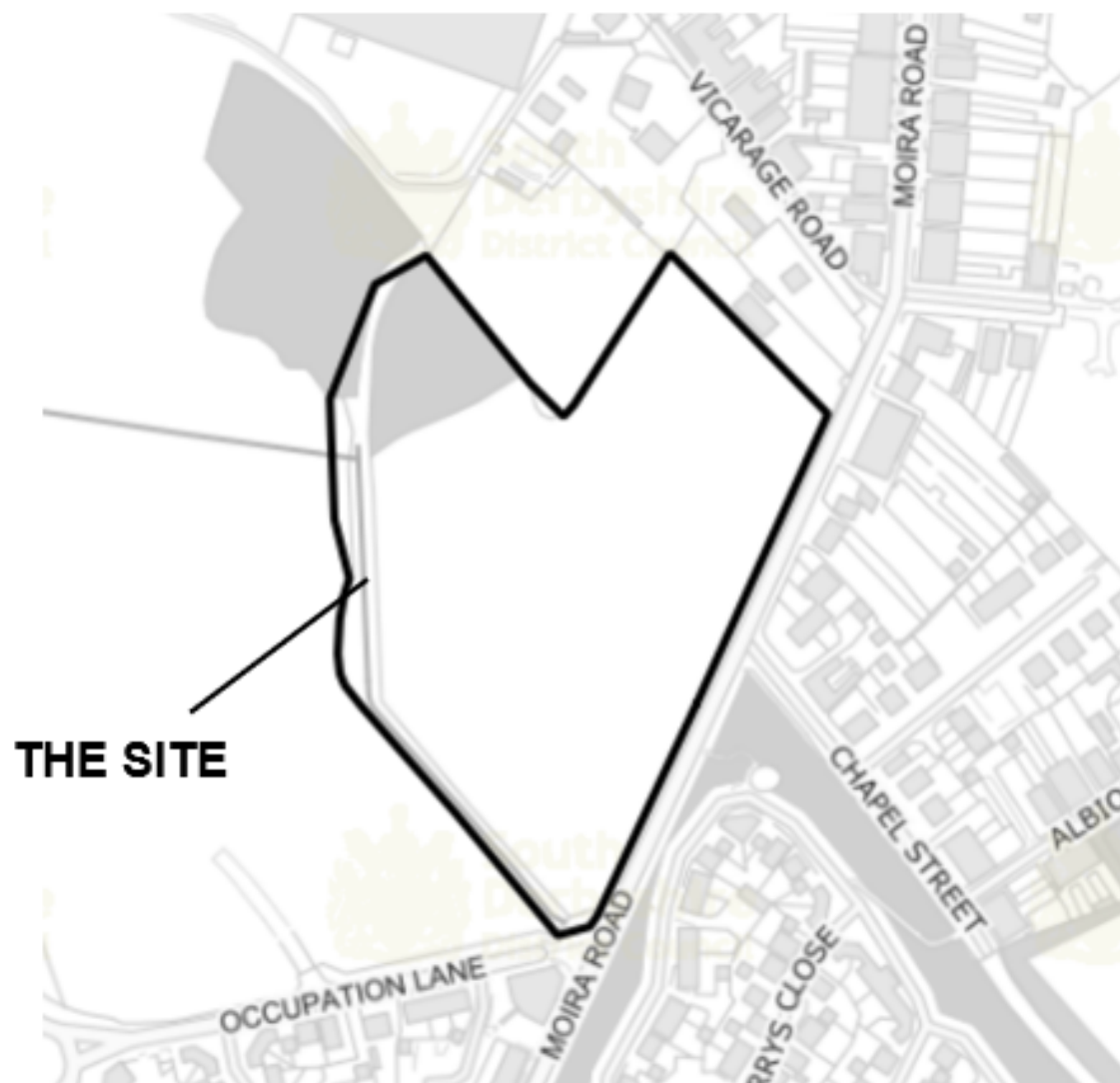
To the west is cleared vacant land within the wider outline permission. To the east is residential development and Moira Road. Moira Road provides access to a number of schools in the area.

Within the site, the land is predominantly clear. As set out there is an area of woodland straddling the north east of the site some of which is outside the site boundary. This is protected by TPO537. There are established hedgerows along the boundary with Moira Road and along the PROW. There is also sporadic tree planting along the north eastern boundary adjacent to the existing residential.

The site generally slopes down from north east to south west but there are undulations within the site.

The site is located within the Woodville area 2km east of Swadlincote. Woodville is identified as the urban area in the Local Plan policy SDT1 to which development will be focussed given its range of services and amenities, and greater accessibility.

DMPA/2022/1159 – Land north of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote



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South Derbyshire District Council LA 100019461.2020

The site is not designated for any landscape value nor any intrinsic wildlife value. It is considered that the site has no heritage assets within or within the proximity. The water course on site is subject to a low risk of surface water flooding.

The Proposal

The proposal is for all reserved matters except for access (agreed at outline) for residential development consisting of 70 dwellings (Use Class C3).

The development description is as follows:

Approval of Reserved Matters (Landscaping, Layout, Scale and Appearance) pursuant to phase 1 (residential development of up to 75 dwellings) of outline application DMPA/2019/0931 for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure

The scheme will provide the following mix of units:

14 no. 2beds 20%

27 no. 3beds 39%

29 no. 4beds 41%

Total 70 100%

The total site area amounts to 3.1ha with a total developable area of 2.11ha. This area provides a site density of c.35 dwellings per hectare (dph), based on total number of units equating to 70.

It should be noted that since submission the applicant has reduced the number of units at the request of the LPA to reduce the density and improve the internal distances and relationships between units.

The site will be accessed and egressed from Moira Road following the approved access. The layout flows from this access around the site creating a spine road with spurs and shared drives feeding off. The layout provides for a street scene of residential development facing Moira Road and the local area for play in the southern corner of the site which follows the outline indicative layout. The PROW will be maintained and pedestrian connections from Moira Road will be increased as per the conditions attached to the outline permission. There is the provision of an attenuation basin to the north around which pedestrian connections will flow from the existing PROW north providing access to later phases of the scheme and the retained woodland. The woodland and attenuation basin and local area for play will be provided as public open space.

The units will be in a range of detached and semi-detached dwellings each served by a front and rear amenity space, drives and/or garage from parking. Buildings will be kept to a maximum of 2 storeys inline with the outline permission and will be consistent in design with local vernacular.

Key buildings are proposed across the site and are designed so that they are distinct from the surrounding buildings. These are generally located to present a clearly defined public realm and legible route through the internal roads.

The main facing materials is proposed as red brick which is prominent to Woodville, with some examples of render to create variance. Plots will be detailed with reflections of local character with occasional features such as bay windows and an array of differing porch styles.

During the application, it has been confirmed that biodiversity net-gain cannot be delivered on site alone and therefore requires an approach to off site provision of 2 habitat units to make up the shortfall.

The approach has been consulted on with DWT and discussed further below. Given the restrictive conditions attached to the outline permission, the approach to secure an off site provision has triggered the need for a S73 which enables off site provision. This application is reference DMPA/2023/0583. In support of this application there has been the submission of the cover letter and technical note for information which compromises the S73 application.

Applicant's supporting information

The application has been supported by a range of documents set out below:

Drawings and Plans:

Location Plan: P20-2301_006

Planning Layout: 3746-002

Presentation Layout: 3746-003

Proposed Sections: 3746-011

Wood- PL- HOUSEPACK TYPE_V1

Single Garage: 3746-51

Double Garage: 3746-50

Landscape and Ecology Management Plan: edp7597_r001-A

Landscape Detailed Design – Residential Plots: edp7597_d002-D

Landscape Detailed Design – LAP: edp7597_d003-C

Landscape Detailed Design – POS: edp7597_d001-F.

Supporting Documents:

Design and Access Statement

Biodiversity Net Gain Technical Note – Part 1 - edp7597_r001-A

Biodiversity Net Gain Technical Note – Part 2

Skylark Mitigation Report – edp7597_r001-A

Woodville Travel Pack

Woodville Green Travel Plan

Relevant planning history

DMPA/2019/0931 - Outline application with all matters reserved, except for part access into the site from Moira Road, for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure on Land north of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote – Approved 8th April 2022

DMPA/2023/0583 - The variation of condition no. 3b (Biodiversity Net Gain) of permission ref. DMPA/2019/0931 on Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote – PENDING

Responses to consultations and publicity

The application was publicised via two round of consultation running from 21th October 2022 until 25th November 2022 and then again on the 6th June 2023 until 20th June 2023 during which letters were sent to neighbours and a site notice and press notices publicised the application.

On this basis, the application is considered to have been publicised in accordance with national and local legislation on consultation.

The reason for the re-consultation was consideration of the following amendments set out below made in response to comments made during consultation:

Proposed layout

- Reduction of dwellings to 70 units
- Reconfiguration of the layout to provide an enhanced street scene, most readily seen at the site's northern boundary.
- Introduction of chimneys at key vistas.
- Introduced new footpath link to Moira Road
- Additional trees along street frontages
- Changes to proposed housetypes to deliver a more consistent typology of house types.
- Confirmation of rear garden depths
- Additional landscaping around

Open Space

- Introduction of additional footpath links within the site, connecting to existing public rights of way to the north and south, and proposed footpath links within the wider development.
- Confirmation of on-site delivery of open space exceeds requirements within the s106 agreement and LPA policy standards.

Highways

- Confirmation of Bin Collection Points at the end of private drives
- Change of materials on Street 01
- Removal of raised table from internal highway
- BNG Off site approach

The following responses were made by statutory consultees in response to consultation provided in summary:

Environmental Health – No comment

Environment Agency – No comment

No comments to make at this reserved matters stage, matters of concern covered by condition on outline permission.

North West Leicestershire District Council Planning – No objection

SDDC Planning Policy – No objection subject to amendments

Local Plan Part 2 Policy INF2 Part A states:

“i) Planning permission will be granted for development where:

- a) travel generated by development, including goods vehicle movement, should have no undue detrimental impact upon local amenity, the environment, highway safety, the efficiency of transport infrastructure and the efficiency and availability of public transport services; and
- b) appropriate provision is made for safe and convenient access to and within the development for pedestrians, cyclists, public transport users and the private car; and
- c) car travel generated by the development is minimised relative to the needs of the development”.

The outline planning application DMPA/2019/0931 decision notice, condition 3, states:

“The reserved matters shall be designed broadly in accordance with the illustrative plan ref. P16-1422_004 revision B and section 5 of the Design & Access Statement ref. P18-0670_200B dated August 2019....”

Condition 3 (h) of the above states:

“pedestrian and cycle links between residential cul-de-sacs and Occupation Lane, Moira Road and the WSRR, as well as pedestrian and cycle links between the local centre car parking/pedestrian

circulation areas and the WSRR;”

On this basis, additional routes through the site and widening of routes to 3m for use as shared paths with bound surfaces was requested. No access barriers should be erected at the entrances to these routes.

DCC Archeology – No objection

Conservation Officer – No objection

Not within the setting of a Listed Asset, and given previous Outline permission, no further assessment required.

DCC Highways – No objection subject to access and parking provision

Secure By Design – Comments

- majority of reserved matters detail is good from a community safety perspective.
- query regarding the Moira Road boundary and enclosure of the two shared drives for plots 12-15 and 16-20. The proposal shows an easement along the Moira Road edge, but no boundary treatment for either the roadside or the two shared driveways. Two shared drives should be defined by post and rail fencing (as the other shared drives on site are) and that there should be a stronger definition to the Moira Road edge, easement permitting.

Subsequent comment

- Moira Road boundary treatment now be defined by a 1.2m high wooden post and rail fence.
- Lack of clarity for other boundaries, with the LAP area edged with timber post and rail fence on site plan revision D, but shown as with an estate rail on landscaping plans.
- All house types are now named rather than numbered, with no additional floor plans that I can see, footprints seem to be different, need clarity.

Derbyshire County Council - Local Lead Flood Authority (LLFA) – No comments

The applicant should ensure that the proposed development layout reflects the outline application and that the relevant surface water conditions can be discharged.

Natural England – No comments

Sever Trent Water – No comments/objection subject to condition on capacity

Foul is proposed to connect into the public foul water sewer, which will be subject to a formal section 106 sewer connection approval. As a pumped solution is being proposed for foul water discharge from this site, a sewer modelling assessment may be required to determine what impact the generated flows from this site will have on the network and to determine the maximum pump rate that could be accommodated within the existing network without worsening the existing sewer performance in rainfall events. Severn Trent may need to undertake a more comprehensive study of the catchment to determine if capital improvements are required. If Severn Trent needs to undertake capital improvements, a reasonable amount of time will need to be determined to allow these works to be completed before any additional flows are connected.

Derbyshire County Council – No objection / comments

Adult Social Care and Health - unable to provide specific feedback based on number and type of housing. However, we would like the following general design principles considered to comply with the NPPF's requirement for developments to 'create places that are safe, inclusive and accessible and which promote health and well-being, with high standards of amenity and flexibility for existing and future users.'

- Dwellings meet national space and/or M4(2) standards to encourage independent living for all ability and mobility levels
- Good internal space standards, ceiling heights, natural light levels
- Stairways, walls and ceilings capable of accommodating stair lifts or hoists should these be required in future; large internal cupboards which could be converted for through floor lifts at a future date
- A mix of tenures and types: affordable accommodation is important to help ensure the stability of the

domiciliary care market

• Having a proportion of dwellings built on one level (stacked or bungalow) and ensuring this type of provision is located near public transport routes and/or urban centres”.

National Forest Company – No objection subject to S106 monies

- The outline (DMPA/2019/0931) acknowledged that there would be shortfall planting across the whole site area, and accordingly the outline was approved subject to a s106 agreement which requires any shortfall of the required 6.45ha of on-site National Forest planting to be met by a financial contribution.
- This contribution should be met for each reserved matters phase to provide the proportion of National Forest planting that the site area of that phase would trigger. Given that phase 1 does not include woodland planting and landscaping, the NFC considers that the National Forest planting requirement should be met by a financial contribution, based on 30% of the site area, calculated at a rate of £35,000 per hectare.
- Previous comments need further consideration, noting amendments and that some elements could be conditioned.

Derbyshire Wildlife Trust – No objection subject to condition / accepts Off Site BNG provision

No major concerns regarding the off-site delivery in principle, but the details should be agreed.

Advise as follows:

1. Identify sites owned by the Council that might be able to deliver 3 habitat units.
2. Ask the applicant to visit the identified sites to confirm and record the ecological baseline habitats and their condition and to work up the details including costs and agree this with the Council. A financial contribution could then be made to the Council secured by a S106 agreement.
3. Once they applicants have done this they should update the biodiversity metric so that it shows a net gain (i.e. they need to include the details of the off-site compensation site).

Woodville Ward Councillor – Cllr Taylor

Considered 9th November 2022 by Woodville Parish Council with one of the questions that was most prominent being the proposed routes for HGV vehicles accessing and egressing the site understanding that weight limits are permitted for accessing the site where restrictions are in place namely Moira Road Woodville. To observe that Moira Road has a weight limit restriction, pupils attending school (2schools) twice daily, the narrow throughfare aggravated by legally parked vehicles, could you please advise the routing, 5 - 7 day workings, access rites and daily timings for activities at this site directions from Swadlincote and Ashby de la Zouch.

DCC Public Right of Way PROW – No objection / comments

- The footpath must remain open, unobstructed and on its legal alignment.
- There should be no disturbance to the path surface without prior authorisation from the Rights of Way Section. In planning the incorporation of the footpaths into the development, preference should be given to the use of made-up paths through landscaped or open space areas away from vehicular traffic.
- Consideration should be given to the safety of members of the public using the paths during the works. A temporary closure of the footpath may be granted to facilitate public safety during the construction phase subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section. The applicant should be made aware that at least 5 weeks’ notice is required to process the closure and an alternative route should be provided if possible.
- A temporary closure of paths will be permitted on application to DCC where the path(s) remain unaffected on completion of the development. Or, where a diversion is required under the provisions of the Town and Country Planning Act 1990, that the Order has been Confirmed. The applicant should be advised that an application can be submitted for the diversion of the public footpaths in advance of planning permission being granted.

- Finally, I would request that consideration is given to funding being provided to improve the paths linking to and surrounding the development which will receive increased use on completion of the development.

The application received no public responses in objection or support.

One comment made the following point which was considered neither in support or objection to the proposal:

Conditions to state that priority must be given to establishing construction traffic access to site off Moira Road or (better) Hepworth Road. Thereafter access off Occupation Lane must be prohibited at all times. No construction vehicles of any kind must be parked in Occupation Lane at any time.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 Local Plan Part 1: S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); S3 (Environmental Performance); S4 (Housing Strategy); S6 (Sustainable Access); H1 (Settlement Hierarchy); H20 (Housing Balance); H21 (Affordable Housing); SD1 (Amenity and Environmental Quality); SD2 (Flood Risk); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); SD4 (Contaminated Land and Mining Legacy Issues); SD5 (Minerals Safeguarding); BNE1 (Design Excellence); BNE2 (Heritage Assets); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness); INF1 (Infrastructure and Developer Contributions); INF2 (Sustainable Transport); INF7 (Green Infrastructure); INF8 (The National Forest), INF9 (Open Space, Sport and Recreation).

2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development); BNE7 (Trees, Woodland and Hedgerows)

The relevant local guidance is:

South Derbyshire Design Guide SPD

South Derbyshire District Council Strategic Housing Market Assessment January 2020 (SHMA)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF) (as updated)

Planning Practice Guidance (NPPG)

Planning considerations

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

- Principle of development
- Housing Need and Tenure
- Impact on residential amenity
- Effect on highways safety
- Design and impact on the character of the area
- Trees and ecology
- Other matters
- Section 106 obligations; and,
- Conclusion and Planning Balance

Planning assessment

Principle of development and compliance with the Outline permission

The site is allocated for employment led regeneration via Policy E6. This reserved matters application is pursuant to the wider outline permission granted which reflects the objectives of employment led

regeneration of E6 but also permitted up to 300 dwellings. The policy notes that housing would also be delivered and assist in the viability of the overall scheme.

The site is located within the settlement boundary of Woodville as set out in policy SDT1. Policy H1 outlines this area is the sole urban area within SDDC and where development of sites within the settlement boundary is considered appropriate in principle.

The principle of residential development is therefore acceptable as it accords with policy H1 and the wider housing strategy under policies S1 and SDT1.

The NPPF sets out a presumption in favour of sustainable development, in particular affording weight to significantly boosting housing delivery. The Local Plan relies on the housing provision arising from this site and has already been considered as sustainable in the round given the provision of facilities and services on site to support these provisions.

As with all proposals for planning permission, consideration needs to be given to its detail to ensure that it is in accordance with the relevant policies, however the principle of the development is considered to be acceptable.

The outline application was approved subject to several conditions. Condition 2 specifically outlines that the approved access from Moira Road shall not serve more than 75 dwellings and such access shall be delivered in accordance with the parameters set out in the subsequent approved drawing. The proposed access is discussed in further detail below however, the approved junction arrangement is in accordance with that approved, serves 73 dwellings and no objection is raised from Derbyshire Highways Authority.

Condition 3 requires the reserved matters to be broadly in accordance with the approved indicative plan ref.P16-1422_004 Rev B and section 5 of the approved Design and Access Statement.

It is considered that the proposed layout is reflective of plan ref.P16-1422_004 Rev B. In terms of compliance with section 5, Officers have reviewed this document. The DAS allows for residential development up to 36dph, in a scale up to 2 storeys, with a main residential road from Moira Road, tertiary streets and shared drives, provision of perimeter blocks with outward looking development over key spaces, responsive design along Moira Road with open space adjacent to Moira Road, green routes north through phase 1 and drainage along the existing watercourse all of which is reflected in the proposed development.

Furthermore condition 3 requires that reserved matters applications shall be supported by the following documents where relevant:

Condition 3a: Include a Landscape and Ecological Management Plan (LEMP) for all retained and created habitats.

Condition 3b: Include a Biodiversity Metric Calculation to confirm the extent to which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain.

Condition 3c: Include a suitable off-site compensatory habitat scheme for ground nesting priority bird species, including skylark.

Condition 3d: Include details of enhancement measures for bats and birds in the form of incorporated bat boxes/bat bricks and nesting boxes on existing mature trees and within the fabric of the new buildings

Condition 3e: Include details of hedgehog holes/tunnels within boundary fences and walls at ground level to residential gardens

A LEMP, Biodiversity Report and Skylark Assessment are included within the RM submission. The Landscaping plans show details of bird/bat boxes, along with hedgehog tunnels. All of which have been consulted on by DWT who raise no objections. The process and provision for off site BNG is discussed below.

Condition 3f: the layout shall accord with the Highway Authority's 6C's Design Guide and national

guidance laid out in the Manual for Streets.

Condition 3g: the gradient of any site access shall not exceed 1:30 for the first 10m into the site from the existing highway boundary and/or the Woodville to Swadlincote Regeneration Route (WSRR) and 1:20 thereafter.

Condition 3h: Include pedestrian and cycle links between residential cul-de-sacs and Occupation Lane, Moira Road and the WSRR.

Condition 3i: Each dwelling to be provided with designated space for the parking of 1.5 vehicles per 1 bedroom dwelling, two vehicle spaces per 2-3 bedroom dwelling and three vehicles per 4+ bedroom dwelling.

Condition 3j: Include domestic bin collection points, sufficient for holding no less than 2 bins per dwelling on collection days, at the entrance of shared private accesses.

It is considered that the submitted layout accords with adopted Highway's guidance discussed further below and the proposed roads will not exceed the stated gradient limits. Pedestrian and Cycle links are provided within the site layout to Moira Road. Parking provision accords with minimum standards and Bin Collection Points are shown on the Planning and Presentation layout.

Condition 3k & 3l: Not relevant. Condition 3m: Include a revised Travel Plan for that phase or premises, based upon the approved framework Travel Plan.

A Revised Travel Plan is included in the application submission which has been considered by DCC highways and no objection raised.

Condition 3n: Not relevant.

Condition 3o: Inclusion of a Local Area for Play (LAP) as part of the phase 1 residential scheme.

Condition 3p, 3q, 3r & 3s: Not relevant

Condition 3t: Retained hedgerows and trees shall not form boundaries to gardens to proposed dwellings and shall be incorporated into green infrastructure.

Condition 3u: Include details of subterranean tree and hedgerow root growth facilitation measures.

A suite of detailed landscaping plans have been submitted in support of the application, which show the LAP provision, retained hedgerows and management of existing landscaping. No objection has been raised by the Landscape Officer, Open Space Officer or DWT to the submission.

For the reasons set out above the application is considered acceptable in principle in that it follows the outline permission in its delivery of residential development, it is laid out in broad compliance with the relevant approved documents and the application is supported by the necessary information. There is the need for an off site provision of BNG but this considered to be acceptable and discussed in more detail below.

Housing Mix and Tenure

Policy H20 aims to ensure a balance of housing that includes a mix of dwellings, tenure, size and density. This mix is also promoted to accommodate for different groups of people, which includes an ageing population. Policy H21 seeks developments to provide up to 30% of new housing as affordable as defined by the NPPF on sites with over 15 dwellings.

The proposed development provides a range of dwelling types with the majority focussed as 3 and 4 bed which aligns with the expected need for market housing as set out in Table 36 of the Strategic Housing Market Assessment. On this basis, the proposed housing mix is aligned to and would help meet the expected need for larger family housing which weighs in favour of the application.

The proposed development would provide both detached and semi detached housing at a density c.35 dwellings per hectare (dph), based on total number of units equating to 70. This offer is considered to maximise the delivery of housing, in a layout that reflects the outline and provide a mix of dwelling types in line with Policy H20.

The proposed development is solely for market housing. The viability of delivering affordable housing on this site was tested at outline stage, concluded that it would be unviable for both S106 monies as well as affordable housing, most notably due to the land contamination cost given the previous use of the site. The Officer recommendation was to approve with no affordable housing noting that Homes England funding may come forward for provision at reserved matters stage. In line with the outline permission the application will provide a range of S106 contributions and no affordable housing. The S106 contributions are to social infrastructure and this is set out later in this report.

In conclusion, the Applicant has confirmed that discussions with local affordable housing partners are ongoing and there is a desire to provide an element of the proposed homes as affordable housing. This will be dependent on the level of grant funding available from Homes England. Notwithstanding this, the application is not bound to provide affordable housing, it is compliant with the outline permission and legal agreement, and it is not considered to be in conflict with Policy H21 as it is subject to the viability of the proposal.

Overall, it is considered the proposal responds to a demonstrable need and would align with policy H20 by providing a range of typologies, which subject to condition will also provide accessible units. Whilst it is unfortunate affordable housing is not being proposed in this phase, there remains wider phases, and the application is not considered to conflict with the Local Plan on this point given the outline was permitted on the basis of no fixed affordable offer, anything that did come forward would be a benefit, but not a benchmark to assess the application against.

On this basis, the application is considered to be compliant with the Local Plan and the benefit of meeting a demonstrable housing need is given weight in favour of the application.

Design, Layout and Density

LP1 policy BNE1 requires all new development to be well designed, to embrace the principles of sustainable development, to encourage healthy lifestyles and enhance people's quality of life by adhering to design principles relating to community safety, street design, movement and legibility, diversity and community cohesion, ease of use, local character and pride, visual attractiveness, neighbouring uses and amenity, healthy lifestyles and resource use. All proposals for new development are assessed against the Council's Design SPD.

Policy S6 Sustainable Access states that the Council will seek to minimise the need to travel and encourage modal shift away from private car to walking, cycling and public transport. To do this they will seek the provision of new or enhanced walking, cycling and public transport infrastructure.

Layout and Housing Design

The proposed layout for the site shows a new access from Moira Road via a new junction as permitted at outline permission, with a tree lined spine road running into the site leading to spurs and further shared drives which is in line with outline and considered to result in a high quality public realm when entering the site. The layout is considered to maximise development but generally conforming to SPD principles of overlooking and separation distances. There are a range of house types proposed all of which have been considered as reflective of the vernacular of the area, with some dwellings at key locations along the spine road being key typologies and expected to have varied detail to provide variance which is again considered positive and in line with the outline design principles. The site is considered too small to provide specific character areas but the spine road is tree lined which is welcomed and considered to improve the public realm here.

The layout provides for a street scene along Moira Road which is welcomed and where properties are adjacent to POS these are largely positioned such that they face onto these areas, presenting a more active, attractive streetscene and natural surveillance of the spaces.

All dwellings are positioned so as to enjoy off-street parking and amenity provision to the rear of the property. Some dwellings also enjoy some amenity space to the front/side of their respective plots. Where achievable, all gardens have a minimum depth of 10m, there are however some that fall below this figure, but this does not result in undue harm or unacceptable amenity to the host property.

Overall, the layout is considered inline with the outline design principle and should result in a high quality public realm and residential units.

Density

The proposed density is c.35dph which is considered inline with the outline consent given conditions 3's reference to Section 5 of the DAS where it states this up to 36dph for Phase 1. The amount of development has also been reduced in discussion with the applicant and the mix amended to help tailor the housing offer and address some original concerns regarding density and internal housing relationships. Now the application is considered to reflect the outline and maximise the capacity of the site delivering a suitable housing offer, not to the determinant of the quality of units or public realm.

Landscaping, Open space and Connections

A landscaping strategy (including proposed landscaping plans, POS detail, including children's play areas and specimens) has been submitted to support the application which shows the existing landscape assets which are to be retained. These are largely the PROWs, existing hedgerows and woodland. The water course on site is to be enhanced to provide an attenuation basin. Pedestrian connections will be provided by enhancing the PROW FP5, a link will be provided through the site linking FP5 to the existing FP4 running through the retained woodland, in addition there will be connections through to Moira Road onto the shared driveways of the houses and the public realm provides access northwards through the site. There are indicative spurs shown on the routes to provide connections to the later phases. In addition, routes have been sized to 3m which provides for dual use by pedestrian and cyclists.

The Local Area Play is to be provided in the southern corner of the site which aligns with the indicative layout plan. This space contains perimeter planting and pathways. It is considered that it is appropriately spaced and located within the site. A condition will be added to secure the final detail of the play equipment and its build out prior to the occupation of any dwelling.

The POS offer includes the LAP as well as the attenuation basins and retained woodland. Given the connections provided through these spaces and with suitable street furniture the provision is considered to provide a range of spaces to meet various needs from which and as such the POS provision is considered to be acceptable.

The Council's Landscape Officer offers comments on the application requiring the use of native hedgerows and more tree planting both within some of the hedgerows, around and within the POS, within the rear gardens of properties and with the front/side gardens of properties. They also comment on the use of boundaries and the need to include hedgehog access points and the need to include inclusive play equipment. That said they offer no in principle objections to the proposals, and it is considered that the additional planting and information can be secured by condition.

Access, parking and servicing

The site layout follows that indicated at outlined stage with internal roads and shared drives. Condition 3f requires the roads to be built to DCC compliant standards. The internal roads proposed are for the majority built to DCC compliant adoption standards. The two minor spur lanes will be 5m wide instead of 5.5m wide. This point has been raised with DCC as the applicant is seeking adoption for all internal roads except for shared drives. DCC have accepted this road width at this point on the basis that the width is to allow up to HGV movements and given the scale and type of units served by such is unlikely to be needed.

The site layout provides for a number of pedestrian routes from the shared drives along Moira Road into the site. This is inline with outline condition 3h.

The access will be from Moira Road and meets condition 21 attached to the outline and states:

21. The access to Moira Road hereby approved shall be provided with visibility sightlines of 100 metres in a northerly direction and 108 metres in a southerly direction, both measured to the nearside edge of the carriageway, as measured from a point located centrally and 2.4 metres back into the access, the area forward of which shall be levelled and constructed as footway/verge and put forward for adoption as part of the public highway and thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level, unless a scheme to reduce vehicle speed limits along Moira Road can first be agreed with the Local Highway Authority by way of first submitting details to the Local Planning Authority for their approval in writing and first implemented in full including relocation of associated signage, etc., allowing for visibility splays of 43 metres in both northerly and southerly directions. The area within the approved sightlines shall be levelled and constructed as footway/verge and put forward for adoption as part of the public highway and thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.

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

A further condition 23 attached to the outline requires prior to occupation the internal roads to be constructed to base level, drained and lit, with a footway and such will be completed within 12 months (or 3 months in the case of a shared surface road) from the first occupation of that plot/unit. This will continue to control Phase 1 on this matter.

Parking is proposed off street with each dwelling having either driveway and/or garage parking. The dimensions of the parking has been provided on the proposed layout plans which has been considered by DCC Highways who raise no objection on this matter. The proposed parking aligns with the standards set out by Condition 3i attached to the outline and furthermore the dimensions will be controlled by virtue of being on approved plans.

Further to this with regards to parking condition 3l requires 1 dedicated point per dwelling with dedicated parking as it is in this instance and sets out the specification for this EV charging point. This condition will continue to control Phase 1 and ensure EV charging in each unit proposed which is welcomed.

In the amendments made to the proposed layouts and plans, spaces have been indicated with sufficient sizing at the end of shared drives to allow for the storage of bins for accessible collection. This is now inline with condition 3j attached to the outline, which is welcomed and such detail will be controlled by virtue of being on approved plans.

A Travel Plan this has been submitted as per the outline condition 3m. The TP follows the framework travel plan approved at outline setting out a series of measures to reduce the need to travel and if successful, would reduce the need to own a car. The TP measures in the TP will be conditioned and the annual monitoring and monies are already secured as part of the Section 106 agreement to the outline which continue to bind this land.

The application has been considered by Derbyshire County Council Highways, who raised no issues regarding highways impacts or trip generation. The proposed parking is inline with standards and there is the provision of cycle and indication of EV parking points, which conditions will or are already attached to relevant permissions.

Overall, it is considered that the proposal will not give rise to undue impacts on network capacity, provision of parking, cycle and EV parking is acceptable subject to condition and there is an agreed legal agreement controlling Travel Plan measures. On this basis, the application is considered acceptable in terms of highways, access and sustainable transport.

Drainage, Flooding and the River Mease

Policy SD2 Flood Risk states when considering development proposals the Council will follow a sequential approach to flood risk management, giving priority to the development of sites with the lowest risk of flooding. Developments in areas that are identified as being at risk of flooding will be expected to:

- i) Be resilient to flooding through design and layout;
- ii) Incorporate appropriate mitigation measures, such as on-site flood defence works and/or a contribution towards or a commitment to undertake and/or maintain off-site measures;
- iii) Not increase flood risk to other properties or surrounding areas; and
- iv) Not affect the integrity or continuity of existing flood defences Suitable measures to deal with surface water will be required on all sites in order to minimise the likelihood of new development increasing flood risk locally.

Any developments that could lead to changes in surface water flows or increase flood risk should be managed through the incorporation of Sustainable Drainage Systems (SUDS), which mimic natural drainage patterns, unless this is not technically feasible.

Proposals that lower the risk of flooding will be supported, subject to the proposal having no other adverse effects on local amenity and/or flood risk elsewhere. Where new flood related infrastructure is proposed, opportunities for delivering environmental improvements, including biodiversity gain and green infrastructure delivery, should be fully considered by those delivering the project.

Policy SD3 Sustainable Water Supply, Drainage and Sewerage Infrastructure requires the Council and other stakeholders to ensure future water resource needs, wastewater treatment and drainage infrastructure are managed effectively in a coordinated manner by:

- i) Ensuring that adequate water supply, sewerage and drainage infrastructure needed to service new development is delivered in tandem with identified growth;
- ii) Supporting activities by the Water Companies to reduce demand for water and in turn suppress sewerage and discharge effluent volumes;
- iii) Working with the County Council (as Lead Local Flood Authority or other appropriate body), to ensure new developments incorporate sustainable drainage schemes that reduce the demand for potable water supplies and mimic natural drainage, wherever practicable.

Foul flows generated by new development will be expected to connect to the mains sewer. Surface water from new development will be expected to be managed using SUDS; discharge to watercourse; or connection to surface water mains sewer.

The site lies within Flood Zone 1 on the Environment Agency's flood map. Consequently, the area is deemed to be at the least risk to flooding. However, there is a watercourse running through the site north south, which is subject to low risk of surface water flooding.

The built development proposed introduces impermeable areas it would therefore generate appreciable rainwater run-off, there is potential for substantial surface water and therefore potential for flooding of the site and/or other land.

The indicative layout at outline stage showed drainage attenuation along the existing watercourse and located at the southern corner at the entrance of the site alongside open space. This is now proposed as Local Area Playspace (LAP) alone, and this arrangement is considered to offer a more inviting and accessible space to the local community. The attenuation will be located on the route of the watercourse where it is already susceptible to surface water flooding which is considered to be a pragmatic design solution and still inline with the outline strategy.

The outline permission was subject to the following drainage conditions:

No development, including preparatory works, shall commence within a phase or sub-phase until details of measures indicating how additional surface water run-off from the phase or sub-phase will be avoided during the construction works have been submitted to and approved in writing by the Local Planning Authority. The applicant may be required to provide collection, balancing and/or settlement

systems for these flows. The approved measures and systems shall be brought into operation before any works to create buildings or hard surfaces within that phase or sub-phase commence.

No construction of a building or hard surface, setting of site levels or installation of drainage services/utilities within a phase or sub-phase shall take place until a detailed design of, and associated management and maintenance plan for, surface water drainage of the phase or sub-phase, in accordance with the technical notes and principles outlined within:

a) the Flood Risk Assessment and Outline Drainage Strategy (06785-CUR-00-XX-RP-D-001 Revision 4) dated 24th July 2019 and the Technical Note (067895-CUR-00-XX-RP-D-72901-P01) dated 2nd April 2020, including any subsequent amendments or updates to those documents as approved by the Lead Local Flood Authority;

b) Defra non-statutory technical standards for sustainable drainage systems; and

c) Development Proposals within the River Mease Catchment: Standing Advice for Local Planning Authorities (LPAs) - Third Issue Including Detailed Advice on Sustainable Urban Drainage Systems (SuDS)

has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that, as a minimum, suitable capacity is proposed to attenuate peak flows from the phase or sub-phase, making allowance for climate change and urban creep, and where necessary include measures to capture overland flows between proposed and existing properties.

The scheme shall also include drawings and details, including the colour and appearance of safety railings, of all inlet and outfall structures to attenuation ponds, as well as details of any management company, responsible person(s), the mechanism of funding of the management company (including the details of any proposed service charge payable by the owners of the dwellings, justification for any amount proposed and the mechanism for calculating future increases in the service charge) so that the management company will be capable of carrying out the inspection, management and maintenance of the retained surface water drainage features. Attenuation ponds shall be fully designed and constructed in line with CIRIA SuDS manual C753.

The surface water drainage infrastructure shall be installed in conformity with the approved details prior to the first occupation/use of each respective building/road/hard surface served by the surface water drainage system within that phase or sub-phase or in accordance with a phasing plan first submitted to and approved in writing by the Local Planning Authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.

Upon completion of the surface water drainage system, in part or in whole, including any attenuation ponds and swales, and prior to their adoption by a statutory undertaker or management company; a survey and report from an independent surveyor shall be submitted to and approved in writing by the Local Planning Authority. The survey and report shall be carried out by an appropriately qualified Chartered Surveyor or Chartered Engineer and demonstrate that the surface water drainage system has been constructed in accordance with the details approved pursuant to condition 12. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be included for approval in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed by an independent surveyor, with their findings submitted to and approved in writing by the Local Planning Authority.

No construction of a building or hard surface, setting of site levels or installation of drainage services/utilities shall take place within a phase or sub-phase until details of the finished floor levels of the building(s) or hard surface(s), and of the proposed ground levels of the site relative to the finished floor levels and adjoining land levels, for that phase or sub-phase has been submitted to and approved in writing by the Local Planning Authority. Such details shall be supplemented with locations, cross-sections and appearance of any retaining features required to facilitate the proposed levels. The development shall be constructed in accordance with the approved details.

These conditions control drainage on site during construction and operation and provide control to ensure the strategy is built out in accordance with and prior to occupation. The proposed development aligns with the drainage strategy principles and objectives, and it is understood that an attenuation

basin has been sized to accommodate the expected run off and delay drainage at a suitable rate. On this basis, the outline strategy is not undermined by the reserved matters. Given the pre-commencement nature of the conditions, development cannot commence until the final drainage is acceptable.

The LLFA was consulted on the proposal and raises no objection given the existing conditions applicable and the control on the matter offered by them.

Foul water would be managed via a connection to the lower sewer network to which Severn Trent Water raises no objection subject to a capacity study being undertaken prior to commencement and any remedial works being undertaken, which could be controlled by conditioned.

Given the proximity of tributaries feeding the River Mease, an appropriate assessment as per the Habitat Regulations of the proposed development was undertaken at the outline stage. There has been no material changes to the context to undermine this assessment. The assessment details that the foul discharges from the development will discharge outside the catchment; thus, foul water will not cause an adverse impact on the River Mease SAC. In terms of the surface water again these matters are suitably conditioned, and the Natural England raises no objection beyond requesting consultation on the discharge of these conditions, as/when information for their discharge is brought forward, to ensure there will not be an impact on the River Mease from the development.

Overall, it is considered that the reserved matters align to the approved drainage strategy. Natural England raise no objection and the HRA undertaken for the outline permission is still applicable here in so far as the outline conditions bind this consent too which limit the pathway for possible impacts.

In summary, the proposed development is not at significant flood risk and a suitable drainage strategy can be implemented. The proposed development therefore accords with LPP1 Policies SD2 and SD3 and Section 14 of the NPPF.

Biodiversity, Ecology and Trees

The application is supported by a Biodiversity Report and Assessment, Landscape and Ecological Management Plan (LEMP) for all retained and created habitats, an off-site Skylark assessment and the supporting landscaping plan shows details of bat and bird boxes and hedgehog tunnels. This is in line with condition 3a-e in terms of required information.

The existing woodland is retained, and onsite grassland would be provided in terms of public open areas, further to this there would be soft landscaping hedgerows and an attenuation basin. Notwithstanding this, the ability of further gain is limited and the application seeks a Biodiversity Net Gain, both on and off site.

The outline permission granted a clear development parcel within the site, within which residential development would come forward, and the reserved matters layout is reflective of this indicative layout, retaining areas of open space, play and woodland. In addition to this Condition 3b states:

(b) a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain) compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework;

The effect of this condition as worded is that it is considered to only enable on site provision of BNG. The timing of the decision is noted and it is considered that on site provision of BNG may not have been fully appreciated at the time given the infancy of the Environment Act at that time, which is unfortunate as it has led to this matter.

The Environment Act which is the legislation behind which BNG is founded, allows for off site provision if on site gain has been maximised and even a commuted sum if further criteria are met, so it is not the case that off site provision should automatically lead to the refusal of an application on this basis.

Discussions have taken place with Derbyshire Wildlife Trust during the course of the application and their position on the matter is as follows:

I have reviewed the letter from EDP Ltd (22nd March 2023) which sets out an approach to biodiversity net gain to comply with condition 3b. I've also reviewed the existing proposals on-site and the LEMP that was submitted earlier in the process. The net loss of 2.33 habitat units is acknowledged in the letter and previously within the Biodiversity Technical Note prepared by EDP. This loss has been calculated using a Biodiversity Metric. It is noted that some woodland habitat is retained on site and that the on-site proposals already include creating areas of species rich grassland as part of the public open space and in association with the drainage system. Further biodiversity gain on-site would be challenging unless the scale of the development was reduced.

The shortfall of habitat units to secure a gain is 3 units rounded. An assessment was requested by Officers to confirm the extent of land required to achieve an on site net gain which found an additional 33% (1.03hectares) of the site would be required to deliver no net loss. This would result in a significant loss of housing. The housing delivery was considered in the outline application and was accepted to a greater degree across the outline site on the basis that such would enable the wider employment led regeneration in line with policy by making it viable. On this basis, it is considered unreasonable to provide an on site gain to the detriment of housing delivery and likely the viability of the entire outline permission. Overall, given DWT raise no objection and agree, it is considered that on site gain has been maximised and this opens the pathway for off site provision.

Subsequently, to enable both on and off site provision, the wording of Condition 3b is now proposed to be amended as follows:

"b) a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain), which in the first instance should be provided on site as part of any phase of the development, or subject to agreement with the LPA and Derbyshire Wildlife Trust on a suitable off-site location or via a financial contribution, compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework. For the avoidance of doubt, each phase should positively contribute to the delivery of a biodiversity net gain;"

This is the subject of the application reference DMPA/2023/0583, which is also to be considered by Committee.

On this basis, the on site BNG will be managed by the approval of the submitted LEMP. The off site delivery will require land outside of the redline, the matter will be controlled by a legal agreement. The matter has been discussed with the applicant and they are in agreement with this approach.

SDDC's legal team have been instructed on this matter and are in discussion with the applicant's solicitors.

The current drafting of the heads of terms is based on the following principles. These principles follow the standard LEMP condition wording provided by Derbyshire Wildlife Trust:

BNG Off Site Provisions:

1. to provide (insert size/area/habitat units as per DEFRA metric) of land off site
2. to provide the off-site land situated within the Parish of Woodville and if that cannot be satisfied, the District Ward and if that cannot be satisfied within the centre or south east of the District and if this cannot be satisfied in the south of the District and if this cannot be satisfied in the District
3. to submit to the Council for approval the BNG plan which shall include:
 - a. Description and location of features to be retained, created, enhanced and managed.
 - b. Details of bat and bird boxes to be installed including location, type and number
 - c. Details of hedgehog connectivity gaps including a plan showing locations
 - d. Aims and objectives of on-site and off-site management.
 - e. Ecological trends and constraints on site that might influence management.
 - f. Appropriate management methods and practices to achieve aims and objectives.
 - g. Prescriptions for management actions.

- h. *Preparation of a work schedule (including a five-year work plan capable of being rolled forward*
 - i. *in perpetuity).*
 - j. *Details of the body or organization responsible for implementation of the plan.*
 - k. *Ongoing monitoring and remedial measures including benchmarking of the site enhancement areas against the DEFRA conditions sheets reportable to the authority at 5-, 10-, 15- and 30- years post completion*
4. *details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.*
 5. *These obligations to be satisfied before occupation and in consideration with DWT*

It is considered that an obligation drafted inline with the principles above would be sufficient to control the off site provision of biodiversity net gain. In summary then there is a process which would secure BNG inline with the provisions of the Environment Act and the application is acceptable in this regard.

Further comments from DWT have raised that the Council should seek further information from the applicant regarding a location and agreement with the landowner for the delivery of the skylark mitigation. This has been forthcoming from the applicant and is being considered by DWT. It was also recommended that the number of integrated swift bricks is increased to 75 in line with the British Standard (BS 42021:2022 Integral nest boxes – Selection and installation for new developments) which can be secured by condition.

With regards to trees, the extent of tree retention and tree loss has been accepted at outline stage. The application site is within the National Forest Company (NFC) as designated by policy INF8. The outline permission accepted the principle of commuted sum for payments to the NFC if substantial woodland isn't planted on site. As set out above there are a number of pressures on Phase 1. It is considered that Phase 1 does not include woodland planting and discounts sporadic tree planting for the purposes of assessing contributions to the NFC. On this basis, *the NFC considers that the National Forest planting requirement should be met by a financial contribution, based on 30% of the site area, calculated at a rate of £35,000 per hectare. This is as per the provision in the outline S106 and the applicant has outlined that this is accepted.*

SDDC Tree Officer does not raise an objection and the proposed additional planting and trees proposed along the main residential street is welcomed and considered inline with BNE4.

It is accepted that there would be disruption to habitats and ecological impacts during construction. On this matter there are a suite of conditions attached to the outline which are considered to suitably manage the construction process; Condition 16 requires certain construction works to be undertaken outside of nesting season, Condition 17 requires a construction environmental plan which would include the information below and Condition 18 requires proposed tree and hedgerow protection measures as per best practice as set out in British Standard 5837:2012 prior to commencement. Condition 17 criteria:

- (a) a risk assessment of potentially damaging construction activities;*
- (b) identification of biodiversity protection zones (e.g. buffers to trees and hedges or to protected wildlife habitat);*
- (c) practical measures (both physical measures and sensitive working practices, such as protective fencing, exclusion barriers and warning signs) to avoid or reduce impacts during construction (particularly in relation to works within canopy and root protection areas for hedgerows or protected trees);*
- (d) the location and timing of sensitive works to avoid harm to biodiversity features (in relation to breeding birds in particular);*
- (e) the times during construction when specialist ecologists need to be present on site to oversee works (as required);*
- (f) responsible persons and lines of communication; and*
- (g) the role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person (as necessary).*

Overall, there is an approach is to secure a Biodiversity Net Gain via the retention of the important habitats, trees and supplementary enhancements across the site, and then a further gain of 3 habitat units off site. Derbyshire Wildlife Trust (DWT) has considered the supporting Ecological Impact Assessment and approach to securing Biodiversity Net Gain and raises no objection subject to conditions and legal agreement during which Officers will be in correspondence with DWT. Wider ecological impacts and impacts to trees and hedgerows have been considered and subject to conditions are considered to be adequately addressed, subject to a further update on Skylarks.

On this basis, no objection is raised by DWT in terms of approach or gain and it is considered that the proposed development from an ecology perspective would be in accordance with LPP1 Policy BNE3 and paragraph 174 of the NPPF.

Cultural heritage

There are no heritage assets within the application site, nor is it considered that the development would impact any heritage settings.

The application has been consulted on with the Derbyshire County Council (DCC) Archaeologist given the potential for archaeological remains. The DCC Archaeologist has confirmed no objection subject to a written statement of investigation to guide archaeological field work and subsequent mitigation.

On this basis, it is considered there would be no unacceptable impact on archaeology and the application is inline with BNE10 and NPPF paragraph 205.

Other Matters

There are a range of further conditions attached to the outline permission that relate to Phase 1 and would still control matters. Where not already addressed within the report these are as follows:

Condition 4 requires an update to an agreed phasing which is required prior to commencement. No phasing has yet been agreed and phase 1 was already earmarked on this section of the wider outline and accessed by Miora Road by the outline permission to which this proposal accords.

Condition 5 relates to employment marketing and is not relevant.

Condition 6 limits the hours of construction limiting hours to standard working hours M-F and Saturday mornings. This condition will continue to control the construction of phase 1.

Condition 7 requires mitigation measures for air quality to be employed during construction. This condition will continue to control the construction of Phase 1.

Condition 8 relates to contamination and would require a remediation scheme for Phase 1 prior to commencement and subsequent verification prior to occupation. This condition will continue to control Phase 1 and is considered to satisfactorily address the risk of contamination on site.

Condition 9 requires the mitigation strategy to manage coal mining risk to be employed. This condition will continue to control the construction of Phase 1 and is considered to suitably address the risk of of hazards arising from coal mining legacy on the site.

Condition 10 requires the complete stop of construction and further investigation if further unidentified contamination is found during construction. This condition will continue to control Phase 1.

Condition 15 limits the amount of water usages through efficient fixtures and fittings in line with Building Regulation Part G2. This condition will continue to apply to the 73 dwellings constructed during Phase 1.

Condition 27 requires ventilation and glazing details approved via condition 3 to be retained and removes PD rights to amend these details. Whilst unlikely targeted at residential dwellings such as those proposed in Phase 1, this condition is still considered to bind Phase 1.

Condition 22, 23, 25, 26, 28 and 29 are not relevant and relate to other phases, employment uses, odour areas not within phase 1, mechanical plant, removal of PD rights for commercial uses and commercial floorplates respectively.

Construction access was raised in consultation with the ward Councillor and by a local resident. The points made was that: Moira Road given its restrictions, width, usage and that it provides access to schools was not suitable for construction access for such a significant development; and, Occupation Road to the south west of the site by virtue of it being a spur lane now closed off after highways works also is not suitable for construction access. The proposed most suitable route was from the new road built to serve the site which is to the west of the site.

The point was raised with the applicant who outlined that the wider site is under third party ownership, however they would be willing to explore the issue with the landowner especially given that this land is also likely to be subject to further phases development. It is not considered reasonable at this time to fix a condition requiring the use of access across third party land.

There is already condition 20 requiring the details of a temporary construction access, condition 19 requiring a construction management plan attached to the outline and whilst neither specifically preclude access from Moira or Occupation Road, this matter can be explored at the time of discharge. In addition, a further condition will be attached to this permission requiring evidencing that the applicant has asked for temporary access over third party land, but it would be unreasonable to require them to do so.

Section 106 obligations

As set out above it has been accepted that Biodiversity Net Gain will be achieved in part off site which will be secured via a legal agreement.

The application was considered by Derbyshire County Council and the NHS for its impacts on service provision who both raised no objections. It should be noted by members that there are already provisions in the outline consent to local infrastructure, services and open space. By way of summary, the total S106 contributions are as follows (*based on 70 dwellings):

Infant education* - 7 845.71
Junior education* – 133,337.10
Secondary education* - 82 754.11
Recreation outdoor sports facilities – 220.00 per bedroom
Recreation built facilities – 122.80 per bedroom
Healthcare* - 33 600

In addition to this the S106 also sets out arrangements for the long-term ownership and management of public open spaces and non-highway drainage on site as well as the funding for any management company/ies.

Further to this, open space contribution for on site was also considered however this was discounted on the basis of on-site provision was as per the outline permission.

Conclusion and Planning Balance

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

In terms of the Local Plan, this comprises SDDC Local Plan Part 1 (LP1) and SDDC Local Plan Part 2 (LP2). Which is considered to be up to date in terms of the relevant policies set out above. On this basis, Paragraph 11 of the NPPF is not 'triggered'.

The outline permission has approved this site for residential development which meets certain parameters. The report outlines that the proposal reflects the principle, layout, design approach, density, provision of open space and connections, drainage strategy, access and parking. It is compliant with the outline permission, subject to conditions and will realise in part the significant benefits upon which the outline permission was granted. This realisation of these benefits weighs heavily in favour of the application.

There are no objections from statutory consultees, and no public objections. Members are reminded that no affordable housing was approved at outline given what was at the time fragile viability. In response it is understood the applicant to date has been discussing additional funding and the proposal with RPs, who has been requested to update members at committee. On this basis, whilst not required there is also the possibility of affordable housing arising which would be a further benefit. The public benefits of S106 monies by virtue of the outline legal agreement are also outlined to members.

BNG is the sole reason for this application being heard at committee. The provision has been robustly discussed by the tripartite of SDDC, the applicant and DWT. The Environment Act which is the legislation upon which BNG is founded allows for off site provision. The requests of SDDC and DWT in evidencing on site is maximised have been satisfied and subsequently the criteria to allow off site provision. Subject to both conditions and legal agreement this matter is suitably addressed. Subject to an update on Skylarks, all other ecological impacts are addressed.

With specific regard to the historic environment, this proposed development has been considered with due regard for Section 66 and 72 of the Act and found to be acceptable.

Several conditions attached to the outline remain to control development and further conditions where relevant will be attached to this reserved matters to suitably control matters.

Overall, for the reasons set out above, the proposed development is considered inline with the outline permission, compliant with the Local Plan and will give rise to significant benefits as part of the wider outline permission. It is therefore recommended that the application is approved subject to conditions and the legal agreement securing BNG provision off site.

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

Recommendation

- A. Grant delegated authority to the Head of Planning and Strategic Housing to conclude negotiations on and complete an agreement under section 106 of the Town and Country Planning Act 1990 as outlined in the report; and
- B. Subject to A, **Approve** the application subject to the following condition(s):

Standard

1. The development hereby permitted shall be carried out in accordance with plans/drawings:

Drawings and Plans:

Location Plan: P20-2301_006

Planning Layout: 3746-002 Rev E

Presentation Layout: 3746-003 Rev E

Proposed Sections: 3746-011

Wood- PL- HOUSEPACK TYPE_V1

Single Garage: 3746-51

Double Garage: 3746-50

Landscape and Ecology Management Plan: edp7597_r001-A

Landscape Detailed Design – Residential Plots: edp7597_d002-D

Landscape Detailed Design – LAP: edp7597_d003-E

Landscape Detailed Design – POS: edp7597_d001-F

Supporting Documents:

Design and Access Statement

Biodiversity Net Gain Technical Note – Part 1 - edp7597_r001-A

Biodiversity Net Gain Technical Note – Part 2

Biodiversity Net Impact Plan (Wood-PL-014)

Biodiversity Net Gain Letter

Skylark Mitigation Report – edp7597_r001-A

Woodville Travel Pack

Woodville Green Travel Plan

unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of doubt and to ensure a high-quality development.

2. Prior to the site being access by HGV vehicles for construction, evidence of reasonable endeavours seeking to secure construction access from the west of the site shall be submitted to the Local Planning Authority and approved in writing.

Reason: In the interests of securing the optimal construction access into the site and in the interests of highway safety and residential amenity.

3. Prior to the commencement of any works on site, evidence and details showing Skylark Mitigation and ongoing management/retention where required has been accepted by Derbyshire Wildlife Trust. The details and mitigation shall be submitted to and approved in by the Local Planning Authority.

Reason: To ensure the development complies with the outline permission reference DMPA/2019/0931

4. Prior to any works to the identified Public Rights of Way on site or in the event that construction is deemed to make the route unsafe, evidence to show necessary temporary closures agreed with Derbyshire County Council shall be provided, alongside the details of the proposed works which where directly affecting the route shall have prior authorisation from the Rights of Way Section at Derbyshire County Council. Any diversion shall first be discussed with the Local Planning Authority in consultation with Derbyshire County Council. All details shall be approved in writing by the Local Planning Authority and shall thereafter be constructed in accordance with the approved details.

Reason: In the interests of securing high quality public routes and minimising disruption during construction.

5. Prior to their incorporation into the buildings hereby approved, details and samples of the external materials for that phase shall be submitted to and approved in writing by the Local Planning Authority. The buildings within each phase shall thereafter be constructed in accordance with the approved materials.

Reason: In the visual interest of the buildings and character and appearance of the area.

6. Prior to their incorporation into the buildings hereby approved, key details such as but not limited to:
- Windows
 - Doors
 - Verges
 - RWG and Meter Boxes

Shall be submitted to and approved in writing by the Local Planning Authority. The dwellings shall thereafter be constructed in accordance with the approved materials for that phase.

Reason: In the visual interest of the buildings and character and appearance of the area.

7. The boundary treatments pursuant to condition 9 shall be completed before the respective dwelling(s) to which they serve is/are first occupied 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, no further boundary treatments shall thereafter be erected between those approved and the highway or public open space(s)

Reason: In the interests of sustainable development and the character and appearance of the area.

8. No dwelling shall be occupied until the garages (as the case may be), parking and manoeuvring space has been provided within the curtilage of that property, in accordance with the approved plans. 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 garaging/parking/turning facilities shall be retained throughout the life of the development free from any impediment to their designated use as such.

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

9. No development shall commence until details of hard landscaping works have been submitted to and approved in writing by the local planning authority. These details shall include:
- a statement setting out the design objectives and how these will be delivered;
 - earthworks showing existing and proposed finished levels or contours;
 - means of enclosure and retaining structures;
 - boundary treatment[s];
 - hedgehog access points;
 - other vehicle and pedestrian access and circulation areas;
 - hard surfacing materials;
 - minor artefacts and structures [e.g. furniture, play equipment, refuse or other storage units, signs, etc.];
 - proposed and existing functional services above and below ground [e.g. drainage, power, communications cables, pipelines etc. indicating alignments, levels, access points, supports as relevant];
 - lighting, floodlighting and CCTV;
 - water features;
 - an implementation programme, [including phasing of work where relevant]
 - mechanism for the on going management and maintenance of the hard landscaping

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

Reason: In the interests of securing and maintaining a high quality public realm

10. Prior to the occupation of any dwelling the LAP shall be provided in accordance with drawing no. Landscape Detailed Design – LAP: edp7597_d003-E will be laid out in accordance with these details and that area shall not thereafter be used for any purpose other than as a play area.

Reason: To secure and retain suitable playspace for the enjoyment and amenity of local occupiers of the development.

11. Notwithstanding the submitted details bin collection points shall be provided for residents on private drives, in accordance with a scheme to be submitted and approved by the Local Planning Authority. The facilities shall be provided prior to the first occupation of the related dwellings and shall be retained thereafter free from any impediment to their designated use.

Reason: To prevent refuse bins and collection vehicles standing on the new estate streets for longer than necessary causing an obstruction or inconvenience for other road users.

12. The carriageways of the proposed estate roads shall be constructed in accordance with Condition 1 above up to and including at least road base level prior to the commencement of the erection of any dwelling intended to take access from that road. The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surface course within twelve months (or three months in the case of a shared surface road) from the occupation of such dwelling, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety

13. Prior to the commencement of the development full details of the tree protection measures for all trees and hedges to be retained shall be submitted to and approved in writing by the Local Planning Authority. These measures shall be set out in a detailed Arboricultural Method Statement to include the specification of the location and type of protective fencing, the timings for the erection and removal of the protective fencing, the details of any hard surfacing and underground services proposed within the root protection areas, all to be in accordance with the British Standard for Trees in Relation to Construction 5837: 2012, and the monitoring of tree protection measures during construction. All tree protective measures shall be carried out as set out in the approved Arboricultural Method Statement.

Reason: To protect the retained trees and visual amenity of the area in accordance with the Local Plan.

14. The applicant shall make an application for S38 approval to the Highways Authority prior to the occupation of any dwelling. Until such time as the application has been approved by the County Council Highways Authority the applicant shall manage and maintain the roads within the development as set out in their email of 1st August 2022.

Reason: In the interests of highway safety

15. The garages/parking spaces hereby permitted shall be kept available for the parking of motor vehicles at all times. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) the garage/car parking space(s) hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.

Reason: In the interests of highway safety and to ensure that acceptable levels of parking are retained throughout the development.

16. Prior to the commencement of each phase of development including preparatory works, the details of any fencing (including temporary) including the specification of suitable mammal gaps within that phase shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of safeguarding against harm to protected species during the period of construction and throughout the life of the development.

17. The development shall be built in accordance with the measures and habitats set out in Landscape and Ecology Management Plan: edp7597_r001-A. The development shall be managed so that the monitoring and remedial measures including benchmarking of the site enhancement areas against the DEFRA conditions sheets are reported to the authority at 5-, 10-, 15- and 30-years post completion.

Reason: In the interests of safeguarding against harm to protected species throughout the construction period and for the life of the development.

Informatives:

You are advised of the following matters:

- a. For the avoidance of doubt this application does not discharge conditions 3 (in so far as it is relevant to later phases), 4, 5, 6, 7, 8, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 or 28 of the outline planning approval DMPA/2019/0931

Highways

- a. *Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk email highways.hub@derbyshire.gov.uk or telephone 01629 533190.*
- b. *Planning permission does not give you approval to work on the public highway. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written agreement of the County Council as Highway Authority. It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed, which may take up to 16 weeks. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the County Council via email – ete.devcontrol@derbyshire.gov.uk. The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.*
- c. *If an adoption Agreement is not in place when the development is commenced, the Highway Authority is obliged to serve notice on the developer, under the provisions of the Advance Payments Code part of the Highways Act 1980 (section 219 / 220), 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.*
- d. *If the roads within the proposed development are to be offered for adoption by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980. Detailed plans will need to be submitted and approved, the Agreement signed and all sureties and fees paid prior to the commencement of development. The Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further*

information please contact the County Council's Implementation team – email ete.devcontrol@derbyshire.gov.uk

- e. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action 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 developer'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.
- f. Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to 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 dished channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- g. The layout of swales within the proposed highway limits do not comply with the Highway Authority's Design Guide and the design indicated on the application drawings has not been used elsewhere in the County. The applicant should be aware that their provision will attract a commuted sum for future maintenance purposes and could compromise the future adoption of the new estate streets.

A. The County Council does not adopt any SuDS schemes at present (although may consider ones which are served by highway drainage only). As such, it should be confirmed prior to commencement of works who will be responsible for SuDS maintenance/management once the development is completed.

B. Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council. For further advice, or to make an application please contact Flood.Team@derbyshire.gov.uk.

C. No part of the proposed development shall be constructed within 5-8m of an ordinary watercourse and a minimum 3 m for a culverted watercourse (increases with size of culvert). It should be noted that DCC have an anti-culverting policy.

D. The applicant should be mindful to obtain all the relevant information pertaining to proposed discharge in land that is not within their control, which is fundamental to allow the drainage of the proposed development site.

E. The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water discharge, in line with Table 4.3 of the CIRIA SuDS Manual C753.

F. The County Council would prefer the applicant to utilise existing landform to manage surface water in mini/sub-catchments. The applicant is advised to contact the County Council's Flood Risk Management team should any guidance on the drainage strategy for the proposed development be required.

G. The applicant should provide a flood evacuation plan which outlines:

- The flood warning procedure
- A safe point of extraction
- How users can safely evacuate the site upon receipt of a flood warning
- The areas of responsibility for those participating in the plan
- The procedures for implementing the plan
- How users will be made aware of flood risk
- How users will be made aware of flood resilience
- Who will be responsible for the update of the flood evacuation plan

H. Flood resilience should be duly considered in the design of the new building(s) or renovation. Guidance may be found in BRE Digest 532 Parts 1 and 2, 2012 and BRE Good Building Guide 84.

I. Surface water drainage plans should include the following:

- Rainwater pipes, gullies and drainage channels including cover levels.
- Inspection chambers, manholes and silt traps including cover and invert levels.
- Pipe sizes, pipe materials, gradients, flow directions and pipe numbers.
- Soakaways, including size and material.
- Typical inspection chamber / soakaway / silt trap and SW attenuation details.
- Site ground levels and finished floor levels.

J. On Site Surface Water Management;

The site is required to accommodate rainfall volumes up to the 1% probability annual rainfall event (plus climate change) whilst ensuring no flooding to buildings or adjacent land.

The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas, etc, to demonstrate how the 30 year + 35% climate change and 100 year + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).

Production of a plan showing above ground flood pathways (where relevant) for events in excess of the 1% probability annual rainfall event, to ensure exceedance routes can be safely managed.

A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc), attenuation basins/balancing ponds are to be treated as an impermeable area.

Peak Flow Control

For greenfield developments, the peak run-off rate from the development to any highway drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event, should never exceed the peak greenfield run-off rate for the same event.

For developments which were previously developed, the peak run-off rate from the development to any drain, sewer or surface water body for the 100% probability annual rainfall event and the 1% probability annual rainfall event must be as close as reasonably practicable to the greenfield run-off rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development, prior to redevelopment for that event.

Volume Control

For greenfield developments, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must not exceed the greenfield runoff volume for the same event.

For developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must be constrained to a value as close as is reasonably practicable to the greenfield runoff volume for the same event, but must not exceed the runoff volume for the development site prior to redevelopment for that event.

Note:- If the greenfield run-off for a site is calculated at less than 2 l/s, then a minimum of 2 l/s could be used (subject to approval from the LLFA).

Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.

Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within the highway.

Guidance on flood pathways can be found in BS EN 752.

The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the

drainage network, whatever the size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space, etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.

K. If infiltration systems are to be used for surface water disposal, the following information must be provided:

- Ground percolation tests to BRE 365.*
- Ground water levels records. Minimum 1m clearance from maximum seasonal groundwater level to base of infiltration compound. This should include assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.*
- Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689-1:2003.*
- Volume design calculations to 1% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2.*
- Location plans indicating position (soakaways serving more than one property must be located in an accessible position for maintenance). Soakaways should not be used within 5m of buildings or the highway or any other structure.*
- Drawing details including sizes and material.*
- Details of a sedimentation chamber (silt trap) upstream of the inlet should be included.*

- Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.*

L. All Micro Drainage calculations and results must be submitted in .MDX format, to the LPA. (Other methods of drainage calculations are acceptable.)

M. The applicant should submit a comprehensive management plan detailing how surface water shall be managed on site during the construction phase of the development ensuring there is no increase in flood risk off site or to occupied buildings within the development

Item No. 1.5

Ref. No. [DMPA/2022/1625](#)

Valid date: 04/01/2023

Applicant: Trent and Dove Housing **Agent:** Pozzoni Architecture

Proposal: **Redevelopment of vacant site to provide three storey development comprising 28 supported living apartments with a mixture of 1 bed 2 person and 2 bed 3 person apartments, including communal spaces, communal gardens and associated parking.**

Ward: Repton

Reason for committee determination

This item is presented to the Committee given it is a major application and has received more than four public objections.

Site Description

The site is located to the west of the junction between Askew Grove and Fisher Close, 300m as the crow flies from the Mercia Cross at the centre of Repton. Repton is a village identified as a Key Service Village, where there are numerous local services and amenities.

The site is an irregular shape and comprises approximately 0.5 hectares of vacant brownfield and scrub land. The site is cleared following the previous demolition of The Dales Care Home in early 2022 given it was considered not fit for purpose.

The site sits within a predominantly residential area with commercial uses nearby (shops/ fast food/ pub) and public facilities (primary school, village hall) west of the site along Repton High Street which feeds Askew Grove. There is also a pedestrian link (public right of way SD37/25/1) to the south of the site feeding off Fisher Close and leading to the High Street.

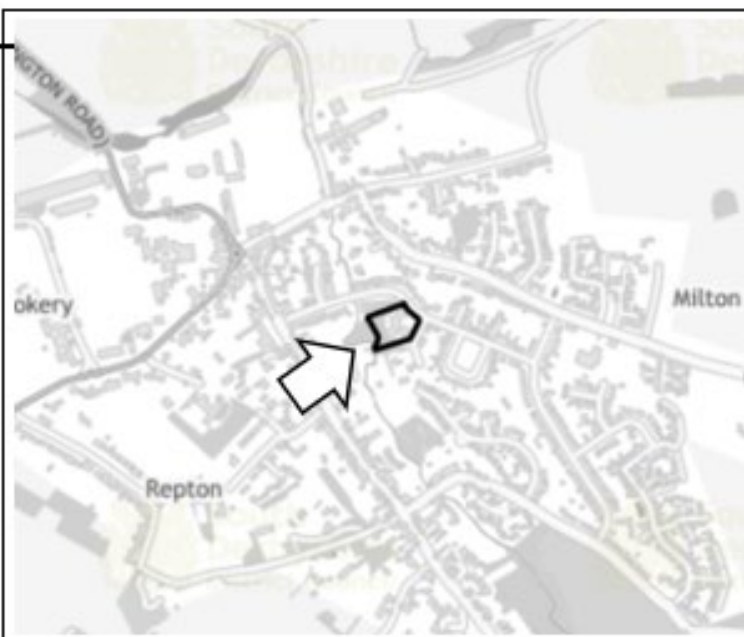
The surrounding residential properties are predominantly two storey mixed with single storey bungalows and some three storey properties on Fisher Close. The vernacular is typical semi- and detached mid 20th century. Repton itself given its historic importance is more varied but with prominent use of redbrick.

The site is bound to the north by the rear gardens of detached properties fronting Askew Grove nos.31, 33, 35 and 37; the site is accessed from the east where it has a presence on Askew Grove and Fisher Close; the site is bound to the south by the sparsely situated properties of Fisher Close; and, the site is bound to the west by an area of dense mature tree planting beyond which is a watercourse, Repton brook running north - south. The gradient of the site and surrounds ascends from north to south, the result being the gardens and properties to the north are lower than the site.

On site there is further tree planting than that on the western boundary. Mature sporadic planting can be found on the northern boundary, to the east along the streetscene and again to the south.

There are nine trees within this planted area to the west which are TPO'd. There are also 6 trees/groupings which are TPO'd to the east along the streetscene. The planting to the west of the site is designated as a peripheral SDDC nature site. Around the water course there are designations of Flood Zone 3 and Flood Zone 2 however the redline only extends slightly into the designation for Flood Zone 2.

DMPA/2022/1625 – The Dales, Askew Grove, Repton, Derby, DE65 6GS



South Derbyshire District Council

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The site has no heritage assets within it. The western boundary of the site abuts the Repton Conservation Area which extends around the Mercia Cross, early school and associated ecclesiastical buildings and along the High Street south. There are listed buildings further west of the site, but both the Conservation Area by virtue of the established woodland along the boundary and distance to the listed buildings means there is limited potential for the development of the site to impact the assets or their settings.

The site is within the settlement boundary of Repton as set out by Policy SDT1 of the Local Plan Part 2.

The proposal

The proposal is for full planning permission for residential development consisting of 28 apartments (Use Class C3) designed to provide independent living for persons over 55 years old, with 20 apartments being affordable rent and 8 being shared ownership in tenure – all which are defined as affordable by national planning policy.

The development description is as follows:

“Redevelopment of vacant site to provide three storey development comprising 28 supported living apartments with a mixture of 1 bed 2 person and 2 bed 3 person apartments, including communal spaces, communal gardens and associated parking”

The scheme will provide accommodation to suit a range of needs, comprising of:

16x 1 Bed 2 Person Apartment (50sqm)

12x 2 Bed 3 Person Apartment (61msq)

The apartments are designed in accordance with Part M Cat 2: Accessible and Adaptable Dwellings. The layouts and storage for each apartment are compliant with or exceed the Nationally Described Space Standards (NDSS).

Each apartment is served by either a balcony or patio for private amenity space. Furthermore, there will be the provision of a small communal space to allow organised activities and social interactions in the form of an internal multipurpose room with kitchen and external garden with seating area. There is also space for mobility scooter parking and staff office.

The 28 units will be accommodated in a 3 storey building stepping to 2 storey along the northern elevation. The building footprint will be a sideways T shape limiting mass on the north side of the site and the northern elevations proximity to adjacent properties; which will also be pitched at roof level. The distance will be at least 18.8m to the rear of the closest property.

The main facing materials is proposed as red brick which is prominent to Repton. The red sandstone will be used to complement the red brick and will provide definition to the fenestration; this includes the surrounds to the ground floor windows and sills and headers to the above windows. The main entrance balcony feature will have a red sandstone infill and a heritage green / grey surround reflecting several traditional houses on Askew Grove. The smaller balcony features will be the red brick with the same heritage green / grey surrounding.

Parking will be on the north side from a slightly amended vehicular and pedestrian access from Askew Grove maintaining levels at this location. Building services are located to the east of the site from which they can be accessed easily on the parking forecourt. The communal garden is located to the south to maximise sunlight. The layout retains the majority of the existing trees on site – the main mature trees running along the northern boundary, the wetland/woodland to the east and the sporadic planting to the east.

The proposal will result in the removal of existing tree T48 of Group 40 again covered by TPO No 438, Group 45 – cat C, Group 41 – cat C, Tree 42 – cat C; the pruning of G49 – cat C; with all other trees

retained. Wildlife and wetland to the west of the site - W37 will be retained in full and proposed for ongoing management and maintenance. Overall, one TPO'd tree will be lost.

No development within Flood Zone 2 is proposed and the building line will be further back than that of the previously demolished care home.

The parking provision proposed will be 21 parking spaces x4 of which will have passive provision for EV charging and x2 of which will be blue badge.

Applicant's supporting information

The application has been supported by a range of documents set out below:

Architectural Drawings:

- 5296_1100_A_PLANNING - SITE LOCATION PLAN
- 5296_1200_K_PLANNING - SITE LAYOUT
- 5296_1201_F_PLANNING - FLOOR PLANS
- 5296_1202_D_PLANNING - ROOF PLAN
- 5296_1203_D_PLANNING - COMMUNAL SPACE PLAN
- 5296_1204_C_PLANNING - TYPICAL APARTMENT LAYOUTS
- 5296_1350_D_PLANNING – ELEVATIONS
- 5296_1400_F_PLANNING - SITE SECTIONS
- 5296_1700_D_PLANNING - VISUALS SHEET 1
- 5296_1701_D_PLANNING - VISUALS SHEET 2
- 5296_1702_D_PLANNING - VISUALS SHEET 3
- 5296_1900_C_PLANNING – BOUNDARIES
- 5296_1901_A_PLANNING - PROPOSED BIN STORE
- 220146 C2C XX XX M2 100 DRAINAGE PLAN
- 220146 C2C XX XX M2 102 SUDS MAINTENANCE PLAN

Supporting Documents:

- 5296_1000B_PLANNING_THE DALES_DESIGN AND ACCESS STATEMENT
- TPO438 Schedule
- TPO438 Layout
- Topographical Survey 21E193
- UG_1141_ARB_AIA_01_Rev_02_FINAL
- The Dales Repton Utilities Overview 43407705 1
- Site Investigations Phase 1
- 15910 Flood Risk Assessment and Drainage Strategy Report May 2022
- 230619_327320_TS001_Final
- Housing Management of The Dales (002) FINAL 260623
- P22 047 The Dales Ecology Report

Relevant planning history

DMPN/2021/0391 – Relevant Demolition Consent for the demolition of vacant home for older people and detached garage block – **APPROVED**

Responses to consultations and publicity

The application was publicised via two rounds of consultation running from 11th January 2023 until 10th February 2023 and then again on the 22nd June 2023 until 6th July 2023 during which letters were sent to neighbours and a site notice and press notices publicised the application

On this basis, the application is considered to have been publicised in accordance with national and local legislation on consultation.

The reason for the re-consultation was consideration of the following amendments set out below made in response to comments made during consultation:

- principal eastern elevation facing Askew Grove in response to design comments
- further privacy screening on apartment balcony 19 which is the closest to Askew Grove properties
- addition of hipped gable along northern elevation adjacent to Askew Grove properties
- obtuse glazing in all secondary windows on northern elevation
- provision of brick and railing boundary treatment along northern boundary to soften boundary with Askew Grove properties
- additional chimneys at roof level to reflect vernacular style
- further window reveal detail
- further detail around bin store design and SPD accordance

Comments have been received from statutory consultees and can be summarised as follows:

Conservation and Heritage Officer – No objection

Arboricultural Officer – No objection

Notes the repositioning of the building to allow parking and that this will result in the loss of the northern false acacia tree G40 which will have a minor detrimental impact on the amenity of the area as the southern false acacia tree will be retained and remain part of the street view to provide screening to the new development.

Suggests a wild cherry or field maple is incorporated into the landscaping scheme as a 2.5-3.0m high 8/10cm girth 25-45L container grown standard as mitigation.

SDDC Strategic Housing – Support in principle / comments re parking provision

- Trent and Dove have been working in conjunction with the Council to bring forward the plans to re-develop this site for 100% affordable housing
- There is a significant demand for this type of housing for frail elderly residents within the District
- The scheme will provide much needed affordable housing for people who cannot access the market for this type of supported housing
- Strategic Housing support this scheme and will be working with Trent and Dove to ensure the rented homes are allocated to people in need on the Councils housing register

Parking Matters Correspondence

- Supports the increased spaces.
- Suggestions made in respect of parking allocations – allocate a number of homes (mix of s/o & rented) with a space and have x 6 spaces for visitors / communal spaces? that way if applicants don't have a car you can allocate a property without a designated parking space. This would seem a fairer / more transparent way of allocating.
- Unless there is anyway you can increase the parking further which would of course be the best solution so each property has parking.

DCC Archeology – No objection subject conditions

- *likely that archaeology informing on the boundaries between burgage plots and infields of medieval Repton will be present.*
- development of the town poorly documented in the historical records and maps of the time and is poorly understood.
- archaeological field evaluation in the first instance and subsequent mitigation, if required, can be undertaken as conditioned works under Para 205 of NPPF

Derbyshire County Council Planning Policy - No objection / comments

Environmental Health Officer - No objection subject to conditions related to noise, contaminated land, remediation of any contamination and air quality.

Derbyshire Wildlife Trust (DWT) - No objection subject to condition
Important to ensure that there is an overarching plan (LEMP) in place to secure BNG and that the net gain strategy is implemented alongside this development.

Conditions related to badger survey, Biodiversity Enhancement & Management Plan, Construction Environmental Management Plan, breeding birds and lighting

Local Lead Flood Authority (LLFA) – Objection / Holding Response

Thank you for consulting the Lead Local Flood Authority (LLFA) in relation to the above planning application. Apologies for the delay in our response. We are unable to provide an informed comment until the applicant has provided further information:

- There are discrepancies between the Flood Risk Assessment (15910-FRA report - The Dales - ABA-BD -01) and the Sitewide Drainage Plan drawing (C2C XX XX M2 C 100 P01). The applicant should clarify what discharge rate is proposed.
- Evidence of approval from Severn Trent Water for connection into the surface water sewer and the discharge rate.
- Further consideration of SuDS methods: section 5.3.6 of the FRA makes reference to SuDS features that could be incorporated within the landscaping, yet these do not appear on the drainage plan.

Derbyshire County Council Highways - No objection subject to conditions

A previous response to this application was issued by the highway authority that raised concerns with the proposed parking provision and requested justification. Additional information has now been submitted and it is noted that the proposed parking provision has been increased by 50% from 14 to 21, representing a 75% parking provision. It is also noted that 2 of these spaces will be disabled spaces and 4 will be electric vehicle charging spaces, in addition cycle storage is also proposed. This is welcomed.

Conditions related to a Highway Construction Management Statement, construction of the new vehicular and pedestrian access to Askew Grove, parking and turning facilities, provision of cycle facilities, removal of permitted development rights for obstructions such as gates at the access.

NHS: Clinical Care Group – No objection

Repton Parish Council – No objection / support application

Repton Parish Council are happy to support this planning application. They would like to report that there are concerns in the community over the number of parking spaces.

The application received 12 responses in objection to the proposal from members of the public. The following issues were raised as grounds for objection:

- a) Parking provision is insufficient for 28 units, deliveries, visitors and carers
- b) Inadequate parking provision will exacerbate unregulated non resident parking along Fisher Close and Askew Grove
- c) Further unregulated parking on Askew Grove would impact highway safety
- d) Askew Grove is a route frequented by school children and more cars would be unsafe
- e) Concern around the construction and deliveries of materials impacting the highway.
- f) Other adjacent applications have had parking standards applied strictly
- g) Inadequate parking compared to Brook House older persons housing in village
- h) Unacceptable impact on local highway network which doesn't have the capacity to accommodate the trips generated by the development
- i) Local highway network already has issues with parents during pick up and drop off times

- j) Junction of Askew Grove and Main Street is insufficient to accommodate additional trips generated by the development
- k) No provision for turning once all parking spaces taken leading to reversing onto Askew Grove
- l) 3 storey dwelling is excessive, is overdevelopment and will dominate the streetscene
- m) Inaccuracies in drawings showing relationship of proposed development and Askew Grove
- n) Height of the proposal is not appropriate for the location
- o) Imposing from the road and towards adjacent properties
- p) Overshadowing and loss of light to properties on Askew Grove
- q) Breach of right to light
- r) Housing opposite would be overlooked given the proposal is 3 storeys
- s) Given levels the proposal would appear as four storeys on the streetscene
- t) Balcony will allow for residents to look into our property
- u) Impact on local wildlife – newts are present and fencing will impact badger movements
- v) Boundary treatment and height of building will impact garden and ability to grow plants/vegetables
- w) Issues with foul capacity in area
- x) Is there a need for the apartments – empty flats on Fisher Close
- y) Possible light pollution which should be conditioned

The application received 4 responses in support of the application. The following issues were raised as ground for support:

Site has been derelict and there is a need for older persons housing

- a) *Improve the visual amenity of the area*
- b) *Units are well located near local amenities limiting the need for travel*
- c) *The proposal is well designed with consideration to neighbour amenities and privacy*
- d) *By meeting older persons housing it frees up local housing for young families*

One comment made the following point which was considered neither in support or objection to the proposal:

Impact to rooftop solar panels on properties along Askew Grove – on this basis, one resident would welcome the tall trees without TPOs to be removed as well as the Birch to the rear of no.31 Askew Grove.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 Local Plan Part 1: S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); S3 (Environmental Performance); S4 (Housing Strategy); S6 (Sustainable Access); H1 (Settlement Hierarchy); H20 (Housing Balance); H21 (Affordable Housing); SD1 (Amenity and Environmental Quality); SD2 (Flood Risk); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); SD4 (Contaminated Land and Mining Legacy Issues); SD5 (Minerals Safeguarding); BNE1 (Design Excellence); BNE2 (Heritage Assets); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness); INF1 (Infrastructure and Developer Contributions); INF2 (Sustainable Transport); INF7 (Green Infrastructure).

2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development); BNE7 (Trees, Woodland and Hedgerows)

Repton Neighbourhood Plan (RNP) made 2020: Policy H1: The Limits of Development; Policy H2: Development within settlement confines; Policy H3: Housing Mix; Policy H4: Design of New Developments; Policy H5: Design of Car Parking; Policy OS3: Important trees and hedgerows; Policy AS1: Health Care Facilities; Policy T1: Car parking in new developments

The relevant local guidance is:

South Derbyshire Design Guide SPD

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF) (as updated)

Planning Practice Guidance (NPPG)

South Derbyshire District Council Strategic Housing Market Assessment January 2020 (SHMA)

Planning considerations

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

- Principle of development
- Housing Need and Tenure
- Design, layout and Density
- Access and highway capability/safety
- Biodiversity and ecology
- Cultural heritage
- Drainage
- Section 106 obligations; and,
- Conclusion and Planning Balance

Planning assessment

Principle of development

The proposal seeks residential development of 28 dwellings (Use Class C3). The site is located within the settlement boundary of Repton which is categorised as a Local Service Village in LP1 policy H1 where development of sites within the settlement boundary is considered appropriate in principle.

The Repton Neighbourhood Plan (RNP) outlines that the site should be redeveloped for housing provision for the elderly.

The principle of residential development is therefore acceptable as it accords with policy H1, the RNP, and the wider housing strategy under policies S1 and SDT1.

Housing Need and Tenure

Policy H20 aims to ensure a balance of housing that includes a mix of dwellings, tenure, size and density. This mix is also promoted to accommodate for different groups of people, which includes an ageing population.

Policy H21 seeks developments to provide up to 30% of new housing as affordable as defined by the NPPF on sites with over 15 dwellings, in applying this policy consideration will be given to a range of criteria one being –

iii The tenure mix and dwelling type on the site will be based on the SHMA or other up to date housing evidence in conjunction with the Council

The RNP outlines in policy H3 that housing development proposals should, wherever feasible, contribute towards meeting recognised housing needs in the parish. The policy would support specifically the provision of smaller affordable homes for older people, with a strong connection to Repton.

The strategic housing market assessment (January 2020) forecasts that the greatest proportional increase in population will occur in the 60-64 age group, in addition the SHMA also shows a comparatively significant increase in the over 75 age group.

The proposal is considered to deliver 28 dwellings designed to accommodate the needs of older persons – 55 years +; the units exceed space standards and meet building regulations for enhanced accessibility. Overall, the proposed dwellings are considered to cater for the identified demonstrable shift in population demographic which can be susceptible to needs not necessarily catered for in standard housing designs.

Furthermore, all 28 dwellings are proposed as affordable rented product. The consultation with the SDDC Strategic Housing manager has highlighted that:

- There is a significant demand for this type of housing for frail elderly residents within the District
- The scheme will provide much needed affordable housing for people who cannot access the market for this type of supported housing
- Strategic Housing support this scheme and will be working with Trent and Dove to ensure the rented homes are allocated to people in need on the Councils housing register

It is understood that the council's allocation policy would give preference to older persons and those with a local connection to the Repton area which directly follows the RNP policy. A further benefit of this is that such could help release properties more suited to families in the Repton area. Overall, the affordable tenure of the development is seen to meet Policy H21 and RNP H5 and directly align in terms of tenure mix and dwelling type as set out by these policies; and, it is considered that there are likely wider benefits to the local housing market of Repton.

For the reasons set out above it is considered the proposal responds to a demonstrable need and would align with policy H20 and RNP H3 by providing a typology that is sought by policy and undersupplied against this need - see Annual Monitoring Report completions. In addition to this, it provides the dwellings in an affordable tenure which again has been assessed as meeting an identified need and sought by RNP H5. The developer is a registered provider, who is considered well placed to service this need and the proposal is supported by the SDDC Strategic Housing department, which will benefit the local housing market of Repton. Both of these considerations above are given considerable weight on the basis that the need has not previously been met.

Design, Layout and Density

LP1 policy BNE1 requires all new development to be well designed, to embrace the principles of sustainable development, to encourage healthy lifestyles and enhance people's quality of life by adhering to design principles relating to community safety, street design, movement and legibility, diversity and community cohesion, ease of use, local character and pride, visual attractiveness, neighbouring uses and amenity, healthy lifestyles and resource use. RNP policy H2 manages development within the settlement outlining that:

A development proposal for infill development and the conversion of existing buildings will be supported where it has been demonstrated that:

- The scheme is small scale and reflects the size and character of the village.
- The proposal is well designed and considers the distinctive qualities of the village:
- The proposal is infilling in a small gap in the existing frontage or
- The proposal is formed by a site that is closely surrounded by buildings.
- The development does not adversely affect neighbouring properties by reason of noise, unsuitable access, loss of privacy, loss of daylight, or visual intrusion that would affect the amenity of adjoining properties.

With regards to this policy given the specific policies of the RNP seeking the redevelopment of the site, Officers have sought to assess the first and last criteria of this policy only.

All proposals for new development are assessed against the Council's Design SPD.

SDDC does not have a policy requiring or setting minimum or maximum densities; indeed to achieve appropriate densities Chapter 11 of the National Planning Policy Framework seeks to ensure the effective use of land which is considered to be a presumption in maximising density given the demonstrable housing need. Over intensification or issues with density are likely to be apparent by virtue of wider issues of overlooking, poor quality housing and amenity.

It is accepted that the previous development was two storeys, and the vernacular of the surroundings is again two storeys in height. Further to this a material consideration to assessing the impact of this

development is the level changes in the surrounds, and that development would be to the south which could impinge on daylight and sunlight impacting amenity of properties to the north.

In response to points made in objection and by the SDDC Design Officer, the following amendments to the mass and design of the proposal were made:

- Askew Grove Elevation - increased glazing and centralised windows to give this elevation prominence. The fire door has been framed separately to give design continuity to this elevation.
- Balcony screening - opaque glazing has been proposed to Apartment 19 balcony adjacent the Askew Grove rear gardens.
- Gable End facing Askew Grove Gardens - hipped the roof to minimise loss of light to neighbouring gardens. The secondary windows here have been reduced and proposed as frosted.
- Ridge line - proposed 4 faux chimneys. Two chimneys along the main entrance elevation and two smaller chimneys along the adjacent wing.
- Bin Store - The bin store has been integrated with the cycle store and proposed to be built within the landscape to reduce its appearance.
- Northern boundary adjacent car park - Along the section of car park we have proposed a low wall with railings. The low wall will reduce glare from parking cars and the rails increase daylighting into the corner property's garden.
- Recessed windows - proposed a brick length recess to the windows as suggested. The eaves will remain as currently proposed.

The development will be three storeys in height in a sideways T layout. There are gables ends proposed within the main elevations and split gable ends on the wings of the T layout. These features are accepted as helping the development reflect the residential vernacular of the area. The point at which the building is closest to the rear of the houses on Askew Grove, the building height has been reduced to two storeys and the gabled end has been hipped to further reduce mass at this point. The remainder is three storeys and this would be visible from the street scene. It is accepted that 3 storeys would represent an increase in height, however, it is not considered that such in the streetscene would be too stark or too visually intrusive given the large plot upon which the development sits, as such it is considered that the proposal is in accordance with BNE1 and H2.

The proposed development seeks a mixture of external materials across the development but the main facing materials is proposed as red brick which is prominent to Repton. The red sandstone will be used to complement the red brick on the principle and Askew Grove, but provide definition to the fenestration; this includes the surrounds to the ground floor windows and sills and headers to the above windows. The main entrance balcony feature will have a red sandstone infill and a heritage green / grey surround reflecting several traditional houses on Askew Grove. The smaller balcony features will be the red brick with the same heritage green / grey surrounding. Overall, the materials and design approach has been accepted by the design officer subject to conditions seeking samples and details of key elements such as windows and balcony drainage.

As set out above, the units are to be built to nationally prescribed space standards, which SDDC seek to impose on affordable housing units. The standards are accepted as providing acceptable sized housing.

The primary area of impact is considered to be to the properties of Askew Grove to the north of the site and the streetscene of Askew Grove. Taking each in hand:

Properties 31, 33, 35, 37 Askew Grove are considered immediately adjacent the proposal to the north. The properties are arranged on a slight angle as they follow the road with 31 being the closest and 37 being further away. As set out the layout of the proposed development is that of a sideways T, so the closest point is the spur the juts out to the north – 'the northern wing'.

Comparatively there is now no built development behind no.31 whereas there was previously as this space will now be parking. The rear elevation is perpendicularly 31.8m from any built mass across the proposed car parking. In addition, it is proposed to retain the 3 mature trees along this boundary which

provide screening between no.31 and the development and therefore there is no direct overlooking to no.31. On this basis, the relationship at this point is not considered to give rise to any unacceptable impacts.

There is no development directly to the rear of no.37 as this is where it is proposed to retain the area of trees to the rear of the proposed development. The proposed development will be angled away from no.37 and consequently with no direct overlooking. Again, the built mass is partially screen by the existing trees. On this basis, the relationship at this point is not considered to give rise to any unacceptable impacts.

No.33 and no.35 are located directly north of the proposed wing of the development. It is accepted that the development would be closer and higher than that previously demolished. The retention of the mature trees on this boundary would run the full extent of the rear of no.33 garden. No.35 will be at its closest 18.8m to the proposed development. The SPD provides a range of distance guidelines at page 70. The layouts of the flats don't necessarily align to the terminology used but it is considered that the SPD would set a minimum distance of 21m between the buildings given the understood floorplans.

Furthermore, the relationship is across a rising topography c.+3m and to a three-storey building. On this basis the SPD states:

The guidelines assume a relatively level topography and little or no screening. Where this is not the case, the minimum distances may be increased/decreased as appropriate.

For dwellings of three or more storeys, greater distances, of the order of 20% more, will be required based on the particular merits of the proposal.

In considering the guidance contained within the SPD it is acknowledged that there may be some harm to the outlook of no.33 and 35, but also that this harm is limited and is mitigated by the trees which would screen the development.

In terms of overlooking from the proposed development to the rear of the properties, the trees are considered to limit the extent of overlooking and the applicant has in response to public comments, amended the windows proposed on the northern façade to be frosted and screened off the balconies to the north removing the potential for overlooking.

To help understand impact to daylight and sunlight, consideration has been given to the BRE Report Site layout planning for daylight and sunlight: a guide to good practice (BR209) which is considered an industry standard tool. It advises on planning developments for good access to daylight and sunlight. For the initial consideration of windows opposite a proposed new building or extension, the BRE guide has the 25-degree angle rule of thumb test. The guide states that the procedure is as follows: Measure the angle to the horizontal subtended by the new development at the level of the centre of the lowest window.

This test has been applied for both no.33 and no.35. Given the hipped roof the section shows that the mass would not even with the change in topography breach this line. On this basis and as per the BRE Report Site layout planning for daylight and sunlight: a guide to good practice (BR209) it is considered that the development would not have an unacceptable impact on the daylight and sunlight to these properties, especially when also considering the likely shadow from the mature trees on the northern boundary at this point.

Overall, in terms of impact on neighbouring development, given the amendments made and screening now provided there is no overlooking. The impact to daylight and sunlight in the consideration of the properties amenity has shown no undue impact using industry standard tools. Given the mass and topography at this point it is considered that whilst there is some mitigation offered by the existing trees there would likely be some undue impact on the amenity of nos.33 and 35 in terms of outlook, when applying the SPD, however this is not considered alone to lead to a conclusion of overdevelopment.

Simply removing development on this point of the development is likely not possible. The site is heavily constrained and the tenure as affordable means viability is a greater consideration here. It is considered that on balance the design is acceptable.

Access and highway capacity/safety

This application is supported by a Transport Statement (TS) prepared by Mode Transport Planning. This was on the request of the LPA following initial concerns from Derbyshire County Council Highways regarding access and parking. The TS was prepared during ongoing correspondence between DCC Highways as evidence by the document.

Planning policy seeks to ensure that the impacts of proposed development are properly considered and mitigated against where sustainable transport movements are considered to help reduce use of private vehicles.

In terms of parking, this matter is a theme in the RNP and in supplementary text to policy H5 it states houses with up to 2 bedrooms should have at least 1 parking space and Policy T1 states *'proposed developments should demonstrate they will provide adequate on site car parking, where appropriate'*.

In the TS Askew Grove, Fisher Close and the High Street have all been considered given they were the focus of public objections. In response to concerns around safety the TS shows that up to 2021 which is the extent of the data set held, findings indicate that a total of one collision between 2017 to 21 was recorded with a severity of slight. The proposed trip generation has been formulated using the TRICS database which is an accepted methodology and envisages approximately 3 to 4 two way journeys at the AM and PM peak which is unlikely to have a significant impact on the local highway. On this basis, it is argued that there are no highway safety or capacity issues.

The proposed development will be accessed by a new priority junction onto Askew Grove. The TS outlines that a traffic count was undertaken and that the design of the junction and necessary visibility splays can be achieved. In response to concerns that vehicles would have to leave in reverse gear sweepth path analysis for a large car has been provided showing forward gear movement. In addition, fire appliances can access the site in the event of an emergency. Servicing is shown in the TS as being from Askew Grove which is understood to be how other properties are served. The bin collection point is accessible from the roadside and the on site management will manage the refuse bins for collection.

DCC Highways was consulted on the TS and has responded with no objections to the proposal regarding the points sets out above. On this basis, DCC Highways considered the local network, junction, arrangement of parking, level of parking and servicing arrangements to be acceptable. Indeed, the scope and content of the TS was prescribed by the Local Highway Authority. In terms of the junction design, impact on local network and servicing arrangement officers accept the LHA's position.

However, the matter of parking is a contentious issue, given the levels proposed. On the one hand given the issues with highway traffic in Repton noted by the Neighbourhood Plan and objections, the central location of the facility with access to amenities, the TS showing older persons car ownership is less and fact that the proposed residents can defer their nomination to more suitable units with parking, it could be argued that a below level of parking could be acceptable, help reduce traffic on roads in Repton and promote more sustainable transport methods.

On the other hand, each occupier could own at least one vehicle, Askew Grove is unregulated (no double yellows), there has been the strict application of parking standards on nearby applications, and this is notwithstanding deliveries, it could be argued that parking standards should be met to ensure enough spaces.

Overall, the applicant has increased the parking level to provide 21 spaces which would equate to 75% of the units which is welcomed and it is shown in the TS that this is commensurate to comparable developments given the likelihood of car ownership for over 55s. However, the proposal to manage the

parking on a first come first serve basis i.e. if there is no space when you want to park you will have to park elsewhere still raises some concern as the most likely place is on Askew Grove or Fisher Close.

To further address this, on the basis that the TS has shown that over 55s car ownership is lesser than standards and that nominated residents have the possibility to defer to a more suitable unit with parking, the applicant has been asked to appropriately manage and advertise the units i.e. leasing of the units can be controlled to allocate only one parking space per unit, advertise some units without parking or preferential nomination of persons without a car for the units, hopefully also freeing up a space for visitor parking which could be booked.

It is envisaged that this could then remove the possibility of all 28 units having a car seeking to park somewhere and make space for visitors/carers as well.

The applicant's recent response referred to management issues and possibly acting in an unproportionate manner:

- *Designating a parking space to a certain flat would be counter-productive, take us into a setting where it then becomes our obligation to manage parking and will take us down an enforcement route that will become difficult to manage without introducing a whole parking management plan with potentially clamping or an option at the very least involving bollards allowing only those with a key to use. This is in my view is not sensible and will lead to complaints and additional maintenance costs long term as keys are lost and bollards become damaged. It also adds to the need for lighting to be adequate at night for the bollards to be seen because people will forget they are up.*
- *If you extend this logically, how would we approach a preference where it's an electric car and no charging point at the designated space, will it require us to provide more than any planning condition that might be applied.*
- *If we are also at a point where we are giving preference to an applicant who does not have a car over someone who does, this is in my professional opinion a precedent to avoid and could lead to challenge on the housing need point whether it is part of an LLP or not. Are we acting in a proportionate manner?*
- *We cannot have voids because we are tying ourselves to restrictive terms. If we had a void and you extend the argument highlighted below, we would not allocate to a priority applicant with a car and bypass them to someone who does not, taking housing need out of the assessment and potentially having to hold a void until someone without a car identified. We would pick up the void cost until then as I am sure the Council would not give us a void guarantee on this basis.*
- *This draws me to the conclusion that the only sensible approach is to make it crystal clear at allocation/sale that the parking is available on a 1st come 1st served basis.*

It is noted that the applicant's own TS suggests that car ownership for over 55s is lesser. On this basis, if the applicant is confident of this many of the points above would not occur.

Furthermore, in considering these discussions have taken place with the SDDC Housing Manager who considers it possible to allocate the parking equally amongst the tenures and advertise these units as with parking and then advertise the remaining as without.

Whilst not wishing to undermine the proposal through operation issues given the highlighted need for the housing, it is considered that the option proposed by the Housing Manager may resolve some of the parking issues raised.

Drawing the above together, in terms of the junction design, impact on local network and servicing arrangement officers accept the Derbyshire Highways position of no objection subject to conditions. Planning policy and local objections raise the issue of vehicular traffic seeking to limit this but also that of on street parking, especially on adjacent roads. Evidence has been provided which is accepted by Derbyshire Highways Authority that the parking level is commensurate to car ownership by over 55s in comparable schemes. It is acknowledged that local concerns have been raised and car ownership not following the TS could lead to on street parking which is an issue raised in the RNP. However, on

balance it is considered that there is good evidence that the parking provided is suitable to cater for this development of supported living apartments. On this basis it is considered that the scheme as submitted is acceptable on highway safety grounds.

Overall, it should not be lost that the applicant is providing a housing product in demonstrable need, they have worked hard to address this concern increasing parking to a level which no objection is raised by DCC Highways and the site is heavily constrained and centrally located so maximising parking is not considered to be the right approach here. Whilst it is considered that there could be scope for a condition on parking, it is considered that on balance that this is not necessary as there would be no substantiated reason for the application to be refused on access and highway capacity/safety.

Biodiversity and Ecology

An Ecological Impact Assessment has been prepared in support of the application by BSG Ecology dated 2022 which assesses the potential ecological constraints associated with the proposed development site. It sets out that whilst the site is vacant which has allowed for the unfettered spread of existing flora on site but there remains a significant portion of the site as rubble hardstanding following the demolition of the previous development.

On the basis of the above and that there is no statutory wildlife designated areas on site, the impact of the development will be localised on the site and the existing habitats are considered of low ecological value, with the exception of the broadleaved woodland to the west of the site and sporadic mature trees.

On the basis of their value the report recommends the retention of the broadleaved woodland and trees where possible and by law where they have existing roosts for Bats. Where pruning is proposed it is accepted by DWT as beneficial on the basis it is undertaken by a qualified arboriculturist.

Although none of the habitats on the site are considered to be of substantive nature conservation value, the proposed development is focussed on the existing cleared site, but there would be the loss of some trees and likely disturbance to wildlife which is likely to have settled during the vacancy of the site. To mitigate this DWT have outlined a range of conditions with regards to badgers, bats and birds, in addition to this a Landscape and Environment Management Plan (LEMP) will be conditioned to secure a net gain in biodiversity and management of habitats.

With regards to the loss of trees proposed the Arboricultural Impact Assessment was updated in June 2023 to take account of the loss of a moderate to high quality tree to provide more parking.

RNP policy OS3 states that trees and hedgerows of good arboricultural, biodiversity and amenity value should be protected from loss or damage as a result of development. Wherever possible, they should be integrated into the design of development proposals and their enhancement will be supported. Proposals should be accompanied by a tree survey that establishes the health and longevity of the trees.

SDDC Tree Officer does not raise an objection to the proposed loss of trees and the further tree schedule works set out in the AIA to facilitate the development. The proposed additional planting is accepted as sufficient mitigation inline with BNE4. As set out in section 4.12 an Arboricultural Method Statement will be conditioned and will be required to follow the approach set out in sections 4.5 to 4.11.

Regarding trees and hedgerows, the majority are retained in situ and will be subject to ongoing maintenance and management inline with OS3. There will be the loss of one TPO tree, which has come about in efforts to seek more parking to address other matters outlined in the report. This is unfortunate and not readily endorsed by Officers, but in this instance, the Tree Officer raises no objection and suitable mitigation is proposed so on balance is accepted.

In conclusion, there is an accepted approach to securing BNG through the retention of habitats, trees and supplementary enhancements across the site. Derbyshire Wildlife Trust (DWT) has considered the

supporting Ecological Impact Assessment and approach to securing Biodiversity Net Gain and raises no objection subject to conditions which will adequately protect the site during construction and secure the LEMP delivering the net gain with periodic monitoring.

On this basis, no objection is raised by DWT in terms of approach or gain and it is considered that the proposed development from an ecology perspective would be in accordance with LPP1 Policy BNE3, RNP policy OS3 and paragraph 174 of the NPPF.

Cultural heritage

There are no heritage assets within the application site, nor is it considered that the development would impact any heritage settings as identified above given the established woodland along the western boundary and distances.

The application has been consulted on with the Derbyshire County Council (DCC) Archaeologist given the historic importance of Repton. The DCC Archaeologist has confirmed no objection subject to a written statement of investigation to guide archaeological field work and subsequent mitigation.

On this basis, it is considered there would be no unacceptable impact on archaeology and the application is inline with BNE10 and NPPF paragraph 205.

Drainage

The site lies within Flood Zone 1 on the Environment Agency's flood map for its majority. Consequently, the area is deemed to be at the least risk to flooding. The adjacency of the Repton Brook and Flood Zones 2 and 3 is acknowledged. The most applicable policies to consider are S1, S2, SD2, SD3 and SD6 of the LP1.

As the built development proposed has a roof area and introduces impermeable paving it would therefore generate appreciable rainwater run-off, so there is potential for substantial surface water and therefore potential for flooding of the site and/or other land.

The proposal as set out in the supporting drainage strategy is based on nearby borehole information the clay soil with limited sand and gravel limits the potential for soakaways, however the drainage strategy does recommend full infiltration testing to confirm this. On this basis, the proposed development seeks to discharge surface water into the existing sewer at a controlled rate and SuDs on site or the Repton Brook.

The RNP outlines that the Repton Brook flows into the Trent and has flooded twice in the past year, and concern has been raised over the frequency of flooding. The RNP raises concerns around flooding.

In response to the proposed discharge into the sewer, the LLFA responded in objection to this strategy in so far as discrepancies in information, evidence from ST water for the connection and further consideration of SuDs into the landscaping, yet not appearing in the drainage strategy.

The applicant has responded to the LLFA and further comment has been sought from the LLFA on this but at the time of writing no further response had been provided.

Overall, local planning policy seeks to promote the drainage of surface water drainage inline with the drainage hierarchy as set out in paragraph 80 reference ID: 7- 080-20150323 of the planning practice guidance. The hierarchy seeks discharge as follows:

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

The land may not be suitable for infiltration, and it is not desirable to unnecessarily exacerbate the concerns raised with the Repton Brook. Evidence of a ST sewer within proximity to the site and

indication of connection to this has been provided by the applicant. Furthermore, it is considered as the design detail progresses post planning, opportunities could become more apparent for suitable permeable paving and SuDs.

It is not considered that the lack of response from the LLFA is sufficient to delay determination of the application. It is clear from their comments that they simply want to clarify the possible option of drainage on site and secure where suitable onsite drainage. This should not be to the detriment of the Repton Brook.

Overall, to address this matter it is considered that pre commencement conditions could be attached to any permission which will require clarity around the proposed ground conditions, exploring options of on-site sustainable drainage not to the detriment of Repton Brook and further clarity around the sewer connection. This would therefore then allow a process against which would ensure a suitable drainage strategy prior to any development and this can be tested against the most suitable pathway for surface water inline with policy. Further conditions will be added to ensure drainage is managed during construction, any drainage solution is verified as built as approved prior to occupation and that the system is suitably managed by the developer and not at a cost to SDDC.

In summary, the proposed development subject to conditions is considered not at significant flood risk where a suitable drainage strategy can be implemented. The proposed development therefore accords with LPP1 Policies SD2 and SD3 and Section 14 of the NPPF and reflects the concerns raised in the RNP.

Section 106 obligations

Policy AS1 of the RNP is noted regarding developer contributions to health care services and provision. The application was considered by Derbyshire County Council and the NHS for its impacts on service provision who both raised no objections. Further to this, open space contribution was also considered however this was discounted on the basis of on-site provision and that a contribution could undermine the viability of the proposal.

On this basis, there are no grounds to seek monies towards local infrastructure.

Conclusion and Planning Balance

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

In terms of the Local Plan, this comprises SDDC Local Plan Part 1 (LP1) and SDDC Local Plan Part 2 (LP2) and in this instance the Repton Neighbourhood Plan. Which is considered to be up to date in terms of the relevant policies set out above. On this basis, Paragraph 11 of the NPPF is not 'triggered'.

The site is located within the settlement boundary of Repton and is noted for redevelopment into older persons housing. The proposal would directly align to the RNP and the presumption in favour of development within settlement boundaries as per policies H1 and SDT1.

The proposed residential units are specifically design for older persons meeting space standards and building regulations for enhanced accessibility. They are affordable in tenure and are supported by the Strategic Housing Manager. In addition, there is space within the development for specific spaces to support older person living – a mobility store for example. The units are also served by private and communal open space. Overall, they are considered high quality units in response to a demonstrable need. These benefits weigh heavily in favour of the application.

The site is considered accessible and well served by amenities given its location in Repton. Beyond parking the LPA accepts the Derbyshire Highway Authority's no objection to access and highways impacts. With regards to parking this is covered in depth above. It is considered that there is scope for a condition to manage parking as there is a concern about the possibility of this development exacerbating on street parking, however, as set out given the benefits of the scheme and no objection

from the Highways Authority, on balance, there is no substantiated reason for refusal on parking grounds as the application is presented (without the condition). If committee members are minded to seek such delegated authority is requested to enable Officers to draft and attached this accordingly.

Whilst taller in comparison to the previous development and the streetscene, this is not considered unacceptably so given the context of the site. The design and materials have been considered and subject to condition are accepted. In terms of the relationship with adjacent neighbours, this has been thoroughly considered. Whilst there some impact to the adjacent properties outlook, this is considered not grounds for refusal when weighed against the benefits.

The proposed development of the site will give rise to ecological and archaeological impacts but no objection has been provided on these matters and it is considered that with conditions the approach to these matters and impact acceptable in this instance. Subject to conditions, the application will also not give rise to any additional flood risk.

With specific regard to the historic environment, this proposed development has been considered with due regard for Section 66 and 72 of the Act and found to be acceptable.

Overall, for the reasons set out above the proposed development is broadly compliant with the local plan, including the RNP. Despite impacts to neighbouring amenity and the possible impact arising from on street parking both are considered to be outweighed by the significant benefit of the housing delivery, which enable Officers to recommend on balance that the application is approved subject to conditions.

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

Recommendation

Approve subject to the following conditions:

Standard

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 plans/drawings:

Architectural Drawings:

- 5296_1100_A_PLANNING - SITE LOCATION PLAN
- 5296_1200_K_PLANNING - SITE LAYOUT
- 5296_1201_F_PLANNING - FLOOR PLANS
- 5296_1202_D_PLANNING - ROOF PLAN
- 5296_1203_D_PLANNING - COMMUNAL SPACE PLAN
- 5296_1204_C_PLANNING - TYPICAL APARTMENT LAYOUTS
- 5296_1350_D_PLANNING – ELEVATIONS
- 5296_1400_F_PLANNING - SITE SECTIONS
- 5296_1700_D_PLANNING - VISUALS SHEET 1
- 5296_1701_D_PLANNING - VISUALS SHEET 2

- 5296_1702_D_PLANNING - VISUALS SHEET 3
- 5296_1900_C_PLANNING – BOUNDARIES
- 5296_1901_A_PLANNING - PROPOSED BIN STORE
- 220146 C2C XX XX M2 100 DRAINAGE PLAN
- 220146 C2C XX XX M2 102 SUDS MAINTENANCE PLAN

Supporting Documents:

- 5296_1000B_PLANNING_THE DALES_DESIGN AND ACCESS STATEMENT
- TPO438 Schedule
- TPO438 Layout
- Topographical Survey 21E193
- UG_1141_ARB_AIA_01_Rev_02_FINAL
- The Dales Repton Utilities Overview 43407705 1
- Site Investigations Phase 1
- 15910 Flood Risk Assessment and Drainage Strategy Report May 2022
- 230619_327320_TS001_Final
- Housing Management of The Dales (002) FINAL 260623
- P22 047 The Dales Ecology Report

unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of doubt and to ensure a high-quality development.

3. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

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

Reason: To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options.

4. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles to be agreed by condition 3 attached to this permission and also in line with DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015) have been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt the management and maintenance shall reflect best practice in BNG management??

Reason: To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority.

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

run-off from site during the construction phase.

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

6. No development shall take place until a written scheme of investigation (WSI) for archaeological work has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives; and:

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
- The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

7. Due to the low risk of adverse effect on the retained woodland/trees within the site and harm to wildlife including bats, badgers, breeding birds, reptiles and hedgehogs', precautions should be observed during construction works. Therefore, no development shall take place (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The precautions should be detailed in the CEMP and should include the following:

- Woodland and all retained trees should be protected from damage during construction by the erection of adequate temporary fencing, in line with BS5837, prior to the commencement of groundworks. This fencing should remain in place for the duration of construction.
- Working practices including pollution/dust prevention to avoid impacts on the retained woodland and trees.
- Construction lighting should avoid introduction of light onto the retained woodland and retained trees particularly those which contain bat boxes.
- Precautions and timing of site clearance including removal of shrub, scrub and brush piles in order to avoid disturbance to reptiles and hedgehogs as per section 4.21 and 4.24 of the Ecology Report (BSG, September 2022).
- Any excavations shall be covered overnight or have an escape ramp to prevent entrapment of wildlife.
- All pipework greater than 150 mm shall be blanked off at the end of the day.
- Chemicals, oils or fuel shall be stored securely.

Reason: To safeguard residential amenity, to ensure safe and suitable access for all users, in the interests of highway safety, recognising that initial preparatory works could bring about unacceptable impacts / inconvenience for existing highway users / nearby residents and protect areas of nature conservation interest.

8. Prior to the commencement of each phase of development including preparatory works, the details of any fencing (including temporary) including the specification of suitable mammal gaps within that phase shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of safeguarding against harm to protected species during the period of construction and throughout the life of the development.

9. Prior to the commencement of the development a Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA. The aim of the LBEMP is to enhance and sympathetically manage the biodiversity value of on-site and off-site habitats and should combine both the ecology and landscape disciplines. It shall be suitable to provide to the management body responsible for the site and shall include the

following: -

- a) Description and location of features to be retained, created, enhanced and managed specifically, A management plan for the retained woodland which will ensure wildlife benefits and minimise human access to this part of the site.
- b) Details of integrated bat, bird boxes (Universal swift nest boxes in line with British Standard 42021:2022) and insect bricks to be installed including location, type and number
- c) Details of hedgehog connectivity gaps including a plan showing locations and Hedgehog houses (as per section 4.25 of Ecology Report, BSG 2022)
- d) Aims and objectives of on-site and off-site management.
- e) Ecological trends and constraints on site that might influence management.
- f) Appropriate management methods and practices to achieve aims and objectives.
- g) Prescriptions for management actions.
- h) Preparation of a work schedule (including a five-year work plan capable of being rolled forward in perpetuity).
- i) Details of the body or organization responsible for implementation of the plan.
- j) Ongoing monitoring and remedial measures including benchmarking of the site enhancement areas against the DEFRA conditions sheets reportable to the authority at 5-, 10-, 15- and 30-years post completion

Photographs of these features in situ shall be submitted to the LPA to discharge this condition and the features shall be maintained in perpetuity.

The LBEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LBEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: In the interests of safeguarding against harm to protected species throughout the construction period and for the life of the development.

10. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order (2015), (or any Order revoking, amending or re-enacting that Order) no gates / bollards / chains / other means of obstruction shall be erected across the approved access unless details have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

11. Prior to their incorporation into the buildings hereby approved details and samples of the external materials for that phase shall be submitted to and approved in writing by the Local Planning Authority. The buildings within each phase shall thereafter be constructed in accordance with the approved materials for that phase.

Reason: In the visual interest of the buildings and character and appearance of the area.

12. Prior to any installation of lighting fixtures, a detailed lighting strategy should be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations, and any mitigating features such as dimmers, PIR sensors and timers. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018).

Such approved measures will be implemented in full. Any lighting scheme on site should avoid the introduction of light to site boundaries and adjacent habitats, the retained woodland and trees including

those which have bat boxes already attached. In addition, no light should be introduced within the vicinity of the new bat and bird boxes which will be provided as biodiversity enhancement including the flight paths to these features.

Reason: In the interests of safeguarding against harm to protected species throughout the construction period and for the life of the development.

13. Prior to the first occupation of any phase of the development, a verification report for that phase carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

Reason: To ensure that the drainage system is constructed to the national Nonstatutory technical standards for sustainable drainage and CIRIA standards C753.

14. The development hereby permitted shall not be occupied until such time as the cycle parking has been provided in accordance with the approved plans. Thereafter the cycle parking shall be maintained and kept available for use.

Reason: To promote travel by sustainable modes in accordance with the National Planning Policy Framework (2021).

15. Timing of site clearance including removal of trees and or shrub/scrub should avoid the bird breeding season. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (as amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. Therefore, no such building demolition or vegetation clearance work should be undertaken between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the work is commenced. If any active nests are discovered then the nest should be left undisturbed until the birds have fledged with an appropriate buffer surrounding the nest.

Reason: As per the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

16. The scheme of tree protection for each phase as set out in Section 7 of the Arboricultural Impact Assessment, Method Statement and Tree Protection Plan (April 2022) shall be implemented prior to any works commencing on site for each phase and thereafter retained throughout the construction period.

Reason: To protect existing trees and hedgerow through the construction period of the development.

17. Throughout the period of construction vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.

Reason: In the interest of highway safety and that there would be no debris on the highway during the construction period.

18. No development, including preparatory works, shall commence until the new vehicular and pedestrian access to Askew Grove has been constructed. The junction shall be laid out in accordance with the approved plans and with visibility sightlines of 2.4 x 35m in both directions. The area within the

sightlines shall thereafter be kept clear of any object greater than 0.6m in height above the nearside carriageway channel level.

Reason: To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway.

19. No development shall start until a Highway Construction Management Statement / Plan has been submitted to and approved in writing by the Local Planning Authority. The statement / plan shall include details specifically relating to:

- a) parking for vehicles of site personnel, operatives and visitors
- b) site accommodation
- c) storage of plant and materials
- d) routes for construction traffic to and from the site and measures to ensure adherence to the approved routing plan for vehicles under the applicant's / developer's control
- e) provision of roadside boundary hoarding behind any visibility zones
- f) any proposed temporary traffic management.

Only the approved details shall be implemented, which shall be maintained throughout the construction period.

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

20. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with the approved drawings. Thereafter the onsite parking provision and turning facilities shall be so maintained in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (2021).

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

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

22. Contaminated Land matters:

1. Undertake a phase 2 site investigation in accordance with the recommendations of the phase 1 study reference 2374.

2. Where the site investigation identifies unacceptable levels of contamination, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall have regard to relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The developer shall give at least 14 days notice to the Local Planning Authority (Environmental Health Division) prior to commencing works in connection with the remediation scheme.

3. No buildings hereby approved shall be occupied until:

- a) The approved remediation works required by 2 above have been carried out in full in compliance with the approved methodology and best practice.
- b) If during the construction and/or demolition works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination.
- c) Upon completion of the remediation works required by 2 and 3a above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

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

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

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

Informatives:

Highways

- h. Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk email highways.hub@derbyshire.gov.uk or telephone 01629 533190.*
- i. Planning permission does not give you approval to work on the public highway. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written agreement of the County Council as Highway Authority. It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed, which may take up to 16 weeks. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the County Council via email – ete.devcontrol@derbyshire.gov.uk. The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.*
- j. If an adoption Agreement is not in place when the development is commenced, the Highway Authority is obliged to serve notice on the developer, under the provisions of the Advance Payments Code part of the Highways Act 1980 (section 219 / 220), 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.*

- k. *If the roads within the proposed development are to be offered for adoption by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980. Detailed plans will need to be submitted and approved, the Agreement signed and all sureties and fees paid prior to the commencement of development. The Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please contact the County Council's Implementation team – email ete.devcontrol@derbyshire.gov.uk*
- l. *Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action 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 developer'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.*
- m. *Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to 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 dished channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.*
- n. *The layout of swales within the proposed highway limits do not comply with the Highway Authority's Design Guide and the design indicated on the application drawings has not been used elsewhere in the County. The applicant should be aware that their provision will attract a commuted sum for future maintenance purposes and could compromise the future adoption of the new estate streets.*
- A. *The County Council does not adopt any SuDS schemes at present (although may consider ones which are served by highway drainage only). As such, it should be confirmed prior to commencement of works who will be responsible for SuDS maintenance/management once the development is completed.*
- B. *Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council. For further advice, or to make an application please contact Flood.Team@derbyshire.gov.uk.*
- C. *No part of the proposed development shall be constructed within 5-8m of an ordinary watercourse and a minimum 3 m for a culverted watercourse (increases with size of culvert). It should be noted that DCC have an anti-culverting policy.*
- D. *The applicant should be mindful to obtain all the relevant information pertaining to proposed discharge in land that is not within their control, which is fundamental to allow the drainage of the proposed development site.*
- E. *The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water discharge, in line with Table 4.3 of the CIRIA SuDS Manual C753.*
- F. *The County Council would prefer the applicant to utilise existing landform to manage surface water in mini/sub-catchments. The applicant is advised to contact the County Council's Flood Risk Management team should any guidance on the drainage strategy for the proposed development be required.*
- G. *The applicant should provide a flood evacuation plan which outlines:*
- *The flood warning procedure*
 - *A safe point of extraction*
 - *How users can safely evacuate the site upon receipt of a flood warning*
 - *The areas of responsibility for those participating in the plan*
 - *The procedures for implementing the plan*
 - *How users will be made aware of flood risk*
 - *How users will be made aware of flood resilience*

- *Who will be responsible for the update of the flood evacuation plan*

H. Flood resilience should be duly considered in the design of the new building(s) or renovation. Guidance may be found in BRE Digest 532 Parts 1 and 2, 2012 and BRE Good Building Guide 84.

I. Surface water drainage plans should include the following:

- *Rainwater pipes, gullies and drainage channels including cover levels.*
- *Inspection chambers, manholes and silt traps including cover and invert levels.*
- *Pipe sizes, pipe materials, gradients, flow directions and pipe numbers.*
- *Soakaways, including size and material.*
- *Typical inspection chamber / soakaway / silt trap and SW attenuation details.*
- *Site ground levels and finished floor levels.*

J. On Site Surface Water Management;

The site is required to accommodate rainfall volumes up to the 1% probability annual rainfall event (plus climate change) whilst ensuring no flooding to buildings or adjacent land.

The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas, etc, to demonstrate how the 30 year + 35% climate change and 100 year + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).

Production of a plan showing above ground flood pathways (where relevant) for events in excess of the 1% probability annual rainfall event, to ensure exceedance routes can be safely managed.

A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc), attenuation basins/balancing ponds are to be treated as an impermeable area.

Peak Flow Control

For greenfield developments, the peak run-off rate from the development to any highway drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event, should never exceed the peak greenfield run-off rate for the same event.

For developments which were previously developed, the peak run-off rate from the development to any drain, sewer or surface water body for the 100% probability annual rainfall event and the 1% probability annual rainfall event must be as close as reasonably practicable to the greenfield run-off rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development, prior to redevelopment for that event.

Volume Control

For greenfield developments, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must not exceed the greenfield runoff volume for the same event.

For developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must be constrained to a value as close as is reasonably practicable to the greenfield runoff volume for the same event, but must not exceed the runoff volume for the development site prior to redevelopment for that event.

Note:- If the greenfield run-off for a site is calculated at less than 2 l/s, then a minimum of 2 l/s could be used (subject to approval from the LLFA).

Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.

Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within the highway.

Guidance on flood pathways can be found in BS EN 752.

The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the drainage network, whatever the size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space, etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.

K. If infiltration systems are to be used for surface water disposal, the following information must be provided:

- Ground percolation tests to BRE 365.*
- Ground water levels records. Minimum 1m clearance from maximum seasonal groundwater level to base of infiltration compound. This should include assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.*
- Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689-1:2003.*
- Volume design calculations to 1% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2.*
- Location plans indicating position (soakaways serving more than one property must be located in an accessible position for maintenance). Soakaways should not be used within 5m of buildings or the highway or any other structure.*
- Drawing details including sizes and material.*
- Details of a sedimentation chamber (silt trap) upstream of the inlet should be included.*

- Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.*

L. All Micro Drainage calculations and results must be submitted in .MDX format, to the LPA. (Other methods of drainage calculations are acceptable.)

M. The applicant should submit a comprehensive management plan detailing how surface water shall be managed on site during the construction phase of the development ensuring there is no increase in flood risk off site or to occupied buildings within the development

Item No. 1.6

Ref. No. [DMPA/2023/0708](#)

Valid date: 01/06/2023

Applicant: Sue Riley **Agent:** Extension Drawing Services

Proposal: **The erection of a dwelling and double detached garage and creation of associated access and new access to the host dwelling at 16 Church Hill, Etwall, Derby, DE65 6LT**

Ward: Etwall

Reason for committee determination

The application was called in by Cllr Kirke as unusual site circumstances should be considered by the Committee.

Site Description

The site is a level plot within the grounds of a large dwelling in the Etwall Conservation Area and would be accessed from Church Hill, a private road leading to the cricket ground and several other dwellings, two of which have also previously been granted permission within the grounds of the Gables. The site is largely laid to lawn but has trees on the boundary - a conifer hedge to the north and deciduous trees to the north east. Access to the site would require the removal of a brick wall, which itself is largely a replacement following the approval of the two further dwellings to the north of The Gables. This would mean the access would cross the route of a public right of way.

The proposal

The proposal is for a four bedroom two storey dwelling and double garage in the grounds of The Gables, a large traditional dwelling in the Etwall Conservation area.

Applicant's supporting information

The applicant has provided a Design and Access Statement alongside plans and elevations of the proposed dwelling in addition to the requisite application form and certificate.

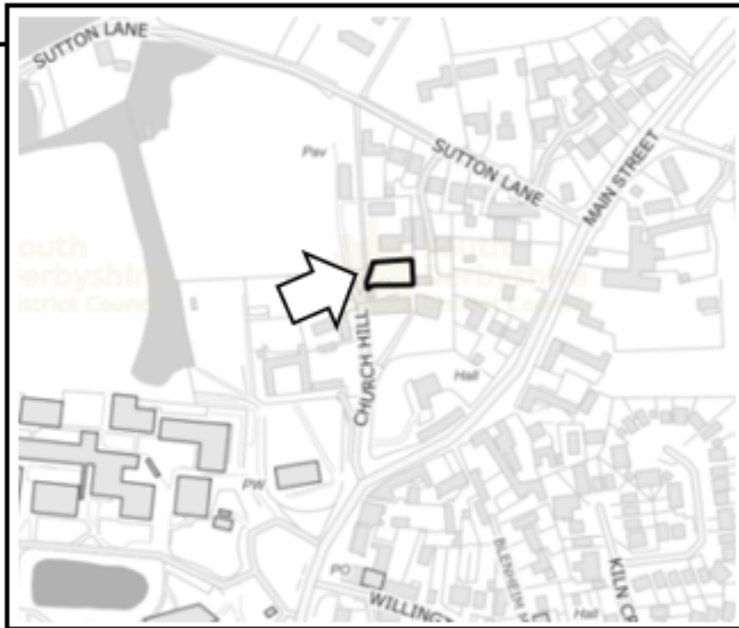
Relevant planning history

9/1283/0940 - Erection of two dwellings - Withdrawn
9/0884/0608 - Erection of two dwellings - Approved
9/1187/0887 - Lowering and demolition of boundary wall for form vehicular access - approved
9/0689/0411 - Renewal of 9/0884/0608 - Approved
9/1290/0903 - (Substitution of plot 1) Erection of two dwellings - Approved
9/1290/0904 - (Substitution of plot 2) Erection of two dwellings - Approved
9/2004/0527 - Conversion of building to granny annexe - approved
9/2005/0811 - Reduce to ground level three fruit trees - Approved
9/2005/0824 - Tree works - approved
9/2014/0503 - Felling of one Yew and one Ash - Approved
9/2017/0004 - Pruning of trees at 18 Church Hill
9/2018/0638 - Felling and pruning of trees at 16 Church Hill - Approved
DMPN/2019/1120 - Prior Notification for the proposed demolition of domestic outbuilding – Approved
DMPA/2020/1021 - The erection of a dwelling and creation of associated access and new access to the host dwelling – Refused
2023/0721 - Conversion and extension of existing attached barn to an annex with associated access and parking - Pending

DMPA/2023/0708 – 16 Church Hill, Etwell, Derby, DE65 6LT



THE SITE



MAPS ARE NOT TO SCALE

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South Derbyshire District Council. LA 100019461.2020

Responses to consultations and publicity

County Highways - No objection.

Initially objected to the lack of information about visibility splays and size of garage/evidence of sufficient parking. Having reviewed the amended plans they are of the view that sufficient parking and turning arrangements are provided within the curtilage of the proposed property to enable vehicles to enter and leave in a forward direction. It has been satisfactorily demonstrated that visibility for vehicles leaving the proposed access is acceptable for both vehicles on Church Hill and pedestrians using the Public Right of Way and It is considered that the additional traffic likely to be generated by the proposal would not have a material impact on the operation of the local road network.

PROW Officer - No objection.

Public Footpath Etwall No. 2 runs adjacent to the west boundary of the site and then along the access to it. Previous safety concerns regarding the manoeuvrability and visibility of emerging vehicles and the height of the walls by the access have been given due consideration and addressed. The route will be ultimately unaffected by the proposed works.

Environmental Health were not consulted but on the previous application (DMPA/2020/1021) confirmed that they had no objection to the erection of a dwelling in this location and requested a condition relating to hours of construction and deliveries to site.

Etwall Parish Council - Objects to the proposal as the changes made in the above applications do not mitigate their original concerns made on the previous application. The Parish Council raise the following concerns:

- a) Overbearing and too large for the plot;
- b) Parish Council generally does not support back garden development;
- c) Concern for the safety of users of the Public Right of Way;
- d) Proposed parking will take up most of the outdoor space;
- e) Loss of light to adjacent no 18 Church Hill;
- f) loss of 19th century wall on site boundary.

Six neighbour representations have been received including comments made on behalf of the Cricket club, raising the following comments:

- a) Loss of privacy;
- b) Overlooking;
- c) Overshadowing/loss of light;
- d) No need for a dwelling in this location;
- e) Not in keeping with the larger plot sizes in the surrounding area;
- f) Not compliant with Design guide;
- g) Loss of existing boundary treatment/hedgerow;
- h) Loss of visual amenity/character;
- i) Dwelling too large on too small a plot;
- j) Insufficient parking and turning for host and new dwelling;
- k) Dangerous access across PROW;
- l) Highway safety concerns;
- m) Gables a building of interest in the Conservation Area Statement;
- n) Adverse impact on neighbour amenity;
- o) Approval not given for 6m of my wall to be used for garage
- p) Garage elevation would be within 12m of our property;
- q) Approval would be contrary to BNE1;
- r) Helmsley is not shown on any of the plans;
- s) The proposed garden will be overlooked;
- t) Trees have been removed in the garden which is within the conservation area;
- u) The proposal has not been agreed with the cricket club;
- v) Current driveway driveway not wide enough for Gables, a fire safety hazzard;
- w) How would emergency services access the Gables if proposed annexe was also approved?
- x) Other planning applications have been refused because the Council has a five year supply;

- y) No public benefits to this proposal;
- z) The Gables not accurately reflected in the drawings;
- aa) One way route using The Gables drive would not work as Piers Ridding also has right of access and would not be adhered to;
- bb) New conifer been planted near lobby on rear elevation of the Gables - this will impede parking and turning;
- cc) The cricket club has not received any correspondence regarding notification of the application;
- dd) The cricket do not give permission for a new access to The Gables;
- ee) Boundary wall adjacent to No 18 Church Hill is owned by No 18 and has not agreed to alterations.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 Local Plan Part 1: S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); S3 (Environmental Performance); S4 (Housing Strategy); S6 (Sustainable Access); H1 (Settlement Hierarchy); H20 (Housing Balance); 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); INF1 (Infrastructure and Developer Contributions); INF2 (Sustainable Transport);

2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development); BNE7 (Trees, Woodland and Hedgerows)

Repton Neighbourhood Plan (RNP) made 2020: Policy H1: The Limits of Development; Policy H2: Development within settlement confines; Policy H3: Housing Mix; Policy H4: Design of New Developments; Policy H5: Design of Car Parking; Policy OS3: Important trees and hedgerows; Policy AS1: Health Care Facilities; Policy T1: Car parking in new developments

The relevant local guidance is:

South Derbyshire Design Guide SPD

The relevant national policy and guidance is:

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

Planning considerations

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

- Principle of the Proposed Development
- Design and Heritage Residential Amenity
- Highway Safety

Planning assessment

This application is a revised proposal for a new dwelling in the grounds of the host property - The Gables, Church Hill Etwall. The previous application (DMPA/2020/1021) was refused on highway and amenity grounds.

Principle of the Proposed Development

The most applicable development plan policies to consider are S1, S2, S4, H1, H20, BNE1, and SDT1, together with the Design Guide SPD. This application is submitted in full, detailing the design, layout and access details.

The Site is within the settlement boundary of Etwall that is categorised as a Key Service Village under policy SDT1 and the accompanying policies map, and policy H1. Both of these policies support in

principle development within defined settlement boundaries where it accords with the other policies of the development plan. The Site is also within the designated Etwall Conservation Area and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the PLBCAA) places a duty on the decision-maker, in the exercise of planning functions, to have special regard to the desirability of preserving or enhancing the character or appearance of conservation areas.

Therefore the principle of the proposed development is deemed acceptable subject to the qualifying grounds set out within the above quoted policies, other relevant policies of the development plan, together with other material considerations.

Design and Heritage Residential Amenity

The proposal as submitted is for a four-bedroomed detached dwelling that in appearance has taken some inspiration from the historic character of the area with a traditional brick and tile construction, stone cills and headers on the ground floor windows and stone cills at first floor level. Windows are of modest size and stated as timber on the submitted plans apart from large aluminium sliding doors serving the kitchen and dining space affording access to the garden to the east. The two storey dwelling would have a ridge height of 7.1m and an eaves height of 4.4m with first floor dormer windows facing to the east and west. The use of wide fascia boards is not traditional in the conservation area and the previous design of gutters fixed directly to the brickwork is preferred. A condition could be included to require this.

The proposed dwelling sits within the existing northern garden of The Gables which is largely laid to lawn and bounded by a mature conifer hedge to the north and a mix of mature trees and annexe building on the eastern boundary. Whilst the host dwelling to the south is not listed it is a building of note in the Etwall Conservation Area Character Appraisal. Historically its grounds extended further north to include land now occupied by 18 and 20 Church Hill. The host property makes a positive contribution to the character of the conservation area as does Piers Ridding, a property to the immediate east which appears to share at least one access via the same shared driveway as The Gables, double gates being part of the boundary between The Gables and Piers Ridding. Historic mapping shows the land to the north of The Gables now occupied by 18 and 20 Church Hill as part of a formally laid out garden, separated as it is now by a partial curving wall north of the outbuilding which is clearly no longer original having been re-aligned to create a driveway for 18 and 20 Church Hill. The Conservation Officers view in the previous application was that the design of the dwelling, subject to conditions, is such that the proposal would sit well within the wider character of the conservation area and could 'preserve' its special architectural and historic character and appearance as is described as a 'desirable' objective within section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This design is similar but with some different detailing such as upvc fascia boards and slightly shallower pitched roof gables. However, these are not of such difference that an application could be refused.

In terms of neighbour amenity, one of the reasons for refusal previously was the blank elevation of the proposed dwelling was too close to no 18 Church Hill. The proposed dwelling has been relocated to be 12m south of No 18, and would accord with the minimum distances required by the Design guide. The double garage is within the 12 metres but this is single storey and, whilst the blank wall would be within the 12m from primary windows, this would be instead of part of boundary treatment which is currently the conifer hedgerow. Whilst the SPD advises that it is poor practice to rely solely on planting as a method of protecting neighbour amenity, the conifers are in good health and are to be retained along with the brick wall in the north eastern section of the boundary, where not being replaced with the double garage.

The relocation of the proposed dwelling means that the rear garden would be relatively small at approximately 6m in depth, however there is ample amenity space around the dwelling and it is acknowledged that some home owners do not want large gardens. The south east part of the dwelling will face the currently reconstructed ancillary building in the grounds of Piers Ridding. The ancillary building has no primary windows in the gable facing the proposed dwelling and is considered to be acceptable. As regards the window of bedroom 3, this is six metres back from the boundary with Helmsley, one of five dwellings approved in 2009 accessed off Sutton Lane. Whilst the window would

overlook the rear garden, it complies with the 45 degree rule in terms of sector of view and would not directly overlook their primary windows. However, to ensure privacy for the occupiers of Helmsley the addition of a condition would ensure that the glazing below 1.7m in bedroom 3 shall be obscure glazing.

The minimum distance between the Gables and the new dwelling is approximately six metres at its closest point. Whilst this does not meet the minimum distance standards as there are primary windows in the north elevation of the host dwelling, as the owner of The Gables has chosen to make this application, they are content that this situation affords them a reasonable level of amenity. Were the current owner to move, any new owners would be well aware of the situation.

Highway Safety

This application has been submitted at the same time as a householder application involving the partial demolition, conversion and extension of the outbuildings associated with the Gables. In addition the applicant provided alternative access details. For clarity, the preferred access details do not involve a separate in/out access but the adoption of 'Option A'. Access for the property would be from Church Hill from the creation of an access in the existing boundary wall which would involve the partial demolition of the outbuilding. This has previously been approved but required the reconstruction of the boundary wall. To provide visibility for both drivers and other users of the private road and Public Right of Way the wall would be reduced in height to 0.6m. The Highway Authority initially asked for clarification of visibility splays and following amended plans have confirmed that they are satisfied that the access was acceptable. Parking provision of three spaces is required for both the Host dwelling and the new dwelling and with the double garage being sufficiently large enough to comply with the County Council's standards, parking provision is also considered to comply with INF2.

Other Matters

It is noted that the double garage is to be located on the boundary forming part of the boundary wall. The applicant must be sure that they have full ownership or agreement with the owner of No 18 Church Hill to be able to carry out the development of the garage. In addition, as the access is to be onto a private road understood to be in the ownership of Etwall Cricket Club, the applicant must agree additional access onto the private road or ensure their deeds already allow an additional access. These are both civil matters and not material planning considerations.

Conclusion

The proposal, whilst being within the Etwall Conservation Area, is not considered to adversely affect the character of the Conservation Area being of traditional design and provides an additional dwelling within the settlement boundary with existing neighbour amenity being protected.

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

Recommendation

Approve subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings ref. EDS-0798-01 Rev B (Proposed Floorplans, Roof Plan and Site Plan)
EDS-0798-02 Rev B (Proposed Elevations)

EDS-0798-05 (Proposed Garage Plans)

EDS-0798-04 Rev B (Proposed Parking and Visibility - New Dwelling)

unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. The development hereby approved shall not be occupied until the means of access for vehicles, pedestrians and cyclists have been constructed and completed as shown on drawing no. EDS-0798-04 Rev B.

Reason: In the interest of highway safety.

4. The Development hereby approved shall not be occupied until pedestrian visibility splays of 2m x 2m measured perpendicularly back from the edge of carriageway shall be provided on both sides of the access. These splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above the adjoining ground level.

Reason: To ensure motorists have clear and unrestricted views of approaching pedestrians when pulling out onto the adopted highway, in the interest of highway safety.

5. The parking spaces and garage shown on the submitted plan shall be constructed and available for use prior to the occupation of the dwelling and thereafter the approved facilities together with the means of access thereto shall be maintained as approved, and be reserved for the benefit of the development hereby permitted.

Reason: To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highways and public right of way and to ensure that the facilities provided are reserved for the benefit of the development for which they are specifically required.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.

Reason: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic including pedestrians in the public highway in accordance with the National Planning Policy Framework (2019).

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

Reason: To safeguard the amenities of nearby occupiers.

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

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

9. All verges shall be finished in a mortar finish. There shall be no use of dry verge (cloaking tile) systems. 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, there shall be no later installation of a dry verge system.

Reason: In the visual interest of the building and local distinctiveness.

10. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

Reason: In the visual interest of the building and local distinctiveness.

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

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

12. Notwithstanding the plans hereby approved and the retention, where possible, of existing boundary treatments, prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwelling to which they serve is first occupied.

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

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

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

14. 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 window hereby approved serving the bedroom 3 in the eastern rear elevation shall be glazed in obscure glass below 1.7m in height and this obscure glazing element shall be non-opening (except in an emergency) and permanently maintained thereafter as such.

Reason: To maintain control in the interest of the effect upon neighbouring properties.

15. Prior to the occupation of the dwelling a scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme should evidence compliance with British Standard (BS) 3936: 'Part 1 - Specification for trees and shrubs', BS3969 - 'Recommendations for turf for general purposes' and BS4428 - 'Code of practice for general landscape operations (excluding hard surfaces)'. All planting, seeding or turving comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of the dwelling; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

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

Informatives:

- d. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport and Communities at County

Hall, Matlock regarding access works within the highway. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email Highways.Hub@derbyshire.gov.uk or telephone 01629 533190.

- e. The application site is abutted by a Public Rights of Way Footpath No. 2 as shown on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further information can be obtained from the Rights of Way Duty Officer in the Economy, Transport and Environment Department at County Hall, Matlock or by emailing ETE.PROW@derbyshire.gov.uk.
- f. This permission relates only to the details of the new dwelling and not to the details provided relating to the alterations to the outbuildings associated with The Gables which are the subject of a separate application (DMPA/2023/0721).

Item No. 1.7

Ref. No. [DMPA/2023/0692](#)

Valid date: 02/06/2023

Applicant: Joanne Feasey

Agent: SDDC

Proposal: **Installation of dropped kerb and hard standing including associated ground works at 36 Coton Park, Linton, Swadlincote, DE12 6RE**

Ward: Linton

Reason for committee determination

South Derbyshire District Council Housing Adaptations Department are the applicant, and the proposal is contrary to the recommendations of the County Highway Authority.

Site Description

36 Coton Park, Linton, is a semi-detached dwelling, dating to the early to mid 20th century. The site is located to the west of a classified road (Coton Park), where the land slopes upwards from the south to the north of the highway. The site, like others (in particular to the west of the site) slope upwards away from the highway. Many of these already have vehicular access.

The application site presented provides a sloped drive and a concrete ramp to accommodate disabled access. The scheme includes channel drains to allow surface run off water to discharge.

The proposal

The proposals are for the erection of a dropped kerb and hard standing including a concrete ramp and associated ground works.

Applicant's supporting information

The application is supported with a Proposed Site Plan, Location Plan and Application Form. No Planning Statement has been submitted here.

Relevant planning history

9/2003/1079 No. 14 – no gradient or turning area conditions.

9/1086/0561 No. 26 – gradient condition.

9/2014/1172 No. 24 – no gradient or turning area conditions.

9/1184/0640 No. 44 – gradient condition.

DMPA/2023/0927 No.60 – no gradient condition (approved at Planning Committee on 14 June 2023)

Responses to consultations and publicity

The County Highway Authority recommends conditions 'The gradient of new private driveways should not exceed 1:15 for the first 5m from the nearside highway boundary i.e. back of the footway. This is in the interests of the safety of persons using the access and users of the highway and footway.'

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): Policy S2 Presumption in Favour of Sustainable Development; Policy SD1 Amenity and Environmental Quality; Policy BNE1 Design Excellence; and Policy INF2 Sustainable Transport.

DMPA/2023/0692 – 36 Coton Park, Linton, Swadlincote, DE12 6RE



THE SITE



South Derbyshire District Council

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2017 Local Plan Part 2 (LP2): SDT1 Settlement Boundaries and Development; and H27 Residential Extensions and other Householder Development

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Planning considerations

- Principle of the proposed development
- Impact upon the host dwelling and the character and appearance of the area
- Residential amenity
- Parking and Highway Safety

Planning assessment

Principle of the proposed development

Development plan policy SDT1 supports development in principle in locations within the defined settlement boundaries, subject to compliance with the relevant policies of the development plan. Policy H27 considers householder development and supports such undertakings if they do not harm the host property and the character and appearance of the area, and is not unduly detrimental to the amenity afforded to nearby properties. The criteria associated with policy H27 is also reflected within policy BNE1 and advice within the SPD.

Therefore, the principle of the proposed development is deemed acceptable subject the qualifying criteria of policies H27, other relevant policies of the development plan and other material considerations.

Impact upon the host dwelling and the character and appearance of the area

Due to the siting, scale and context of the area, the proposed alterations will not be out of keeping with the character and appearance of the area.

Residential amenity

Allowing for the scale of the proposed development, coupled with the distance from the nearest residences, and the positioning of the proposals, it is considered that the proposed development will not unduly harm the amenity afforded the occupiers of nearby properties. The scheme therefore complies with policies of the development plan and advice within the SPD.

Parking and Highway Safety

On the advice of the Highway Authority, and subject to its recommended conditions, the proposal would not adversely affect highway safety.

However the applicant has affirmed that it is not practicable to provide the recommended gradient whilst also providing adequate disabled access. Without the requested condition regarding the gradient there would be some detriment to highway safety.

While Policy INF2 seeks, in providing parking, to ensure that development would not have an undue detrimental impact on pedestrian and cyclist movement and highway safety, it also acknowledges the need to provide sufficient conveniently located spaces to meet the needs of people with impaired mobility. This inevitably introduces tension between the policy objectives, given the particular circumstances of this case.

The applicant notes that the classified road is not busy. While there is no objective data to affirm or contest this, it is noteworthy that not all previously approved vehicular accesses are subject to a

gradient condition (see Planning History) and no adverse representations have been received from the local community.

In the circumstances, the need to provide access for an occupier with impaired mobility is considered to outweigh a modest risk to highway safety that might result from the gradient of the access.

The other recommended conditions of the Highway Authority could be accommodated.

Mining legacy

The site lies in an area affected by previous coal mining activity. An appropriate informative, drawing attention to Coal Authority Standing Advice, would adequately safeguard this issue in accordance with Policy SD4

Conclusions and the planning balance

The proposed development is considered acceptable due to the provision of access for an occupier of impaired mobility outweighing any modest risk that may result from the gradient of the access. The proposal would not have an adverse impact on residential amenity of neighbouring properties. The proposal is deemed suitable, compliant with the aims of development plan policies, and with the Supplementary Planning Document on Design. There are no material considerations that would warrant refusal of planning permission in this instance.

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

Recommendation

Approve subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the Proposed Ground Floor/Elevation Plans, The Location Plan/Block Plan and Application Form as received on the 2nd of June 2023, unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: In the interests of residential amenity and in accordance with policy H27 of the Local Plan Part 2.

2. Pedestrian visibility splays of 2m x 2m shall be provided and permanently maintained on both sides of the access to the dwelling. There shall be no obstruction to visibility between 0.6m and 2.0m above carriageway level.

Reason: To provide adequate visibility for drivers entering or leaving the site and to ensure the safety of pedestrians and vehicles.

3. The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained for the lifetime of the development.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with the National Planning Policy Framework (2019)

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.

Reason: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic including pedestrians in the public highway in accordance with the National Planning Policy Framework (2019).

Informatives:

- g.
 - a) Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action 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 developer'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.
 - b) Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to 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 dished channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
 - c) Planning permission does not give you approval to work on the public highway. To carry out works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email highways.hub@derbyshire.gov.uk or telephone 01629 533190.
- h. The proposed development lies within an area that has been defined by the Coal Authority as containing coal mining features at surface or shallow depth. These features may include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such features are seldom readily visible, they can often be present and problems can occur, particularly as a result of new development taking place.

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. 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, excavations for 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.

If any 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

Item No. 1.8

Ref. No. [DMPA/2022/1153](#)

Valid date: 19/09/2022

Applicant: Will Martin

Agent: Litchfields

Proposal: The variation of condition 31 of outline permission ref. DMPA/2020/0543 (relating to the residential development of up to 1,100 dwellings, an extra care facility, a local centre comprising: a small supermarket with a floorspace not exceeding 1000 sqm (net); a smaller retail unit with a total floorspace not exceeding 200sqm (net); a cafe/restaurant with a floorspace not exceeding 200 sqm (net); a public house with a floorspace not exceeding 650 sqm (net); a doctors surgery or crèche; and a community facility, as well as a primary school together with associated playing fields and the provision of associated infrastructure (including roads, footpaths, cycleways, sustainable urban drainage and open space)) on Land at New House Farm, Etwall Road, Mickleover, Derby, DE3 0DN

Ward: Etwall

Reason for committee determination

This application is presented to the Committee as it is a major application subject to more than 4 objections.

Update report

Members will recall that the application was previously considered at the meeting held on 7th March 2023 but was deferred to allow the applicant to submit an updated EIA to take into account extra air pollution from queuing vehicles, up to date traffic surveys/TA, and for National Highways to provide a response to Derby City Council's objection. The previous report is attached as an appendix.

The applicant has provided some information to address the Members' concerns, and this is Assessed below:

Updated EIA

The issue of re-opening the Environmental Impact Assessment as a result of anticipated traffic and associated air quality issues at the A38 Kingsway junction has been revisited and the applicant has provided a legal view as to whether this is warranted as a result of proposal. The applicant originally stated that in their opinion the original Environmental Statement submitted with the original outline application remains valid and that an Environmental Statement addendum is not required, taking into consideration the nature of the proposed amendment. The original Environmental Statement found transport and air quality impacts to be negligible and the submitted Transport Technical Note submitted with this application demonstrated that the development was adding significantly fewer trips to the A38 Kingsway junction than originally envisaged at outline application stage. This is a view shared by officers and the legal view provided by the applicant following the deferral of the decision at the previous meeting concludes the same. On this basis it is not considered reasonable or necessary to delay the determination of the application on the basis of re-opening the Environmental Impact Assessment for air quality, as this is not considered reasonable or necessary.

It should be noted that according to data held by Derby City Council there is no Air Quality Management Area at the A38 Kingsway junction itself, although there is one nearby within the city's administrative boundary at the A516/A5111 junction, the traffic light controlled junction of Kingsway/Manor Road/Uttoxeter New Road. However, developments within the city will now result in the provision of signalisation at the southbound arm of the A38 Kingsway Junction, provided by Tilia

Homes who are developing at Manor Kingsway, as part of their planning obligations. It is anticipated that this will ease traffic problems within the city and queuing that occurs on the A5111 approach to the A38 Kingsway junction. Since National Highways are also content with the proposal in terms of additional traffic on the A38 Kingsway junction before that junction is improved through grade separation, it could not reasonably be concluded that the proposal would create any undue additional impacts in terms of air quality in the context of the overall development of the housing at this allocated site.

Updated Traffic Surveys/Transport Assessment

The applicant was asked to provide more up to date traffic survey work to support their application. However, the applicant has stated that they are content that the data provided is suitable, robust, and adequately demonstrates that the proposal would not adversely impact on both the Strategic Road Network and the Local Road Network. They have, however, sought to ease the concerns of Derby City Council in regard to the statistical confidence of the data submitted in support of the application by providing the Automatic Number Plate Recognition (ANPR) match rates between vehicles leaving the new housing development on New House Farm and then travelling through the Kingsway Island junction, information that Derby City Council had stated was missing. The applicants additional information shows these ANPR match rates ranged between 93.7% and 98% and they state that the evidence they have provided to support the application, alongside the ANPR match rate data requested, provides a very high level of confidence in the submission and its conclusions. Derby City Council were asked for their views on the application in light of the additional information that they had specifically requested, and which was provided by the applicant. However, in the City Council's response they have stated that their highways officers do not wish to make further comments on the application and that they do not wish to raise any other policy issues in respect of the submission.

National Highways

National Highways were asked to comment on the concerns raised by Derby City Council. National Highways have responsibility for, manage, and improve motorways and major 'A' roads, the trunk road network. As such their interests relate only to the operation of the A38 approaches from both the north and the south and the A38/Kingsway junction itself. National Highways have reiterated their advice that they have no objection to the application and that their decision was reached following a modelling exercise using more realistic figures as opposed to the overly robust assessment carried out for the original application. They have stated that they have no further comments to make and on that basis it not considered reasonable or justified to refuse the application as there is no evidence to demonstrate that the proposal would have any undue impact on the strategic road network, which was the reason for the condition in the first place.

Conclusion

In light of the above. the Committee is asked to resolve that planning permission be granted in accordance with the recommendations in the previous main report.

Item No. 1.2

Ref. No. [DMPA/2022/1153](#)

Valid date: 19/09/2022

Applicant: Will Martin

Agent: Litchfields

Proposal: The variation of condition 31 of outline permission ref. DMPA/2020/0543 (relating to the residential development of up to 1,100 dwellings, an extra care facility, a local centre comprising: a small supermarket with a floorspace not exceeding 1000 sqm (net); a smaller retail unit with a total floorspace not exceeding 200sqm (net); a cafe/restaurant with a floorspace not exceeding 200 sqm (net); a public house with a floorspace not exceeding 650 sqm (net); a doctors surgery or crèche; and a community facility, as well as a primary school together with associated playing fields and the provision of associated infrastructure (including roads, footpaths, cycleways, sustainable urban drainage and open space)) on Land at New House Farm, Etwall Road, Mickleover, Derby, DE3 0DN

Ward: Etwall

Reason for committee determination

This application is presented to the Committee as it is a major application subject to more than 4 objections.

Site Description

The site is situated to the west of Mickleover and extends to approximately 50.9ha (125.9 acres) and comprises mainly improved grassland. A section of the site is now under development by Avant Homes, pursuant to a reserved matters approved under the existing outline permission (see below). The site is located to the north of the A516 Etwall Road, which connects Mickleover with the A38 to the east and the A50 further west. The northern boundary of the site is defined by the former railway line which is now part of the National Cycle Network (NCN) Route 54. Radbourne Public Footpath no. 8 runs along the eastern edge of the site but just off it, accessed off Greenwood Court and the new Bloor Homes development site.

The proposal

The last outline permission was granted subject to a condition (number 31) which limits the number of dwellings which can be occupied prior to the commencement of the grade separation works at the A38/A5111 Kingsway junction, to 317 dwellings. This current application seeks to vary condition 31 to increase the number of dwellings that can be occupied to 617 dwellings.

Applicant's supporting information

A Covering Letter confirms that Highways England were consulted prior to submission and agreed that it would be reasonable to amend the condition. It is considered that, given this and the enclosed justification, the variation can take place without detriment to the purpose of the condition and allows for an increased housing delivery on an allocated, sustainable site in South Derbyshire.

DMPA/2022/1153 – Land at New House Farm, Etwall Road, Mickleover, Derby, DE3 0DN



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A Supporting Statement states that there have been unexpected delays in issuing the Development Consent Order (DCO) e issuing of the DCO consent to allow the A38 Derby Junction to commence following the original DCO decision being quashed by the High Court Order on 8 July 2021 which is still being re-examined with no publicly available timeframe on when a decision is likely to be issued. As a result four years on from the grant of the original outline permission works have not yet started on the A38/A511 Kingsway junction.

It states that the applicants met with National Highways who advised that they would require additional survey work in order for them to consider any increase in the number of houses occupied before the A38/A511 Kingsway junction works start. The requisite survey work has been undertaken and accompanies this application, that document being the Technical Note - Impact of Development Generated Trips on A38 Kingsway Junction and at a subsequent meeting with National Highways an increase in the number of houses that could be occupied was agreed as being approximately 600.

A Technical Note - Impact of Development Generated Trips on A38 Kingsway Junction which concludes that the post occupation traffic surveys show there has been a material change to the level of development generated trips impacting on the existing A38/A51111 junction and that occupation of all 1,100 dwellings allowed under planning permission reference DMPA/2020/0543 will have no material impact upon the operation and levels of highway safety at the existing A38/A5111 junction. It states that the residual cumulative impact of the development is not significant and therefore is not severe and hence it is concluded that Condition No.31 is not now necessary and should be removed.

An EIA Supporting Statement notes the original outline application was supported by an Environmental Statement (ES) due to the development being within Schedule 2 of the Town & Country Planning (Environmental Impact Assessment) Regulations. It states the this current application does not change the scale, type or nature of development coming forward on this site and therefore does not alter the impacts nor the mitigation measures identified under the original ES. Nor does it change the mitigation proposed by the ES. The change will therefore not have a practical implication and the condition will remain effective in safeguarding the operation on the A38 and states that no further environmental information is required.

Relevant planning history

9/2017/0349: Outline permission for the residential development of up to 1,100 dwellings, an extra care facility, a local centre comprising: a small supermarket with a floorspace not exceeding 1000 sqm (net); a smaller retail unit with a total floorspace not exceeding 200sqm (net); a cafe/restaurant with a floorspace not exceeding 200 sqm (net); a public house with a floorspace not exceeding 650 sqm (net); a doctors surgery or crèche; and a community facility, as well as a primary school together with associated playing fields and the provision of associated infrastructure (including roads, footpaths, cycleways, sustainable urban drainage and open space) - Approved October 2018

9/2018/1240: Approval of reserved matters of appearance, landscaping, layout and scale, pursuant to outline permission ref. 9/2017/0349 for the construction of 311 dwellings, public open space and associated infrastructure (New House Farm phase 3) - Approved March 2019

DMPA/2019/1459: Approval of reserved matters for layout, scale, appearance and landscaping of outline permission ref. 9/2017/0349 (for the erection of 317 plots in lieu of 311 plots) previously approved under reserved matters approval ref. 9/2018/1240 along with substitution of plot 101 - Approved August 2020

DMOT/2020/0342: Approval of details required by condition 8 (materials) attached to permission ref 9/2017/0349 (for the residential development of 311 dwellings, public open space and associated infrastructure pursuant to reserved matters approval ref. 9/2018/1240) – Approved September 2020.

DMPA/2020/0543: The variation of condition 39 of outline permission ref. 9/2017/0349 to increase the number of dwellings that can be occupied to 317 dwellings before works commence on the A38 Kingsway/A511 junction, rather than before those works are complete.

Responses to consultations and publicity

County Highway Authority has no objection.

National Highways has no objection.

Planning Casework Unit at the Department for Levelling Up, Housing and Communities has no comments to make on the Environmental Statement.

Derby City Council objects to the application, stating that The City Council's concern with increasing the housing occupations is that the development was predicated on the construction of the A38 Junctions Scheme. Whilst the applicant has submitted evidence, through number plate matching surveys, that the distribution split through the Kingsway Junction is half the predicted volume estimated in the original transport assessment, no evidence has been provided on the overall percentage match and therefore the statistical confidence of the survey is questionable. They understand that the signalisation of the southbound arm of the A38 junction will now be triggered and provided by Tilia Homes as part of their planning obligations for the development at Kingway and this will provide some relief to the problems on Derby City's network and queuing that occurs on the A5111 approach to the Kingsway Junction.

They state that the Grampian style condition was placed on the development because of the uncertainty over the construction programme of the A38 Derby Junctions and that it has significant concern over the proposed variation of condition 31 to allow more housing to come forward before the A38 Grade Separation scheme commences. They request that they are involved in any future discussions and possible assessment of the impacts on the city's highway network. They also advise that there is still a need to secure a local distributor road through this site, and safeguarding land for a possible link north to join future possible growth. The acceptability of any potential further growth in this area will require additional infrastructure to provide access for public transport and to distribute traffic onto the most appropriate routes.

7 objections have been received raising the following concerns:

- a) Housing developments in the area has added significantly to road traffic.
- b) Covid offset increases in traffic in 2020, 2021, and early 2022, but since summer 2022 traffic has increased significantly, with traffic diverting from the A38 through Mickleover via Uttoxeter Road or Station Road.
- c) Avoiding obligations for the A38 upgrades will add to the existing problems.
- d) I would like the speed limit across the whole site to be reduced to 20mph, with buses route through the site as well as an additional entrance/exit.
- e) There have been accidents on the exit island, including one fatality, and this proposal will increase the potential for more unless an additional entrance/exit is provided, and traffic calming on the A616 to the A38.
- f) Issues on the A38 previously led to gridlock in Mickleover.
- g) I object as there is only one single access to the whole estate and that access, the roundabout on the A516, is the scene of many crashes and near misses – residents will be unable to enter/exit the estate if there is an accident on the roundabout or access road and this should have been considered
- h) Parking around schools is a major problem with no one walking any more – schools in Mickleover have had to establish no vehicle policies on the roads nearby.
- i) It will cause gridlock thorough the whole of our estate, especially when extra vehicles for the planned doctors/shops arrive.
- j) There should be a second access via the Bloor Homes estate on to Ladybank Road.
- k) As a resident of the Barrett estate and frequent user of the A516.A38 there has been a significant increase in traffic since these homes have been occupied with northbound A38 tailbacks back to Toyota to Kingsway Island.

- l) We wish to appeal commencing planning opposite our new hose and wish to speak to an adviser.
- m) Traffic in the area and on Kingsway/Markeaton is already unacceptable so expansion should not be allowed until the roads are rectified.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), H19 (Land West of Mickleover) and INF2 (Sustainable Transport);

The relevant national policy and guidance is:
National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

Planning considerations

This application seeks to vary a condition attached to a previous approval, pursuant to section 73 of the Town and Country Planning Act 1990 (as amended). The principle of development has therefore been established and hence the following assessment takes into account only the matters which are relevant to the condition concerned. Taking this into account along with the documents submitted and the site and its environs, the main issue central to the determination of this application is whether the proposed variation of condition 31 would bring about unacceptable impacts on the strategic highway network – the reason that the condition was imposed in the first place, at the request of National Highways.

Furthermore, as a grant of permission under section 73 of the 1990 Act results in a further permission, leaving the original permission and its conditions intact, it subsequently open for the developer to implement either permission; consideration also needs to be given to the remaining conditions and whether they have been discharged (either in part or in whole).

Planning assessment

The variation of condition 31

The existing outline permission was granted subject to condition 31 which limited the number of dwellings which might be occupied prior to the commencement of the grade separation works at the A38 Kingsway island:

"No more than 317 dwellings shall be occupied until construction works have commenced on the A38 Derby Junctions grade separation scheme at the A38/A5111 Kingsway junction."

The reason given for the condition was "to ensure that the A38 trunk road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 by minimising disruption on the trunk road resulting from traffic entering and emerging from the application site and in the interests of road safety." It is thus important to note therefore that this condition was not intended to mitigate impact on the local highway network. Indeed, it was not requested by Derby City Council or the County Highway Authority.

The applicant seeks to vary the wording of the condition to:

"No more than 617 dwellings shall be occupied until construction works have commenced on the A38 Derby Junctions grade separation scheme at the A38/A5111 Kingsway junction unless otherwise agreed in writing with the Local Authority".

The main consideration for the application relates to the impact that increasing the number of dwellings that can be occupied on the site before the A38 Kingsway/A5111 junction works commence would have on the strategic highway network. The re-determination of National Highways submitted DCO, which is

the process for approving the project, has taken longer than expected, and there is no indication at this stage as to when that will occur. When the previous application to amend the condition on the permission to allow 317 homes to be occupied before the A38 Kingsway improvements works commenced, rather than be completed and open for traffic, it was anticipated that works would have commenced in Spring 2021 and be open to traffic by March 2023, but clearly this has not happened.

Condition 31 was imposed at the behest of Highways England, now National Highways, to ensure the safe operation of the strategic highway network, i.e., the A38. In terms of assessing the impact of the proposed uplift in the number of homes allowed to be occupied, the key consultation is with National Highways, who have advised that the original Transport Assessments were overly robust, and that based on the distribution changes alone, the trigger point could increase significantly without adversely impacting of the strategic road network. It is noted that Derby City Council raise an objection to the application and question the validity of the evidence which accompanies it. However, the evidence was produced on the advice of National Highways and they have also assessed the information supplied. National Highways have raised no objection. On that basis, notwithstanding the comments received, it is considered that in terms of the impact of the proposal on the strategic road network, the application is acceptable.

The revised wording for condition 31 proposed by the applicant also includes the tailpiece "...unless otherwise agreed in writing by the Local Planning Authority". The implications of this part of the wording is that should the delivery of the A38 Kingsway Junction works be subject to further delays, or, indeed, abandoned altogether, then rather than submit a further S73 which leads to a further planning permission needing to be being issued, then the matter can be dealt with through correspondence, still in conjunction with National Highways. This approach is considered to be appropriate in light of the reason for the condition being the safe operation of the strategic road network.

Other matters

Derby City Council also state that they continue to want a local distributor road to be provided through this site, and for there to be safeguarded land within if for a possible link north to join future possible growth. They state that the acceptability of any potential further growth in this area will require additional infrastructure to provide access for public transport and to distribute traffic onto the most appropriate routes. This matter is not relevant to the consideration of this application and imposing a condition requiring this to be provided at this stage would be unreasonable.

Delivery of homes on the site has continued apace with the developer, Avant Homes, anticipating that approximately 154 of the homes they have approval for will be completed by the end of March 2023. These 154 homes will form part of the 317 homes limit. Furthermore, a reserved matters application is currently under consideration for the remainder of the homes for this development, to the north of the existing homes, progresses which further demonstrates confidence that the site is likely to continue to help to deliver much need housing.

Status of remaining conditions

The existing conditions have been discharged in part where they relate to the Avant Homes site. They remain to be satisfied across the remainder of the site, so the wording of the conditions have been adjusted to reflect that are set out below. In addition, the necessity of various conditions have been revisited with it noted that conditions should not be used on outline permissions to control matters which would be expected under the reserved matters approvals. Furthermore, condition 32 limits the number of housebuilders that can operate on the site to 2 until July 2023, however, as the overall number of homes delivered is only a matter for the strategic road network, then condition 31 adequately controls this, and it is not considered necessary to repeat condition 32 as a result.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and

to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

A. Secure the completion of a section 106 agreement (a Deed of Variation) to carry forward the obligations from the existing outline permission, with delegated authority given to the Head of Planning and Strategic Housing to agree the finer detail of that agreement;

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

Recommendation

1. a) Application for approval of the reserved matters shall be made to the Local Planning Authority before 19 October 2028.

b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.

2. Approval of the details of the appearance, landscaping, layout and scale (hereinafter called the reserved matters) for each phase or sub-phase of the development shall be obtained from the Local Planning Authority in writing before any development is commenced in that phase or sub-phase. Plans and particulars of the reserved matters for each phase or sub-phase of the development shall be submitted in writing to the Local Planning Authority and the development of each phase shall be carried out as approved.

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

3. The development hereby approved shall be implemented in accordance with the following plans approved under outline permission ref. 9/2017/0349. The approved plans are:

- a) Site Location Plan (Ref: IL50105-000 Rev C);
- b) Parameter Plan - Land Use & Extents (Ref: PS50105-063 Rev C);
- c) Parameter Plan - Access & Movement (Ref: PS50105-067 Rev C);
- d) Parameter Plan - Heights (Ref: PS50105-065 Rev C);
- e) Parameter Plan - Density (Ref: PS50105-066 Rev C);
- f) Parameter Plan - Landscape & Open Space (Ref: PS50105-064 Rev C); and
- g) Proposed Shared Footway (Old Etwall Road) (Ref: 10-117-TR-048).

Reason: For the avoidance of doubt and to specify the plans to which the permission relates.

4. The Phase 2 Proposed Shared Footway/Cycleway on Old Etwall Road, Ref: 10-117-TR-048 shall be provided prior to the occupation of the 50th dwelling in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. The route shall be maintained throughout the lifetime of the development available for public use along its entire length.

Reason: In the interests of providing a sustainable development.

5. The development shall proceed in accordance with the phasing plan ref. AC50105 08 107 Rev F and the phasing scheme ref. 50105/11/JG/NMi (dated 18 December 2018), as approved pursuant to condition 6 of outline permission ref. 9/2017/0349 unless, prior to the commencement of a phase or sub-phase pursuant to this permission a revised scheme for phasing of the development has been submitted to and approved in writing by the Local Planning Authority. The

scheme for phasing shall show the boundaries of the proposed phases of the development and shall include reference to the provision of the children's play spaces and other open spaces. The development shall be carried out in accordance with the approved scheme.

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

6. Notwithstanding the submitted master plan, the reserved matters submitted in accordance with condition 2 shall include the following urban design principles and details with each application for a phase or sub-phase:

- a) the creation of separate character areas in accordance with the principles set out in the submitted Design and Access Statement [D&AS] [7.15-7.18];
- b) the provision of greenway routes/green corridors to connect key green spaces in accordance with the principles set but in the submitted D&AS [7.42-7.53 and the Green Infrastructure Plan, Planting Plan & Play Areas Plan];
- c) provision for future pedestrian and cycle access as indicated in the submitted D&AS [8.3-8.7 and the Movement Plan];
- d) the creation of a 'village centre' comprising an area of shops, community facilities and open space as described in the submitted D&AS [7.19-7.22 and 7.28-7.29] as well as Indicative Local Centre and Playing Field Detail ID50105-091;
- e) the provision of a centrally located primary school as described in the submitted D&AS [7.23-7.27];
- f) measures to minimise the risk of crime to meet the specific security needs of the application site and the development;
- g) details of the lighting to roads and footpaths, and where relevant the public areas, shared driveways and courtyards;
- h) the internal layout of the site shall accord with the Highway Authority's Design Guide and national guidance set out in Manual for Streets;
- i) the gradient of the new estate street junctions shall not exceed 1:30 for the first 10m and 1:20 thereafter, whilst driveway gradients shall not exceed 1:20 for the first 5m and never exceed 1:12;
- j) space for the parking of vehicles on the basis of 2 spaces for 2 or 3 bedroom dwellings, and 3 spaces for 4 or 4+ bedroom dwellings. For the avoidance of doubt, where a garage is classed as a parking space, the internal dimensions shall measure at least 3m x 6m for a single and 6m x 6m for a double garage;
- k) a swept path analysis to demonstrate that service and emergency vehicles can successfully enter and manoeuvre within the site;
- l) bin collection points placed within private land at the entrance to shared private accesses so to prevent refuse bins and collection vehicles standing on the new estate street for longer than necessary causing an obstruction or inconvenience for other road users;
- m) a detailed scheme of noise mitigation measures to demonstrate how the development will be protected from traffic noise as set out in the recommendations of the Chapter J of the Environmental Statement: Noise, dated March 2017, as received with application ref. 9/2017/0349.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory, and in the interests of sustainable development and highway safety.

7. Unless details are approved in conjunction with the matters of scale and/or landscaping under condition 2, no development of a particular phase or sub-phase shall commence before details of the finished floor levels of each building within the phase or sub-phase and any regrading works have first been submitted to and approved in writing by the Local Planning Authority. The buildings within that phase or sub-phase shall be constructed and external areas and levels laid out in accordance with the approved details.

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

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

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

9. No development of the relevant phase or sub-phase of the development which includes playing field provision as set out in the Phasing Scheme (approved in accordance with condition 5) shall take place unless and until:
 - a) a detailed assessment of ground conditions of the land proposed for the new playing field land shall be undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and
 - b) based on the results of this assessment to be carried out pursuant to (a) above of this condition, a detailed scheme to ensure that the playing fields will be provided to an acceptable quality (including appropriate drainage where necessary) shall be submitted to and approved in writing by the Local Planning Authority.

The works shall be carried out in accordance with the approved scheme within a timescale to be approved in writing by the Local Planning Authority

Reason: To ensure that the site surveys are undertaken for playing fields and that any ground condition constraints can be and are mitigated to ensure provision of an adequate quality of playing fields.

10. The playing fields laid out in accordance with condition 9 shall be used for Outdoor Sport and for no other purpose (including without limitation any other purpose in Class D2 of the Use Classes Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: To protect the playing field from loss and to maintain the quality of and secure the safe use of sports pitches.

11. The trading hours of the Class A1 floorspace hereby permitted shall be restricted to 07:00 to 23:00 daily and the Class A3/Class A4 floorspace hereby permitted shall not trade between the hours of 24:00 and 07:00 daily.

Reason: In order to minimise the impact of the proposed use upon the amenities of the residents of nearby properties.

12. All hard and soft landscape works approved pursuant to the landscaping reserved matters approval shall be carried out in accordance with the approved details and finished not later than the first planting season following completion of the relevant phase or sub-phase of the development. Any tree or shrub which forms part of the approved landscaping reserved matters approval which within a period of five years from planting (ten years for trees) fails to become, established, or becomes seriously damaged or diseased, or dies, or for any reason is removed, shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved in writing by the Local Planning Authority.

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

13. No site clearance works or development of a phase or sub-phase shall take place until there has been submitted to the Local Planning Authority for their written approval a scheme showing the type, height and position of protective fencing to be erected around each tree or hedgerow to be retained in that phase. The scheme shall comply with BS 5837:2012. The area within each phase or sub-phase surrounding each tree or hedgerow within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

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

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

14. For any phase or sub-phase no works which include the creation of trenches or culverts or the presence of pipes within the phase shall commence until measures to protect badgers and hedgehogs from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include:

- a) creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and
- b) open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.

The approved measures shall be implemented as part of the development of the phase.

Reason: To ensure adequate protection of the species.

15. For any phase or sub-phase, no development shall take place until an Ecological Design Strategy (EDS) addressing mitigation, compensation and enhancement has been submitted to and approved in writing by the local planning authority.

The EDS shall include the following:

- a) details of retained habitats;
- b) details of newly created habitats including ponds and swales;
- c) identification of green corridors;
- d) locations and specifications for a range of bird boxes in line with the recommendations in section 5.2.12 of the Ecological Appraisal dated February 2017 to include the installation of boxes in the fabric of the new houses for house sparrow, swift and starling, the erection of boxes on trees for cavity dwelling species and the installation of a barn owl box.

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

Reason: To ensure ecology is adequately addressed.

16. For any phase or sub-phase, no development shall take place (including ground works and vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of biodiversity protection zones
- c) Practical measures (both physical measures and sensitive working practices) to avoid or

reduce impacts during construction (to include consideration of lighting) (may be provided as a set of method statements).

d) The location and timing of sensitive works to avoid harm to biodiversity features.

e) The times during construction when specialist ecologists need to be present on site to oversee works.

f) Responsible persons and lines of communication.

g) The role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person.

h) Use of protective fences, exclusion barriers and warning signs

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure ecology is adequately addressed.

17. For any phase or sub-phase, no development shall take place until a Construction Management Plan (CMP) has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for the storage of plant and materials, site accommodation, loading, unloading of goods vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway and any proposed temporary traffic signing or restrictions.

Reason: In the interests of highway safety and amenity.

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

Reason: In the interests of highway safety.

19. For any phase or sub-phase, works shall not commence on site until a scheme for the disposal for highway surface water has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and retained accordingly thereafter.

Reason: In the interests of highway safety.

20. The bin collection facilities approved pursuant to the reserved matters shall be provided prior to the first occupation of the dwellings to which they relate and shall be retained thereafter free from any impediment to their designated use.

Reason: In the interests of highway safety and the visual appearance of the development.

21. A detailed Travel Plan, to accord with the updated Framework Travel Plan dated April 2019, as approved pursuant to condition 29 of outline permission ref. 9/2017/0349, shall be submitted with each application for approval of reserved matters for each phase or sub-phase, approved in writing and implemented in accordance with the timescales specified therein, to include those parts identified as being implemented prior to occupation and following occupation, unless alternative timescales are agreed in writing with the Local Planning Authority. The approved Travel Plan shall be monitored and reviewed in accordance with the agreed Travel Plan targets.

Reason: In the interests of highway safety and sustainability.

22. For any phase or sub-phase, no development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with DEFRA Non-statutory technical standards for sustainable drainage systems (March 2015) and the CIRIA SuDS Manual C753, has been submitted to and approved in writing by the Local Planning Authority. All attenuation ponds and swales shall be fully designed and constructed in line with CIRIA SuDS manual C753. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing. Details to be submitted shall also include the regime for supervision, inspection and certification of each phase of the surface water system by suitably qualified professionals.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and sufficient detail of the construction, operation and maintenance of sustainable drainage systems is provided.

23. No building works which comprise the erection of a building required to be served by water services shall be undertaken in connection with any phase or sub-phase of the development hereby permitted until full details of a scheme including phasing, for the provision of mains foul sewage infrastructure on and off site has been submitted to and approved in writing by the Local Planning Authority. No building shall be occupied until the works have been carried out in accordance with the approved scheme.

Reason: To prevent flooding, pollution and detriment to public amenity through provision of suitable water infrastructure.

24. No rainwater, contaminated with silt/oil from ground disturbed as a result of the construction phase of the development, shall drain to a surface water sewer or watercourse, without sufficient settlement. Under the Environmental Permitting Regulations 2010, the prior agreement of the Environment Agency is required for any discharge of dewatering water, from excavations, to controlled waters.

Reason: To prevent pollution of the Etwall Brook and its tributaries.

25. a) For any phase of sub-phase, no development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and

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

The evaluation phase of the archaeological scheme shall have taken place, and the report submitted to the local planning authority, before the submission of a reserved matters application with details of layout.

- b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a).

- c) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological

Written Scheme of Investigation approved under condition (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.

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

Reason: To protect the amenities of nearby residents.

27. During the period of construction, no construction work shall take place within 200 metres of the eastern boundary of the site outside the following times: 0730 - 1900 hours Monday to Friday and 0730 - 1330 hours on Saturdays and at any time on Sundays, Bank and Public Holidays.

Reason: To protect the amenities of nearby residents.

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

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

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

d) If required by the conceptual model, no development shall take place until monitoring at the site for the presence of ground gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the Local Planning Authority, which meets the requirements given in Box 4, section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: In the interests of pollution control.

29. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the Local Planning Authority without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

Reason: In the interests of pollution control.

30. The development shall be implemented in accordance with the approved noise mitigation measures approved pursuant to the reserved matters and such measures retained as approved throughout the lifetime of the development.

Reason: To protect future occupiers from noise.

31. No more than 617 dwellings shall be occupied until construction works have commenced on the A38 Derby Junctions grade separation scheme at the A38/A5111 Kingsway junction unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that the A38 trunk road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 by minimising disruption on the trunk road resulting from traffic entering and emerging from the application site and in the interests of road safety.

Informatives:

- i. For further assistance in complying with planning conditions and other legal requirements applicants should consult Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated. This document has been produced by local authorities in Derbyshire to assist developers, and is available from: www.southderbyshire.gov.uk/our-services/environment/pollution/contaminated-land. Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the Environmental Health Department. Further guidance can be obtained from the following:
- i. CLR 11: Model Procedures for the Management of Contaminated Land
 - ii. CLR guidance notes on Soil Guideline Values, DEFRA and EA
 - iii. Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
 - iv. Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
 - v. Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency. ISBN 0113101775.
 - vi. BS 8576:2013 Guidance on investigations for ground gas. Permanent gases and Volatile Organic Compounds (VOCs).
 - vii. BS 8485:2015 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings.
- j. Activities such as dust suppression during construction, filling of any ponds/lakes and maintaining pond/lake levels may require an abstraction license. The proposed development site lies within the Lower Trent and Erewash abstraction licensing strategy (ALS) area. Under the Water Resources Act 1991, any abstraction of water greater than 20 cubic metres per day, requires an abstraction licence from the Environment Agency. Whilst this catchment abstraction management strategy (CAMS) area is open to new applications for abstraction from ground and surface waters, local conditions may apply. Further information is available at: www.gov.uk/guidance/water-managementabstract-or-impound-water.
- k. The developer is advised that in regards to the surface water drainage condition they will need to demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water in line with Table 3.3 of the CIRIA SUDS Manual C697. This type of development usually requires at least 2 treatment stages before outfall into surface water body/system which may help towards attainment of the downstream receiving watercourse's Water Framework Directive good ecological status.
- l. The applicant is advised that in regards to the surface water drainage condition to ensure all of the below parameters have been satisfied:
- 1. The production and submission of a scheme design demonstrating full compliance with DEFRA's Non-statutory technical standards for sustainable drainage systems:
 - a) Limiting the discharge rate and storing the excess surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical duration rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site to comply with S2 & S3.
 - b) Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm to comply with S7 & S8.
 - c) Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.

- d) Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.
- e) Production of a plan showing above ground flood pathways where relevant for events in excess of 1 in 100 year rainfall event to comply with S9.
- f) Where reasonably practicable demonstrate that the runoff volume of the site reflects the requirements of S4.
- m. The applicant is advised that the reserved matters should include a footpath route along the western boundary to service that side of the development with a traffic free route.
- n. In granting planning permission the Local Planning Authority has taken into account the environmental information submitted in the original Environmental Impact Assessment, as now supplemented by the supported statement.
- o. This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.
- p. In order to minimise the need to attach further conditions on a reserved matters approval, the developer is encouraged to provide the following information pursuant to the reserved matters listed under condition 2:
 - a) details of surfacing materials for roads, driveways, footpaths, car parking areas and courtyards, and details of facing materials to the external surfaces of the buildings;
 - b) details of the position and appearance of boundary treatments, including the provision of walls where gardens abut/face onto public areas, public routes and shared parking areas; and
 - c) details of verges, eaves, reveals, headers and cills.
- q. The landowner/developer should be aware, at an early stage, of the County Council's requirements as an adjoining landowner for a connection to the Great Northern Greenway, including contributions towards forward maintenance, design, satisfactory legal arrangements, etc.

Item No. 1.9

Ref. No. [DMPA/2022/1005](#)

Valid date: 18/07/2022

Applicant: Bloor Homes and Taylor Wimpey North Midlands **Agent:** Claremont Planning

Proposal: **Approval of reserved matters for roads, landscaped open space, and drainage works provision including sustainable drainage features (access, layout, scale, appearance and landscaping) pursuant to outline permission ref. DMPA/2020/0543 for 1,100 dwellings on Land at New House Farm, Etwall Road, Mickleover, Derby, DE3 0DN**

Ward: Etwall

Reason for committee determination

This item is presented to Committee as the application has generated in more than four letters of objection in relation to a major planning application.

Site Description

The site is located to the west of the urban area of Mickleover, north of the A516 and whilst formerly agricultural land, the site forms part of a much larger site which has planning permission in total for 1,100 homes plus other associated development. This particular part of the wider development site is adjacent to the land which would contain a primary school, extra care facility, local centre, and playing pitches.

The proposal

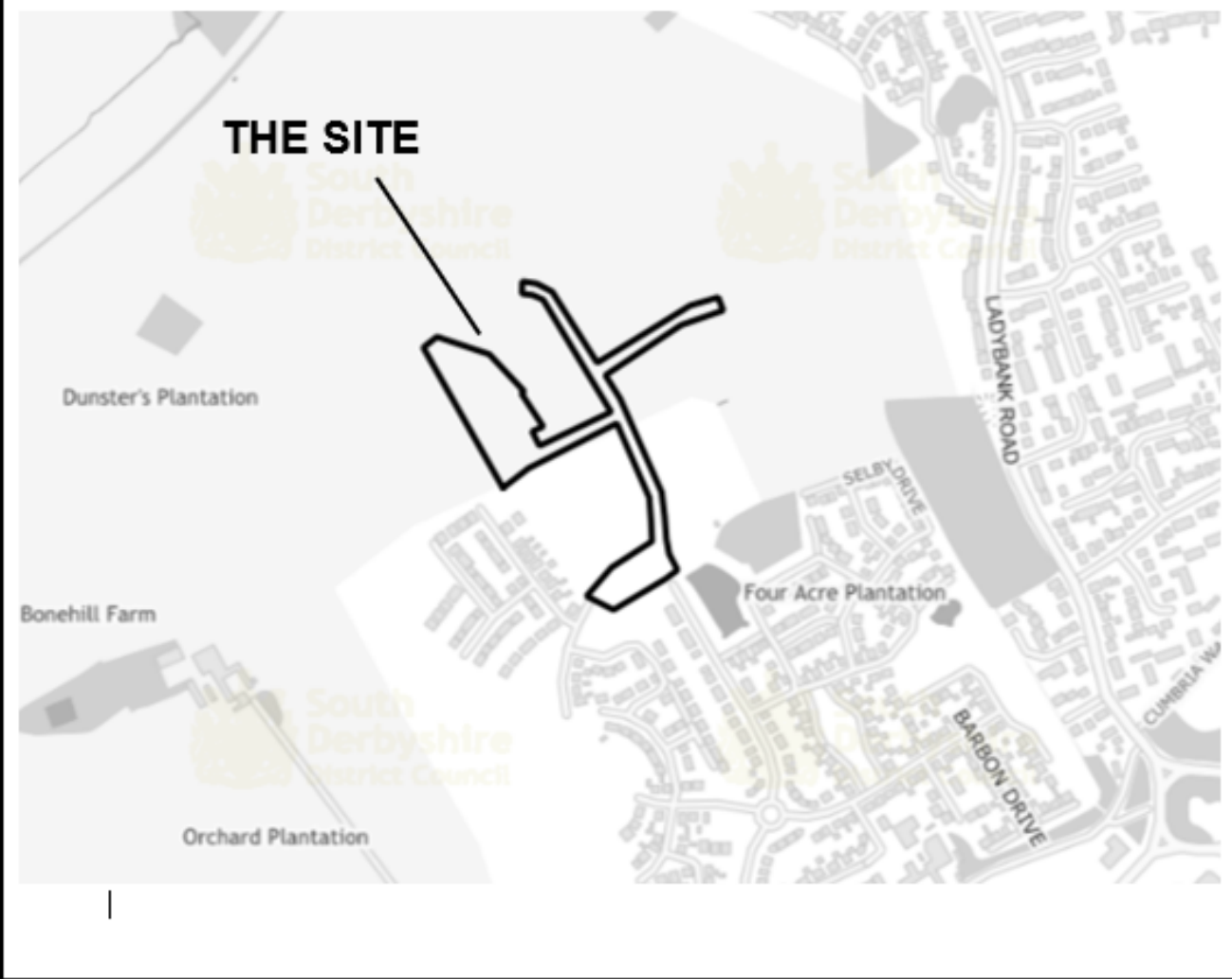
The application has been amended during consideration of the proposals and is now more limited in terms of the scope of the development for which approval is now sought. Approval is sought for an extension to Kensey Road, which is the existing, tree lined, spine road which runs northwards through the existing housing from the roundabout at the junction of the A516 dual carriageway. In addition, the construction of a further road which would run eastwards from the proposed spine road extension, is also proposed. A surface water attenuation ponds to the west is proposed, which would form part of the open space, and an existing second pond to the south, is proposed to be landscaped. The application previously included sports pitches but these have been omitted to allow further discussions to take place to ensure that part of the site is planned comprehensively as it will also contain the local centre, potential medical centre, community building, and play areas.

Applicant's supporting information

A Planning Statement sets out the nature of the proposed development, describes the site and its context, as well as the planning policies which they consider relevant to the application, the planning history of the site including the planning conditions and S106 Agreement. The statement concludes that the proposed spine road meets highway requirements in terms of the bus route through the wider site and access to the land to be developed by the local centre. It states that the construction of the spine road will assist with the timing and delivery of further phases of housing and assist the council in continuing to meet its housing targets.

An Ecology Technical Note concludes that the habitats within the site remain unchanged since previous survey work was undertaken, and as the application follows the mitigation set out at outline stage, there will be no detrimental effects to local biodiversity.

DMPA/2022/1005 – Land at New House Farm, Etwall Road, Mickleover, Derby, DE3 0DN



South Derbyshire District Council

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South Derbyshire District Council. LA 100019461.2020

A Bat Survey Technical Note states that bat emergence surveys were undertaken on two Ash trees to assess whether they support a bat roost. The survey work showed no bats emerging or re-entering the trees during the survey periods. It states that the trees do, however, offer the potential to support roosting bats, even if they do not contain actual roosts, and on that basis it recommends they be removed under ecological supervision by a suitably licenced ecologist.

A Construction and Environmental Management Plan sets out the approach to protecting the environment during the construction of the development and covers matters such as who is responsible, assessing the risks, and providing mitigation to protect the environment. It concludes that the relevant ecological features present within the site will be adequately protected in accordance with legal and planning policy requirements.

An Ecological Design Strategy sets out how habitats will be retained, proposed new habitats, green corridors, and comments in the provision of bird boxes in this phase of the wider development.

Relevant planning history

9/2017/0349: Outline permission for the residential development of up to 1,100 dwellings, an extra care facility, a local centre comprising: a small supermarket with a floorspace not exceeding 1000 sqm (net); a smaller retail unit with a total floorspace not exceeding 200sqm (net); a café/restaurant with a floorspace not exceeding 200 sqm (net); a public house with a floorspace not exceeding 650 sqm (net); a doctors surgery or crèche; and a community facility, as well as a primary school together with associated playing fields and the provision of associated infrastructure (including roads, footpaths, cycleways, sustainable urban drainage and open space) - Approved October 2018

9/2018/1240: Approval of reserved matters of appearance, landscaping, layout and scale, pursuant to outline permission ref. 9/2017/0349 for the construction of 311 dwellings, public open space and associated infrastructure (New House Farm phase 3) - Approved March 2019

DMPA/2019/1459: Approval of reserved matters for layout, scale, appearance and landscaping of outline permission ref. 9/2017/0349 (for the erection of 317 plots in lieu of 311 plots) previously approved under reserved matters approval ref. 9/2018/1240 along with substitution of plot 101 - Approved August 2020

DMOT/2020/0342: Approval of details required by condition 8 (materials) attached to permission ref 9/2017/0349 (for the residential development of 311 dwellings, public open space and associated infrastructure pursuant to reserved matters approval ref. 9/2018/1240) – Approved September 2020.

DMPA/2020/0543: The variation of condition 39 of outline permission ref. 9/2017/0349 to increase the number of dwellings that can be occupied to 317 dwellings before works commence on the A38 Kingsway/A511 junction, rather than before those works are complete – Approved October 2021.

DMPA/2022/1153: The variation of condition 31 of outline permission ref. DMPA/2020/0543 (to increase the number of dwellings that can be occupied to 617 dwellings before works commence on the A38 Kingsway/A511 junction – Under consideration.

DMPA/2022/0996: Approval of reserved matters for 687 dwellings (access, layout, scale, appearance and landscaping) pursuant to outline permission ref. DMPA/2020/0543 for 1,100 dwellings – Under consideration.

Responses to consultations and publicity

County Highway Authority has no objection but would wish to see the final design of traffic calming measures be controlled by a condition and that they will need to be addressed as part of the Section 38 Agreement which will be required under Section 38 of the Highways Act 1980 as well.

Having made comments on the original scheme which included the sports pitches, Sport England have advised that they raise no objection to the application in its current form.

Derbyshire Wildlife Trust (DWT) advise that they have reviewed the submitted documents including the landscape plans and the provision of species rich grasslands to be created as part of the landscaping is welcomed. Further details on how these habitats will be created and managed should be captured within an Ecological Management Plan for the site, though DWT note that there is no condition requiring a site-wide ecological management plan on the outline permission.

The Lead Local Flood Authority (LLLFA) have stated that they raise no objection to the amended plans and that the applicant should ensure that the relevant surface water conditions can be discharged within the proposed layout of this reserved matters application.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), H19 (Land West of Mickleover) and INF2 (Sustainable Transport);

The relevant national policy and guidance is:

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

Planning considerations

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

- Principle of the development,
- Highway safety,
- Ecology, and
- Flood risk.

Planning assessment

Principle of development

The site the subject of this application forms a relatively small part of a much wider site which is an allocation for a housing in the local plan which also benefits from outline planning permission for 1,100 homes and other facilities. The existing main spine road is now well established and is designed with tree lined grass verges on both sides. The proposed extension to the existing spine road continues the dimensions of the existing spine road and also includes the same grass verges with street trees to both sides. The extension of the spine road northward will open up additional land within the wider site for additional housing development, as well as the land for the primary school and land earmarked for an extra care facility. As well as the proposed spine road extension, a further road extending eastwards from the proposed spine road is also proposed which, whilst narrower than the spine road, also contains tree lined grass verges on both sides. This eastern road will open up land not only for additional housing, but more importantly the land which will form the local centre, community building, sports pitches, and land currently reserved for a potential medical centre. The proposed layout reflects the infrastructure envisaged when the overall site was masterplanned at outline stage, and on that basis, notwithstanding the comments received, the principle of the development is acceptable.

Highway safety

The layout of the proposed roads reflects those envisaged at outline stage and the existing spine road is this of sufficient width to accommodate traffic to serve the whole development approved at outline stage. Derbyshire County Council as County Highway Authority are content that the proposed roads are fit for purpose and appropriate taking into account future development that will come forward as part of later phases. It should, however, be noted that at this stage details of the proposed local centre, primary school, and extra care facility, all of which lie directly adjacent to the proposed spine road extension, are not yet known. The masterplan and indicative local centre detail which formed part of the

outline planning permission showed that that part of the spine road which would be adjacent to the local centre and school, would be traffic calmed. However, until the detailed layout of those future elements of the scheme are known, it is considered prudent to impose a condition on this application for the spine road extension so that the final design of any traffic calming measures on the spine road, are not provided until an appropriate scheme of traffic calming acceptable to the County Highways Authority in highway safety terms, as well as to this council as Local Planning Authority in terms of the design of that central core area of local facilities, has been approved.

Turning to the comments received in the form of the petition and letters of objection which relate to highway matters, it should be noted that this reserved matters application does extend to include any proposed road or footpath linking to Selby Close, that is the subject of another application currently under consideration for the remaining 687 homes. As a result would not lead in itself to additional traffic onto that road, although the nature of those roads are noted, nor will it direct traffic into the area around the existing play area; on-street parking on the surrounding roads are noted but not relevant to this proposal; the on-going cost of the maintenance of the existing public open space and use of waste bins by people who do not reside on the extension estate are not relevant to this proposal; Kensey Road (the existing spine road) is considered fit for purpose despite on-street parking, as is the proposed extension; the provision of double yellow lines would be a matter for the County Highways Authority; the traffic modelling at outline stage did not account for traffic from the Bloor Homes development accessed off Ladybank Road in Derby City and was in fact specifically designed out by the developers having to restrict access between that site and this New House Farm development, to buses, cyclists, and pedestrians only; the design of the A516 roundabout is considered acceptable; the main spine road is of sufficient width and has been designed to accommodate the additional traffic for the development including a bus route; traffic flows onto the A38 are not a matter for this application; the proposed development will open up access to land for further housing as well as other infrastructure and the Council's housing supply is predicated on this site to deliver those homes; and the provision of other facilities including the school, care facility, doctors surgery, and local centre are the subject of on-going discussions with the developer of the site and other agencies. Notwithstanding the comments received, the proposal is considered to be acceptable in highway safety terms.

Ecology

The overall site was the subject of extensive ecological evaluation and assessment at outline planning application stage where it was concluded that there was no overarching barrier to developing the site. This reserved matters application is accompanied by appropriate ecological information to demonstrate that the delivery of the spine road extension and additional road would provide suitable ecological benefits for this development. As part of this reserved matters approval it should be noted that there would be a surface water attenuation pond created to the west of the spine road extension. This will create habitat that is considered appropriate for this development. It is also noted that Derbyshire Wildlife Trust (DWT) are generally content with the assessment and resulting habitat that would be created and as such it is considered that the proposal adequately addresses ecological issues at the site. DWT did, however, advise that further details on how these habitats will be created and managed should be captured within an Ecological Management Plan for the site, but they note that there is no condition requiring a site-wide ecological management plan on the outline permission. It would be unreasonable, however, to require the provision of such details at reserved matters stage. On this basis it is considered that ecological interests are preserved, and appropriate new habitats will be created to ensure that the proposal is acceptable in ecological terms.

Flood risk

The application site is not located within an area of high flood risk, being within Flood Zone 1 according to the Environment Agency flood risk maps, however, the issue of surface water disposal is extremely important therefore careful consideration must be given as to how this will be provided within this development. A proposed surface water attenuation pond also forms part of this application which would be located west of the proposed road, along with an existing, smaller one which is located to the south west of the proposed road. It is noted that the proposed attenuation ponds are relatively large for the area of hard surfacing that would be created for the proposed roads, but that in terms of capacity, they have been designed to not only provide sufficient capacity for the roads the subject of this application but will also ultimately serve some of the housing to the north which is the subject of a

separate application. The LLFA were consulted on the application, and they have advised that they have no objection to the proposal, but that the applicant should be mindful that they must be able to demonstrate that the pond has been designed to accommodate surface water flows from any development that will feed into it as this is a condition of the outline permission to which this reserved matters application relates. It is clear that at this stage the ponds will have more than adequate capacity to serve this application for the roads and the existing condition on the outline permission will also need to be discharged and at that stage detailed calculations will be needed. Any other development that will feed into the pond, i.e. additional housing that is not subject to this reserved matters application, would need to go through the same process and will need to demonstrate the ponds have sufficient capacity for that development as well. It is noted that the smaller surface water attenuation pond which lies to the south west of the proposed road will be provided with additional landscaping so that this feature integrates better in terms of visual amenity. On this basis it is considered that the proposed development is acceptable in flood risk terms.

Other matters

In order for the surface water attenuation pond to be properly integrated into the wider development, the land around, and leading to, it would also form part of the open space within the estate. A 1.5m wide access path is proposed which would link the pond and open space to the proposed spine road which will be immediately adjacent to the local centre via a green corridor of approximately 11m in width between land which has been identified for the primary school and extra care facility. The pond and open space would also connect into the additional housing to the north of that area allowing those residents a been corridor route to the school site, local centre and other facilities that will be developed in that area.

Its is noted that an existing, smaller surface water attenuation pond forms part of the application site and as part of this application additional planting to help that feature to have a better appearance is also proposed.

In terms of other matters raised that have not been covered above, whilst the public open space on the existing estate may be looked after by a management company for which residents pay, there is no restriction as to who may use those facilities; a condition to secure the provision of bins etc on the area near the surface water attenuation pond would be reasonable is recommended; connectivity between the existing Barrett/David Wilson Homes estate and the new housing will be a matter for the other housing reserved matters application to consider; and pre-application discussions have, and will continue to take place, to provide other infrastructure and uses as envisaged by the outline masterplan.

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

Recommendation

Approve subject to the following conditions:-

1. The development hereby permitted shall be carried out in accordance with the following plans/details
 - a. Detailed Landscape Proposals – Infrastructure Application, Drawing Number: c-2041-01 Revision D.
 - b. Phasing Plan, Drawing Number: A986-16-Revision J.
 - c. Infrastructure Application - Planning Stage Drainage Strategy and Levels – Drawing Number PJS21-054, Revision D.
 - d. Ecology Technical Note dated June 2023.
 - e. Ecological Design Strategy dated June 2023.

- f. Infrastructure Colour Planning Layout, Drawing Number: A999-18 Revision H
- g. Infrastructure Location Plan, Drawing Number: A999-16 Revision H
- h. Indicative Infrastructure Street Lighting Plan, Drawing Number: A999-19 Revision H
- i. Headwall detail, Drawing Number: SFA27B.
- j. Construction Environmental Management Plan Revision C, dated 08/06/23.

Reason: For the avoidance of doubt.

- 2. Unless otherwise agreed in writing, within 28 days of a valid planning application having been made for the primary school which will be provided on the wider site, a traffic calming scheme for the spine road hereby approved, including a timetable for the provision of the traffic calming scheme, shall be submitted to and approved in writing by the Local Planning Authority. The measures contained within the traffic calming scheme shall be implemented as approved and within the agreed timetable.

Reason: In the interests of highway safety and to ensure an attractive central area is provided.

- 3. Prior to the road hereby approved being first open for use by the public, details of public benches and waste bins that must be provided on the open space in the vicinity of the western surface water attenuation pond, including a timetable for their provision, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented incorporating these approved facilities and within the approved timetable.

Reason: In the interests of visual amenity.

- 4. The development shall be implemented in accordance with the measures recommended in the Construction Environmental Management Plan Revision C, dated 08/06/23.

Reason: To ensure ecological matters are suitably protected during the construction period.

Informatives:

- r. You are advised that the creation of traffic calming features will also need to be approved by the County Highway Authority as part of the Section 38 Agreement which will be required under Section 38 of the Highways Act 1980.

Item No. 1.10

Ref. No. [DMPA/2023/0299](#)

Valid date: 08/03/2023

Applicant: C Collins

Agent: Building Planning Services Limited

Proposal: **Proposed new highway entrance with driveway standing and turning area and electric car charging point, 4no trees to be removed, and the conversion of an outbuilding to habitable space at 125 Penn Lane, Melbourne, Derby, DE73 8EP**

Ward: Melbourne

Reason for committee determination

Derbyshire County Council Tree Officer Objection to the proposal.

Site Description

The application site is adjacent to a Grade II Listed Building Chantry House and the property is classed as a curtilage listed building. Historically there was an ownership link between the application site and the Grade II Listed Building, and the legibility of the principal listed dwelling and the outbuildings remains, as does the historic boundary. The application site is also located within Melbourne Conservation Area and is covered by an Article 4 direction.

The proposal

The proposal is for a proposed new highway entrance, standing and turning area, and the felling of four TPO trees. The works are intended to allow for the long term repair of the listed outbuildings at 125 Penn Lane within the ownership of the applicant, which also form part of this application.

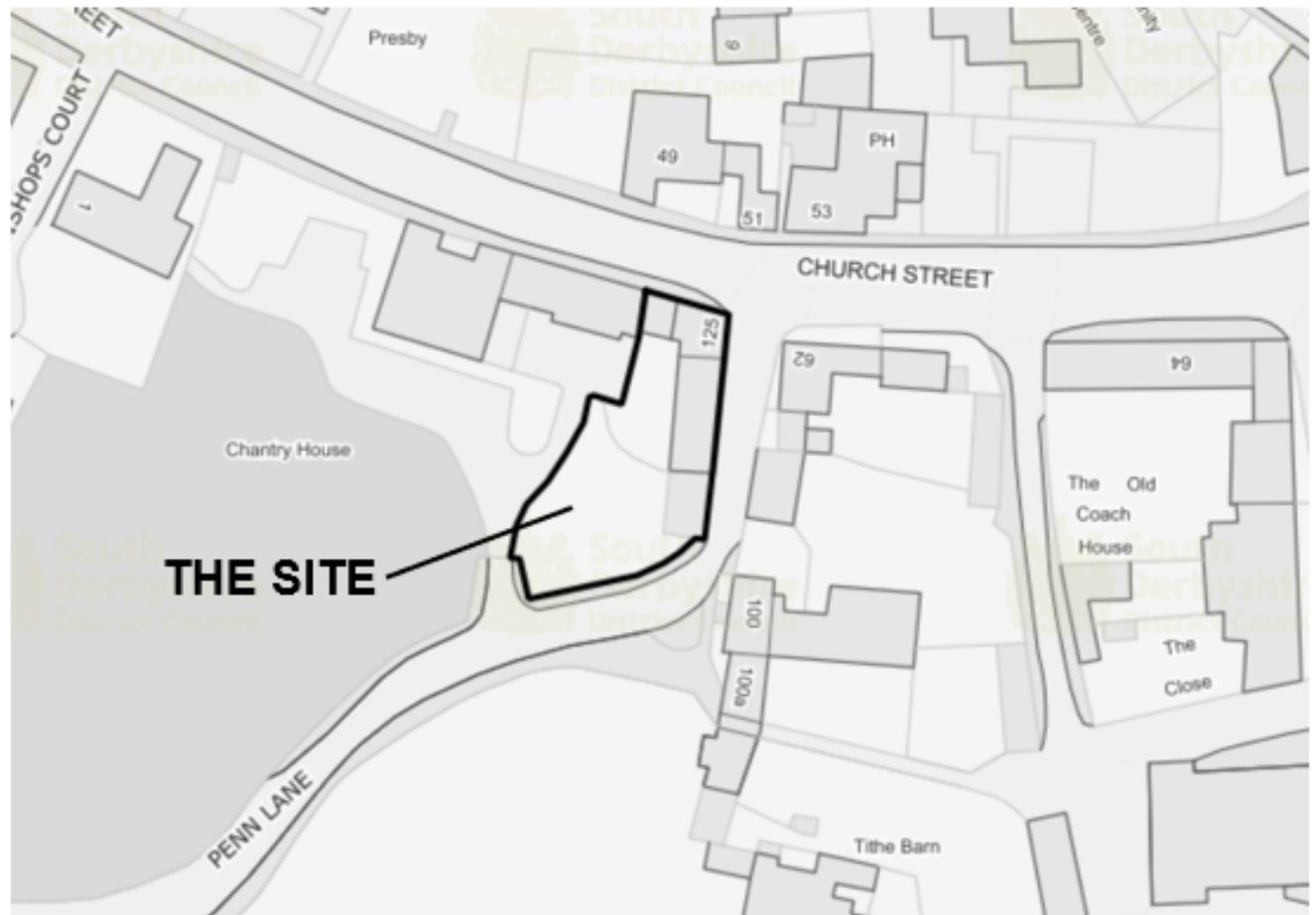
It should be noted, that a similar application to create a new highway access, driveway with turning area, and the felling of the TPO trees on the site, was refused at Planning Committee in January 2023 (ref. DMPA/2022/0174). While the restoration of the heritage assets was hinted at through this previous application, it did not formally form part of the application and therefore the justification to remove the trees was not present. This current application now also includes the restoration of the listed outbuildings, which provides a reasoning and justification put forward by the applicant for the proposed creation of the access and driveway areas and the removal of the four trees.

Applicant's supporting information

Design, Access and Heritage Statement (received March 2023) - The statement provides context to the proposal including a series of site photographs. The statement details that the proposed works to restore the listed outbuilding would be in-keeping with the existing materials to give a traditional external appearance. It is stated that access to the application site would be required to undertake the renovation works.

Arboricultural Assessment (July 2022) – The assessment to remove trees T1, T2, T3 and T4 concluded that despite the loss of the trees identified, the impacts to the local landscape are not considered to be detrimental in terms of arboriculture. The assessment also stated that while the loss of T1 was unfortunate due to the retention category (high), the loss was not considered to be detrimental to the local landscape due to the remaining trees within the immediate vicinity. Tree T2 was assessed as a category B (moderate) retention value, and trees T3 and T4 were category C (low) retention value. The assessment concluded that the removal of all four trees will provide opportunity for new tree planting and landscaping of a formal nature and in keeping with the surrounding area whilst allowing the area to be used more efficiently.

DMPA/2023/0299 – 125 Penn Lane, Melbourne, Derby, DE73 8EP



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South Derbyshire District Council. LA 100019461.2020

Relevant planning history

9/2004/0857 Installation of replacement windows and front door - Approved 02/09/2004

9/2005/0069 Erection of porch and satellite dish - Refused 18/05/2005

9/2010/0007 Internal and external alterations to facilitate the conversion of an outbuilding to living accommodation and the insertion of two new roof lights - Listed Building Granted 26/02/2010

DMOT/2021/1587 The felling of a Yew Tree - No objection 25/11/2021

DMPA/2022/0174 Proposed new highway entrance with driveway standing and turning area and the felling of trees at – Refused at Planning Committee 13/01/2023

DMPA/2022/0951 Conversion of existing loft space into a bedroom, and the installation of 2 rooflights - Approved 16/02/2023

DMPA/2022/1296 Listed Building Consent for the conversion of existing loft space into a bedroom and the installation of 2 rooflights - Approved 15/02/2023

Responses to consultations and publicity

SDDC Conservation Officer: No objections subject to conditions.

County Highways Authority: No objection subject to conditions

DDC Tree Officer: Objects.

Questions whether replacement condition for medium sized trees is an appropriate replacement for the existing high canopy trees;

The application is too similar to that which was refused at planning committee previously;

Does not believe that in the location in question, the loss of the cedar tree (T5) creates an unacceptable risk to trees T1-T4;

The dysfunction of the trees should be dealt with on a tree by tree basis, through the TPO system; with replacement trees on site and being high canopy of similar stature to any which require removal.

The character of the area would be detrimentally harmed by the loss of the trees;

It is possible for the building and construction work to the listed building to take place with the trees in situ, and do not consider this a valid reason for tree felling.

DCC Countryside Projects Officer: Comments

Following a site visit, it was useful to understand the constraints with regard to highway access and ground levels. It may have been feasible to construct a driveway between the trees at the original proposed location with slight ground level modifications to protect tree roots but this option has been rejected by Highways for safety reasons. If access is to be permitted here it will unfortunately result in the loss of four trees, two being significant features in the street scene of Melbourne.

The Local Planning Authority will need to balance the loss of such trees and the public benefits they currently provide against any public benefits that this development will bring.

The County Council would not wish to see the loss of these trees and request consideration to be given to the loss of such trees and the public benefits they currently provide against any benefits that this development will bring.

If the LPA's view is in favour of approval we would request sufficient mitigation be put in place with substantial replacement planting i.e. heavy/extra heavy standards planted in properly constructed tree pits to ensure long term retention. The exact number and species of replacement trees could be

considered at a later date by planning condition for an approved landscaping scheme but the County Council request a minimum of two large trees to be planted to reflect the loss of the Pine and Horse Chestnut. To maintain the character of the area, suitable replacement planting should include high canopy species such as Scots Pine and/or Ginkgo (not a small varietal form) as these would allow some light to the garden/drive area as they grow but are of sufficient stature to compensate for the loss of canopy cover once mature.

SDDC Tree Officer: No objection subject to conditions.

Comments remain as previous regarding the creation of an access point and parking area, no objection to the application subject to conditions;

The removal of TPO trees within the Conservation Area: less than substantial harm (medium) to the character and appearance of the Conservation Area;

Alteration of a boundary wall to the curtilage of Listed Building: less than substantial harm (medium-low). There is evidence of a similar alteration to the Principle Listed Building; The Chantry;

There is no vehicular access to 125 Penn Lane (the former carriage opening to The Chantry is not suitable for Highway access); their 'front' access being directly opening onto the Highway. The proposed alteration has been adjusted in design to meet Conservation Officer requests for the dressed stone detailing to remain, and the opening to be formed in the lesser quality stone wall of the boundary;

The removal of a section of the wall will enable stone to be reused in sections that are in very poor condition (evidence of previous cement repairs and salt damage from spray back from the road).

Melbourne Parish Council: Objects.

Objection to the removal of the historic wall and loss of mature trees;

Proposed works are detrimental to the visual aspect of the Conservation Area.

Melbourne Civic Society: Objects

- a) Loss of an old wall and impressive trees;
- b) Access and exit will be difficult from Penn Lane, especially with the parking on this section of road;
- c) The application would adversely affect the setting of the Grade II Listed Chantry House and would also spoil the character of the lower section of Penn Lane which derives its strong atmosphere from its secretive and continuous stone walls, with few openings.

Neighbour Comments received in objection -

- a) Loss of mature trees providing significant visual amenity to Conservation Area and historic part of Melbourne;
- b) Object on impact upon historic wall, characteristic of local area and impact to wider area;
- c) Insufficient space to allow safe access and egress to the proposed driveway from Penn Lane;
- d) Loss of trees means loss of habitat for wildlife;
- e) Increase in rain water / surface water runoff which exacerbates flood risk and other environmental issues;
- f) Issues on highway safety and visibility splays / turning circles;
- g) Felling trees for development goes against principle of placing TPOs on trees;
- h) Concern about felling of trees disturbing root network of other trees in the area.

Neighbour comments received in support -

- a) Proposal should alleviate some of the existing strain on street parking provisions;
- b) Should improve highway safety.

Relevant policy, guidance and/or legislation

The relevant national policy and guidance is: National Planning Policy Framework (NPPF) Planning Practice Guidance (PPG) Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications shall be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan for the purposes of this application comprises the South Derbyshire Local Plan Part 1 (LP1) adopted in June 2016 and the South Derbyshire Local Plan Part 2 (LP2) adopted in November 2017, together with the Melbourne Neighbourhood Plan (NP) made in July 2022. Material considerations include, albeit not limited to, the National Planning Policy Framework (NPPF) Planning Practice Guidance (PPG), together with the South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): Policy S1 Sustainable Growth Strategy; Policy S2 Presumption in Favour of Sustainable Development; Policy SD1 Amenity and Environmental Quality; Policy BNE1 Design Excellence; Policy BNE2 Heritage Assets; Policy BNE3 Biodiversity; Policy BNE4 Landscape Character and Local Distinctiveness and Policy INF2 Sustainable Transport.

2017 Local Plan Part 2 (LP2): SDT1 Settlement Boundaries and Development, H27 Residential Extensions and other Householder Development; BNE7 (Trees, Woodland and Hedgerows); and BNE10 Heritage.

Melbourne Neighbourhood Plan: DP1 Proposals for New Development and HC1 (Heritage Assets).

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)
Melbourne Conservation Area Character Statement 2011

The relevant national policy, legislation and guidance is:

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)
Town and Country Planning (Tree Preservation)(England) Regulations 2012

Planning considerations

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

- Principle of the proposed development;
- Impact upon the host dwelling and the character and appearance of the area;
- Impact upon residential amenity;
- Impact upon the Conservation Area and Listed Buildings;
- Impact upon protected trees;
- Highway safety.

Planning assessment

Application site and the proposed development

125 Penn Lane is a Grade II curtilage listed building which was originally an outbuilding associated with Chantry House, and later divided and converted to form a separate dwellinghouse and adjoining unconverted outbuildings.

The site is a long structure, located on the corner of Church Street and Penn Lane, with an associated courtyard and a second enclosed garden area containing four mature TPO trees. The unconverted outbuildings have been recently added to the At Risk List (County-wide) at a Grade 4 (HE = C) whereby the buildings are in slow decay with no solution agreed.

The proposal is for the removal of four TPO trees for the creation of new highway access with driveway, hard standing and turning area. The reason for this is to make viable the undertaking of the remedial works to the listed outbuildings which are considered necessary to ensure their long-term retention. The removal of part of the wall to create an access point will be formed in the lesser quality stone wall of the boundary. This will enable the dressed stone detailing to remain which is a positive feature of the boundary wall and is linked to the principle listed building of Chantry House.

Alterations to the existing curtilage listed outbuildings are to convert the storage barn space into living room space at ground floor level, and a bedroom space at first floor level. The existing opening will be used to insert bifold doors to the rear (western) elevation of the property, opening out into the private courtyard. There will also be three additional rooflights to the rear elevation roof slope. The front (eastern) elevation which can be viewed from Penn Lane will have four additional windows to the elevation with two at each storey.

These specific proposals to convert the listed building were not in front of the committee when the previous application to create a new access and fell the trees was refused by planning committee in January 2023

Principle of the proposed development

Policy SDT1 supports in principle development within defined settlement boundaries subject to the proposals compliance with the relevant development plan policies. In this instance policy H27 supports residential extensions to and other householder development subject to, in part, that the proposal does not harm the host property and the character and appearance of the area, together with not unduly harming residential amenity and is supported by policies BNE1 and SD1. This position is reflected within Melbourne Neighbourhood Development Plan policy DP1.

With regard to the historic environment, policies BNE2, BNE10 and HC1 broadly follow the requirements of the Act and advice within the NPPF, in that development should not harm the character and appearance of the conservation area or the setting of listed buildings. Therefore, the principle of the development is deemed acceptable subject to the qualifying criteria of the above quoted policies, other relevant policies of the development plan and other material considerations.

Impact upon the host building and the character and appearance of the area

Policy BNE1 states that new development should be visually attractive, appropriate, respect important landscape, townscape and historic views and vistas, contribute to achieving continuity and enclosure within the street scene and possess a high standard of architectural and landscaping quality. Policies BNE2 and BNE10 seek to ensure that heritage assets are either protected, conserved or enhanced in accordance with the applicable national guidance. In this case these policies concern the Listed Building itself, the setting of neighbouring Listed Building and the wider Melbourne Conservation Area in which the property lies.

Externally there would be minimal alteration to the front elevation facing Penn Lane. The proposed openings in the form of windows are considered to be proportionate in size and positioning to the dwelling and should integrate well with the building.

The rear elevation of the building faces onto a private courtyard area which also provides sufficient amenity space for the property.

The proposed driveway and access will open up the existing curtilage of 125 Penn Lane where the private garden space is, which contains the four large TPO trees proposed to be felled. The impact of these alterations will be of some significance to the host property and the wider Conservation Area through creating greater openness of the site, particularly the space to the southwest of the host. The character of the street will also be altered due to the removal of part of the wall for the access. However, it is considered that this would result in a similar access point to that at a neighbouring property and overall is acceptable. The part of the wall removed will be re-used in other parts of the wall that need repairing and will help with securing the long term upkeep of the existing boundary wall

which is the boundary wall of the listed building.

Conditions are recommended on the permission for prior approval of the new brickwork, roofing materials and new openings, as well as four suitable replacement trees, to ensure they are appropriate and in keeping with the Listed Building. With these conditions the proposal is considered to achieve the desirable objectives as set out within the Act and thereby accords with development plan policies S2, H27, BNE1, BNE2, BNE10, SDT1, DP1, and HC2 together advice within the NPPF.

Impact upon amenity

Development plan policies H27, SD1, BNE1 and DP1 seek, in part, to ensure that development proposals do not harm the residential amenity afforded the occupiers of neighbouring properties.

The public amenity afforded to the local area through the four TPO trees is not considered to outweigh the public benefits of the retention and restoration of the fabric of an at Risk listed building (heritage asset). The trees are proportionally large to the plot, and two are within close proximity to the built form.

There are a large number of trees along 125 Penn Lane and the wider Conservation Area that are deemed to be of a more significant presence than those which are part of this application. Overall, the new access is likely to cause some level of harm to the character of the streetscape; but it is considered that this would be outweighed by the benefit of restoring outbuildings which are currently at risk and in structural decline. It is therefore considered that the level of harm caused by the loss of the trees is outweighed by the public benefits of reducing on street parking and securing the long term maintenance of the curtilage listed buildings and boundary wall which are important historic fabric within the street scene and the wider Melbourne Conservation Area.

It is considered that the new openings to the outbuilding, due to their placement, positioning, and intervening boundary treatments and distances from neighbouring dwellings - most notably Chantry House - should not impact the amenity relationship between these buildings and the site in terms of privacy, overlooking and overbearing.

Impact upon the Conservation Area and Listed Buildings

The Conservation Officer has no objection to the application, and supports the repair of the listed outbuildings. The built and natural form within the Conservation Area are a pertinent combination in this area of Melbourne Conservation Area. The silvan character of this corner of Penn Lane is a positive feature. However, the large trees within the curtilage of a domestic dwelling and amenity space at 125 Penn Lane are considered to be incongruent to its built form – that of former outbuildings associated with The Chantry. The trees are proportionally large to the plot, and overbearing to the roofline, within very close proximity to the built form.

The courtyard and garden area character and appearance could support access to the outbuildings and planned smaller scale planting. The existing trees impact upon the designated heritage assets; the curtilage Listed buildings at 125 Penn Lane. It is of note that during the course of the application process, the condition of the trees within the curtilage of 125 Penn Lane have deteriorated. Concerns have been raised by the owner that the trees are overhanging the building, and causing damage to the building, but in addition, that there may be a risk of collapse onto the building. The neighbour at The Chantry had one large mature tree (T5) removed during summer 2022 because of damage, disease, and instability.

It has been realised during the application process that the land now used as the garden to 125 Penn Lane was raised by previous owners. As a result, there is a land bank, which has raised the ground level around the trees. The trunk of the trees is now compacted by earth. The 'garden' area has little sunlight due to the tree canopy, and the area is barren of vegetation at ground level. At the time of 125 Penn Lane being separated from The Chantry, a close boarded fence divided the gardens. This is a negative boundary solution for Listed Buildings, and it is the owner's intention to create a green boundary if permission to fell the trees is granted.

Details of the works to repair and restore the listed outbuildings have been received as part of this application, however a related Listed Building Consent application will also be required to undertake the works specific to the listed building. To date this has not been validated due to further details required in terms of materials, but taking into account the details of the proposal received to date, and the comments from the Conservation Officer, the approval of a related Listed Building Consent application is deemed to be possible in the near future.

Impact upon protected trees

The group of 4 trees T1-T4 form part of a larger area group of protected mature broadleaf and conifer trees located in the grounds of Chantry House. There is an area 2800sqm of broadleaved trees to the south of Penn Lane protected by the Melbourne Conservation Area and SDDC TPO 1983. The trees are partly visible from Church Street and visible from Penn Lane and from the front elevation of a residential property on Penn Lane. The four TPO trees to which this application relates have been assessed by SDDC Tree Officer on the 3rd of April 2023. The assessment was as follows:

The Austrian Pine (T1) was found to have lost the main leader in the past and has formed four stems that are attached with relatively acute unions. Three of the stems have lost a strip of bark up to 100mm wide exposing the wood. This damage has been caused by a lightning strike. The loss of bark is on the tension side of the stems. From the ground it was not possible to determine if the exposed wood was beginning to decay.

The Horse Chestnut (T2) was found to have visible root buttresses which indicate that the tree has grown since the ground level was raised. The main stem bends at 2.0m with a crack in the bark on the west side of the stem. The crown is in good physiological condition.

The Scots pine (T3) has no visible root buttresses, and the ground level appears to have been raised after the tree had matured. The foliage in the crown is brown with some green needles at the ends of the branches visible from the ground.

The blue cedar (T4) has no visible root buttresses and the ground level appears to have been raised after the tree had matured. The crown is sparse with dead branches. The live growth is over the roof of the barn and the crown is unbalanced to the east. The crown of the tree has been suppressed by the adjacent Atlas cedar (T5) which was removed in 2022 following loss of large branches under a DCC 5 Day Notice stating that the tree was dangerous.

It is the Tree Officer's view that the removal of the four trees T1-T4 would have a minor detrimental impact on the amenity of the Conservation Area. This minor impact would be mitigated in time by the planting of four new trees of medium size species such as wild cherry or field maple.

The proposal for a new access and parking within the curtilage of 125 Penn Lane, will result in the loss of these four mature trees that are covered by a TPO. Through the duration of the application, the condition of the trees within the curtilage of 125 Penn Lane has resulted in concern raised by the Conservation Officer that the trees are overhanging the building and potentially causing damage. This view is not shared by the respective tree experts. The garden area, due to the trees canopy, receives little sunlight and the area is barren of vegetation at ground level.

While it is noted that the Derbyshire County Council Tree Officer has objected to the removal of the four trees for reasons including that the amenity of the area would be harmed and that it would be possible to undertake the works to the listed outbuildings without removing the trees, the further response of the Derbyshire County Council Countryside Projects Officer, acknowledges that the proposed works would in fact require the removal of the trees and that the decision is a case of judgement in the planning balance for the Local Planning Authority to make. The Countryside Projects Officer goes on to suggest appropriate species for re-planting should the proposal be granted planning permission.

It is considered in the planning balance therefore, that the harm caused by the removal of the trees is outweighed by the benefit of protecting designated heritage assets and removing two cars from on street parking in an area where parking is at a premium. Any harm caused by the removal of the trees

can be mitigated by the replacement of the four mature trees with three medium sized appropriate species of trees within the site secured through a planning condition.

Highway safety

With the amended plans submitted, the County Highways Authority have no objection to the proposal subject to conditions. The proposal would allow two cars off the road and there is some benefit to that where immediate safe parking on the highway is a premium. The applicant has displayed that they have achieved an acceptable visibility splay given that the likely speed of traffic on Penn Lane. The proposed gates have been set back 5m from the highway and it is noted that vehicles can turn around within the site ensuring that they can enter and leave in a forward direction.

Adequacy of parking provision and highway safety Policy INF2 seeks to ensure that development proposals would not have an adverse impact upon highway safety. The County Highway Authority have not objected to the proposed development, and it is therefore considered that the proposal complies with policy INF2.

Conclusion and planning balance

The proposed development by reason if the level of intervention and overall design coupled to the proposed use should not cause undue harm to either the host listed building or the character and appearance of the Melbourne Conservation Area, setting of the principal Listed Building, or significant harm to the amenity afforded the occupiers of nearby properties. It is considered that the benefit of securing the long-term future of heritage assets and creation of off-street parking, outweighs any harm caused by the removal of the four existing trees, coupled with a condition to ensure re-planting of appropriate tree species. This application differs from the previous application (DMPA/2022/0174) which was refused at Planning Committee, as it contains the detail of the restoration of the listed outbuildings which are in need of repair, thus providing a justification for the loss of the trees sufficient to balance any harm caused by their removal. The proposal is therefore deemed to accord with policies S2, SDT1, SD1, BNE1, BNE2, BNE3, BNE10, INF2 and DP1, together with national guidance.

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

Recommendation

The proposed development is considered acceptable in the context of the existing state of the curtilage Listed outbuildings and the area within which the application lies. The council recommendation is to **approve** this application subject to conditions:

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

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

2. The works hereby permitted shall be carried out in accordance with plans/drawings ref. Location Plan; Block Plan; Application Form; Design, Access and Heritage Statement; New drive entrance and tree removal plan ref. 22/042/06 rev. A; Elevations ref. 22/042/03 rev. B; Floor Plans ref. 22/0042/02 rev. B.; External works proposals ref. 22/042/07 rev A.; unless as otherwise required by condition attached to this consent.

Reason: For the avoidance of doubt.

3. Within four weeks of the decision date, a valid application for Listed Building Consent shall be submitted to the District Council for the works in relation to the listed outbuildings at 125 Penn Lane. Following submission of this Listed Building Consent application, the applicant shall undertake the necessary reasonable steps to secure approval. Following the approval, the work shall be completed within two years of the decision date of the Listed Building Consent.

Reason: To secure the necessary repairs in order to preserve the architectural and historic interest of the listed building.

4. Prior to the removal of the four trees, a tree replacement schedule shall be submitted to the Local Planning Authority detailing the size, location and species of each replacement tree to be planted. The approved replacement trees shall be planted in the first available planting season after the works have been carried out (1 November to 31 March inclusive), of species, size, maturity and location(s) which have first been submitted to and approved in writing by the Local Planning Authority. Upon their planting, further confirmation and photographic evidence of their planting shall be provided in writing to the Local Planning Authority. Should any tree become diseased, be removed or die within 10 years of planting an equivalent tree shall be planted and retained for at least the same period.

Reason: To safeguard the long term biodiversity and visual amenities of the area.

5. Prior to the occupation of a highway entrance a scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

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

6. Prior to the construction a sample of the lime mortar shall be provided on site for inspection and agreed in writing by the Local Planning Authority. Mortar for the purposes of re-pointing shall be carried out using lime binder with sharp sand. The sand mix, colour, texture shall match as closely as possible the historic pointing found elsewhere on the wall. The development shall be carried out only in accordance with the agreed sample details.

Reason: To preserve the special architectural and historic interest of the boundary wall.

7. During the construction of the driveway the section to be removed is limited to the section of rubble stone as detailed on the approved plans. The dressed stone or coursing bricks should not be touched or removed at any stage as these are the fabric of the wall.

Reason: To preserve the special architectural and historic interest of the boundary wall.

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

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

9. Prior to their incorporation in to the building(s) hereby approved, details of the door, window frame and fascia colours shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be set out on a drawing/plan where multiple dwellings are proposed. The door, window frame and fascia colours shall be installed in accordance with the approved details.

Reason: In the visual interest of the building(s) and local distinctiveness.

10. The parking spaces shown on the submitted plans and the means of access thereto shall be maintained as shown on the approved plans, and be reserved for the benefit of the development hereby permitted.

Reason: Reason: To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway and to ensure that the facilities provided are reserved for the benefit of the development for which they are specifically required.

11. The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with the National Planning Policy Framework (2019).

12. The entrance gates shall be set back a minimum of 5m from the highway boundary and maintained at that distance for the life of the development unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure parked vehicles do not overhang the adjoining public highway, thereby adversely affecting highway users

13. The works shall be carried out in accordance with British Standard 3998:2010 - Tree Work (or equivalent document which may update or supersede that Standard).

Reason: To ensure that the works are carried out in the best interests of the health of the tree(s).

Informatives:

- s. Pursuant to Section 149 and 151 of the Highways Act 1980, the developer must take all necessary action 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 developer'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.
- t. Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email highways.hub@derbyshire.gov.uk or telephone 01629 533190.

Item No. 1.11

Ref. No. [DMPA/2023/0673](#) and [DMPA/2023/0676](#)

Valid date: 19/06/2023

Applicant: Care of Ian Earl **Agent:** Phillip Tuckwell

Proposal: **Demolition of existing building and development of five new dwellings with associated amenity space and car parking (linked to DMPA/2023/0676)**

AND

Demolition of Melbourne Community Centre (Senior Citizen's Centre) Building (linked to DMPA/2023/0673)

at Melbourne Community Centre, Church Street, Melbourne, Derby, DE73 8EJ

Ward: Melbourne

Reason for committee determination

This item is presented to the Committee at the discretion of the Head of Planning and Strategic Housing due to the significant amount of public interest.

Site Description

The application site is located on the northern side of Church Street within the historic core of Melbourne and within the Conservation Area. Broadly, the site is bordered by Church Street to the south, Castle Street to the east and a number of properties to the north and west including 'The Spirit Vaults' (no. 53 Church Street), no. 6-9 Chantry Close, and no. 21 Castle Street. The Grade II listed 'Pump House' (no. 65 Church Street) is located on the south-eastern corner of the site, and there are numerous listed buildings surrounding the site including the Grade I listed Church of St Michael and St Mary and the Grade II* listed Melbourne Hall.

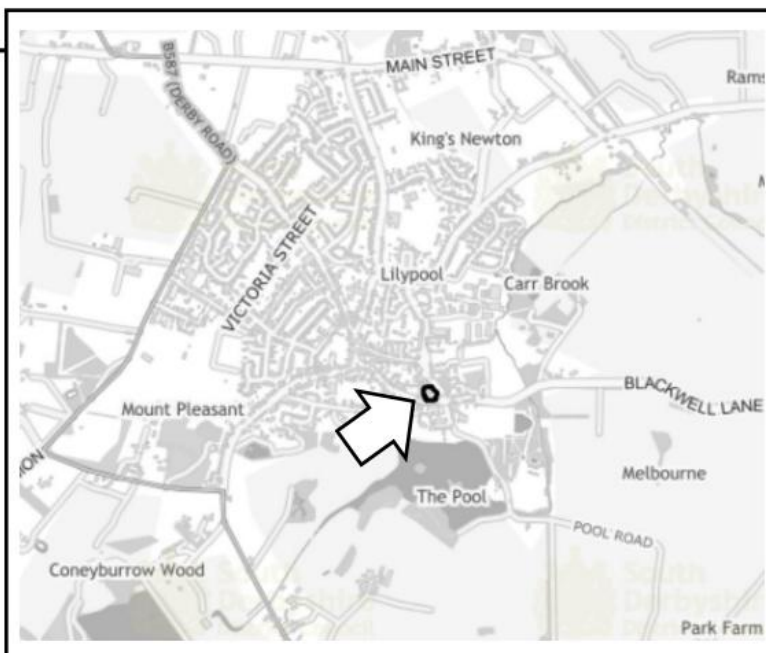
The application site currently incorporates a single storey 1960s timber building, associated parking and a disused bowling green. The site was previously used by the Melbourne Senior Citizen's group. Vehicular access is from Church Street. There is a mature copper beech tree towards the southern boundary, a mature silver birch tree towards the northern boundary, a group of mixed species trees on the western boundary, and low hedgerow on the southern boundary. A low stone wall serves as the boundary to the site on Castle Street which continues around the northern and western borders at an increased height.

Historically, the site incorporated a large property known as 'the Lodge' which adjoined the Pump House and a row of 4no. cottages fronting Castle Street. The Lodge was occupied during the Second World War by the Royal Engineers, and was destroyed during a bombing in 1940. A memorial plaque is present on a brick wall within the site, close to the copper beech tree.

The proposal

The application seeks to demolish the existing building within the site and replace with 5no. dwellings, associated amenity space and car parking. There would be 1no. detached dwelling (plot 5) that would front Church Street and a row of 4no. terrace dwellings (plots 1-4) to the rear of this, orientated in a north-west to south-east direction. Private amenity space would be situated to the rear of the plots (i.e. to the north of plot 5 and to the west of plots 1-4), with additional landscaping, areas of parking and turning space, and a bin store within the east of the site. The existing boundary treatments would be retained, except the hedgerow on the southern border and tree group on the western border, which

DMPA/2023/0673 & 0676 – Melbourne Community Centre, Church Street, Melbourne, Derby, DE73 8EJ



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would be removed to facilitate the development. New boundary treatments would be incorporated to separate the plot 5 dwelling from the public house and Church Street to the west and south, and the memorial plaque would be repositioned and attached to the plot 5 southern boundary wall fronting Church Street. The mature silver birch tree would be retained whilst the copper beech tree would be removed. A landscaping scheme has been put forward as part of the application.

Applicant's supporting information

Application Drawings

The application includes the following technical planning drawings:

- Existing Site Plan (received 23 May 2023)
- Location, Site and Access Plan FINAL REV B-A2L-2209-MHSCC-A-P01 (received 19 July 2023)
- Plot 5 Floor Plans & Elevations FINAL REV B-A2L-2209-MHSCC-A-P03 (received 19 July 2023)
- Plots 1-4 Floor Plans & Elevations FINAL REV B-A2L-2209-MHSCC-A-P02 (received 19 July 2023)
- Site Section & Site Plan FINAL REV B-A2L-2209-MHSCC-A-P05 (received 19 July 2023)
- Plot 5 Street Scene FINAL REV B-A2L-2209-MHSCC-A-P04 (received 19 July 2023)

Artist Impression (TUK Rural) (received 23 May 2023)

An illustration of plots 1-4 in the context of the Grade I listed Church of St Michael and St Mary. (Note that this was prepared prior to the minor changes in the fenestration of plots 1-4).

Additional Site Images (TUK Rural) (received 23 May 2023)

Photographs to show the relationship between the site and the Grade I listed Church of St Michael and St Mary.

Materials and Design Statement (TUK Rural) (received 23 May 2023, updated 19 July 2023)

Statement to substantiate the selection of materials and details of design for the proposed development. Updated version received on 19 July 2023 with additional images of parapet walls.

Heritage Statement (TUK Rural) (received 23 May 2023)

Statement that provides information on the historical context of the application site, including identification of heritage assets within the vicinity, and impact of the proposed development.

Arboricultural Impact Assessment TWC 399 R-002A (Tree and Woodland Company) (received 23 May 2023)

Report of the Tree Survey of the site, categorisation of trees and arboricultural impact assessment.

Planning Statement (TUK Rural, May 2023) (received 23 May 2023)

Applicant's assessment of the proposed scheme against the development plan policies.

Planning Statement Addendum – Noise Assessment (TUK Rural) (received 19 July 2023)

Assessment of noise impact on the proposed development from the adjacent public house (no. 53 Church Street).

Community Facilities Analysis P22-0486 (Pegasus) (dated May 2022, received 23 May 2023)

Report on the impact of the proposed development on community facilities.

Additional Information regarding Community Facilities in Melbourne (TUK Rural) (dated 12 April 2023, received 23 May 2023)

Report with specific information related to the capacity of alternative venues in Melbourne to accommodate community activities.

Preliminary Ecological Appraisal (Fauna Forest Ecology) (received 23 May 2023, updated 21 July 2023)

Technical Report presenting the outcome of ecology surveys of the application site. Updated in January and July 2023 with the findings of the bat surveys.

Relevant planning history

DMPA/2022/0144 The demolition of the existing community centre building and the redevelopment of the site for housing development of three dwellings and associated garages – withdrawn September 2022

DMPA/2023/0065 and DMPA/2023/0228- Demolition of existing building and development of six new dwellings with associated amenity space and car parking – withdrawn February 2023

With respect to the most recently withdrawn application, Officers considered that insufficient detail had been provided on some matters including:

- Information related to provision of community facilities in the context of the loss of the Community Centre building;
- Trees and landscaping;
- Information to enable the assessment of residential amenity (including a section from east to west through the site, and material related to the noise and odour that may be present from the adjacent public house);
- Impact on protected species.

The current application DMPA/2023/00673 and DMPA/2023/0676 includes the additional information that was requested previously, and also incorporates some changes to the layout and design. Most notably, there has been a reduction in the number of proposed dwellings with one less plot in the terrace row (i.e. an overall decrease from 6no. to 5no. dwellings within the site); and alterations to the design of plot 5 fronting Church Street, which seek to address concerns between the relationship between this plot and the adjacent public house.

Responses to consultations and publicity

A summary from both planning cases DMPA/2023/00673 and DMPA/2023/0676 is presented below.

Melbourne Parish Council

No objections (13/06/2023).

County Highways Authority

It is noted that the proposal utilises the existing vehicular access to Church Street which is acceptable. A new pedestrian access is proposed to Castle Street which will enhance pedestrian access and is also acceptable. In addition, it is considered that satisfactory parking and turning facilities are provided within the site. Refuse storage facilities are acceptable. Taking the above into account the highway authority has no objections to the application subject to a number of standard conditions (06/06/2023).

County Archaeologist

It is noted that the site is a roughly 45m square block within the medieval core of Melbourne and has high potential for below-ground archaeology relating to the medieval and early post-medieval buildings on the site and to associated activity. The archaeological potential of the site is not discussed in the application documents, and this does not therefore meet NPPF para 194, that heritage significance and impact be established. There is a strong case on a site of this type – a largely open site within a medieval core – for archaeological evaluation (trial trenching) to be carried out before determination. It is advised that the applicant withdraw or accept an extension to the determination period to allow these evaluation works to be carried out (NPPF para 194). However, if the authority is minded to grant consent for the proposals ahead of archaeological information, conditions should be attached to secure a post-consent scheme of investigation and recording (trial trenching followed by further works as appropriate).

SDDC Conservation Officer

The application site is located within the Melbourne Conservation Area. The application site is located adjacent to a Grade II Listed Building 65, CHURCH STREET, Melbourne - 1281103 | Historic England. The application site is located within the historic core of Melbourne and is in close proximity to a large

number of heritage assets.

First, may I start with no objection to the application to demolish the existing building on the proposed development site. The existing arrangement of the site is a negative aspect of the character and appearance of the Conservation Area, as it reads as a gap site as the tight knit pattern of housing experienced on Church Street when approached from the Market Place. The building has reached/passed its best and provides no heritage merit for conservation purposes.

The history of the site is well documented, and the application makes reference to the previous use of the land, and the loss of the buildings on the site. An existing memorial acknowledges the events leading to the clearance of the site after WWII. The applicant has included within the proposal an area to provide a new accessible location for the memorial within the site.

The condition of the site is one that now requires attention.

- I make no objection to the application for demolition.
- I make no objection to the principle of redevelopment of the site.
- I make no objection to the principle of change of use to housing on the site.
- I make no objection to the application to construct up to five dwellings on the site.
- I assess the proposal as resulting in no additional harm to the setting of heritage assets, including the Listed Building adjacent to the site, and Listed Buildings within visual distance of the development site.
- I assess the proposal as resulting in less than substantial harm (low) to the character and appearance of the Conservation Area. I assess the application as a positive change to the existing visual appearance and use of what appears as a gap site within the historic streetscape.

The redevelopment of this site has been mooted for some time, and a previous application for the site was withdrawn. The current application seeks permission for one dwelling to front Church Street, and a terrace behind, addressing Castle Street but with access from Church Street.

The proposal requires the removal of an existing tree from the site. I refer to the Tree Officer for specific detail and assessment of the proposed loss of the tree and the proposed mitigation. Whilst I can appreciate the visual merit of the tree, this is not an example of the grain of historic townscape, and redevelopment of this site should not be confined by one tree that is out of character with the surrounding historic townscape.

The scheme is for a new build within a Conservation Area, not a reinstatement of the previous houses that were on the site pre-WWII. As such, the existing setting, character, and appearance has been considered, including the existing views from Castle Street to Church Square. Whilst this may not be a historic view, this is a long establish view, and one that would be significantly changed if development was proposed up to the edge of Castle Street.

It is the fundamental requirement that the local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area, as per the Planning (Listed Buildings and Conservation Areas) Act 1990, Section 72.

I have assessed the application before me considering the impact of the proposal on the existing character and appearance of the site. It is my assessment that the proposal preserves the existing setting of the designated heritage assets and the appearance of the Conservation Area, and enhances the existing condition and built form/townscape of the character of the Conservation Area. The impact of the proposal to the Conservation Area and neighbouring designated heritage assets is less than substantial (low).

SDDC Tree Officer

The copper beech T1 though contributing to the amenity of the street scene has a main stem that splits in to 4 co dominant stems with acute unions that show some included bark. This is a structural defect that reduces the estimated remaining safe life expectancy to 20 years in this location and I would class

the tree as Category B12.

The silver birch T2 located on Castle Street is growing adjacent to the stone boundary wall and part of the crown overhangs an access to a residential property. The tree contributes to the street scene. Silver birch have a life expectancy of up to 70 years and it is estimated that the tree is about 55 years old with a remaining life expectancy of 15 years and I would class the tree as Category C12. The groups of mixed species trees G1 & G2 have some merit as screening to the site. The 2 groups would not be suitable for retention should the site be developed.

It is my view that the copper beech T1 could not be retained should the site be developed. The retention of mature silver birch T2 is only temporary, and the landscape scheme needs to take in to account the loss of this tree. Alternatively, the silver birch could be removed to provide more space for replacement planting with the tree species set out in the Tree Survey.

I note the drawing does not label all the individual trees or provide the Latin names and the name of the cultivars that are proposed in the landscaping scheme. I would suggest that the Applicant is asked to provide the above details. The list of species set out in the Tree Survey 2022 include Acer campestre 'Elsrijk' which is a hardy cultivar with an upright crown useful in public spaces; Acer rubrum 'Armstrong' that has narrow columnar canopy with a mature height of 15.0 -20.0m good ruby red autumn colour; Prunus sargentii a hardy tree with narrow form and crimson autumn colour. All 3 tree species are suitable for this site. I note Sweet cherry may be Prunus avium that can grow to 15.0 to 20.0m that may be too large for this site. Holly and juniper are native evergreen trees that have a range of cultivars. These species are generally small growing up to 10.0m and are likely to be suitable for this constrained site.

Derbyshire Wildlife Trust

Clarification is sought on whether sufficient survey effort has been undertaken in respect of the existing building with respect to bats. The nocturnal survey recorded foraging and commuting activity throughout the site, and evidenced that an adjacent dwelling supports a large soprano pipistrelle maternity roost. This increases the likelihood of a day roost being present within the existing Community Centre and a sensitive lighting plan is recommended in the event of any planning approval.

The planting of 21no. trees would be sufficient mitigation for hedgerow and habitat loss. We recommend that retained grassland is infrequently mown and mowing is fully avoided throughout May if possible. Conditions are recommended to secure: a sensitive lighting strategy for the site, avoidance of vegetation clearance during the bird breeding season, and biodiversity enhancement measures (including incorporation of bat bricks, bird bricks and hedgehog gaps within fencing) (26/07/2023).

SDDC Environmental Health

The comments and conditions made in relation to the previously withdrawn scheme were reiterated as follows:

It has been identified that next to plot 5, there is a public house providing food with a kitchen extraction and a beer garden. Therefore, a noise report following the methodology in BS4142 to assess the noise from the extraction unit and BS8233 to consider the impact from the beer garden should be submitted and that no development shall take place until a written scheme providing full details of controls has been agreed in writing with the LPA.

Informative: The applicant as the 'agent of change' may have to provide mitigation to the pub (barriers, improved kitchen extraction) and/or and a potentially upgraded scheme of acoustically treated ventilation to the property.

The applicant shall supply an odour survey report in accordance with the IAQM guidance on the assessment of odour for planning and that no development shall take place until a written scheme providing full details of controls has been agreed in writing with the LPA due to the kitchen extraction unit at the nearby public house.

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

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

Melbourne Civic Society

The Civic Society believes that the layout of this housing scheme on this most important and sensitive site for redevelopment in Melbourne Conservation Area represents a wasted opportunity. New residential use is appropriate, but the form and layout proposed are not. We would have liked to have seen an architect's axonometric visuals of the development from both the Castle Street and Church Street sides showing the juxtaposition of the proposed houses with the adjacent buildings- the listed Pump House and the Spirit Vaults pub.

Our concern is with the important contribution that Castle Street once again can make to the Conservation Area townscape. We strongly oppose the four proposed cottages in the application being set back from the street. Buildings along the street frontage were the historic case and should again reflect this notable characteristic of Melbourne Conservation Area (see Conservation Area Statement 2011) If the western edge of this southern part of Castle Street can be reinforced with new buildings it will help recreate a feeling of containment thus fitting in with the Conservation Area as a whole.

The Conservation Area Statement 2011 states that this southern part of Castle Street has on this western side suffered a '*significant loss of enclosure with the demolition of the terraced rows of cottages*' (that used to be here). Regarding layout and massing the proposed 'cottages' should be located up to the street front of Castle Street, with or without the stone wall retained. The main point is not to have the car parking at the front, although there might be very 'thin' front gardens.

The car parking space in front of the presently proposed set-back cottages would have no townscape value and we do not agree that it would open up a virtuous view of the church from the cottages and Castle Street as claimed in the applicants' Planning Statement. If the cottages are placed along the street the church tower will still be seen from Castle Street as it can from elsewhere in the densely developed parts of the Conservation Area. It is glimpsed views of the church tower and other tall buildings that are a key characteristic of Melbourne Conservation Area (2011 Statement page 10) not open views. The sudden or 'surprise' close-up view turning the corner into Church Square from our suggested building-lined Castle Street would be completely in character with the nature of the Conservation Area reported in the 2011 Statement. A further 'glimpse' of the church tower could be obtained by leaving a small gap between the so-called cottages lining the street and the listed Pump House.

Turning to the proposed single house on Church Street we have no objection to the 'form' or massing of it – it continues the historic street line and the height, if not the detail, and it potentially fits with the listed Pump House adjacent and with the notion of what went before.

An improved layout concept would involve providing rear parking and a rear vehicle access for the cottages from Church Street in the same location as proposed or more appropriately adjacent to the Spirit Vaults pub in which case the new detached house on Church Street would be moved closer to the Grade 2 listed Pump House.

Having considered form and layout which are key features in the National Design Guidance it is important to put detailed design into this context. Whilst in terms of 'form' it is desirable that the four or five cottages along Castle Street are adjoined, there is no need for them to be identical. There is scope here for variation in design including facades and roofs which needs to be of high quality (see National Design Guidance) but not necessarily traditional. Whilst the houses should be adjoining they do not need to all look the same.

Melbourne Civic Society would be pleased to comment further on materials and details (eg. brick type, brick bonding type, stone and timber type) and their positioning and now or in the future be involved in producing a local design code for Melbourne, the Melbourne Conservation Area, or even this site.

In the application the present simple basic CAD depiction of the proposed elevations of both the cottages and the large house using library hatching is not sufficient for detailed approval. To ensure local distinctiveness an architect's construction type drawing of details such as roofs and chimneys, stone plinths, quoin stones, string courses, lintel and window details, gable ends, brick bonds and brick and tile types would help ensure that construction matches design. If the scheme were to be approved this could be achieved by planning condition.

The relocated British Legion commemorative plaques and bench on Church Street improve on previous submissions although more space is needed around for the laying of wreaths.

The Civic Society supports refusal of the present application for the following reasons:

- The set-back nature of the four proposed cottages on Castle Street does not reflect the design principle of having buildings along street frontages which is advocated in the National Design Guidance January 2021. Para 63 states that 'well designed places have recognisable streets and other spaces with their edges defined by buildings.' This is a notable characteristic of Melbourne Conservation Area (Conservation Area Statement 2011). The NPPF July 2021 states that 'Development that is not well designed should be refused especially where it fails to reflect local design policies and government guidance on design'.

- The highly visible proposed car parking area in front of the proposed four cottages would detract from the townscape value of Castle Street and the Conservation Area and represent a missed opportunity to enhance that value with good new architecture. It would therefore be against Policy HC1 of the Neighbourhood Development Plan which is for the 'Preservation and Enhancement of the Designated Heritage Assets' including the Grade 2 listed Pump House building on the corner of Castle Street and Church Street.

- Due to the sensitivity of this key site in the centre of Melbourne's Conservation Area, architect's street elevations of proposed buildings alongside existing and axonometric visualisations, together with more detailed drawings of building design features, are required for full planning permission in order to achieve local distinctiveness and cannot just be left to reserved matters (17/07/2023).

Neighbour Responses

Ten objections were received from members of the local community. The key points of the responses are summarised as follows.

Loss of Community Facility

- Members of the local community have raised concerns related to the loss of the facility in the context of an ageing population, the suitability of alternative venues, the loss of cohesion due to the breaking up of the Senior Citizen's Group; highlight that the demand for the centre would have increased following lifting of Covid-19 restrictions in February 2022; and assert that the level of information provided as part of the facilities analysis is insufficient.

Alternative Options for the Site

- A number of comments were made that put forward alternative options for development of the site. These varied from proposals to incorporate a replacement community facility building, to alterations to the proposed design with some advocating a reinstatement of the site in line with the pre-war arrangement, parking to the rear instead of the front of the scheme, a row of cottages similar to those on Blackwell Lane, and differing opinions on the importance of the existing openness of the site or the need to reinstate the former built pre-war frontage.

Design and Impact on Heritage Assets

- The comments on the design put forward by the applicant (as filtered from the alternatives put forward by the community), are also conflicting and given the level of detail provided within individual responses, it is difficult to summarise. Nonetheless, on one hand they include concerns that the

proposal represents an overdevelopment of the site, with loss of the existing sense of openness, the terraces 'packed solidly' within the site and plot 5 forming a harsh boundary to Church Street; that the proposal would fail to integrate effectively with the spatial pattern and character of surrounding built form; the parking along Church Street would be dominating; the terraces would be significantly larger than the existing built form within the site and would block view towards the church. Conversely, comments that the view towards the church is unimportant, as a non-historic view and that the historic grain of the streetscape remains damaged as it has been since the bombing.

- Additional comments that the plans are lacking in architectural detailing, with the terrace row asserted as having no reference to local traditional styling or mix of materials and suggestion that plot 5 would be 'pastiche'. The proposal for dormer windows is noted as out of keeping, and the design, size, scale and mass of dwellings is at odds with neighbouring dwellings. One member suggests that any new development on this frontage should be an exemplar of twenty-first century architecture the would warrant listing in 30 years' time.

- A number of the comments note that the proposal fails to preserve or enhance the character and appearance of the Conservation Area and will lead to irreversible harm.

Residential Amenity

- Concerns were raised by members of the local community in relation to the impact of the scheme on residential amenity, and in particular the impact on privacy, outlook and overshadowing that could arise from the terrace row (and associated dormer windows) and in combination with the loss of trees within the site.

- Concern that the intensification in use through increased vehicle movements including delivery vehicles to the site would lead to an increase in noise and disturbance that will have a detrimental impact on the amenity of adjacent properties.

Highway Safety

- The local community raised concerns about the existing access being too narrow, and the visibility of this in the context of cars parked on the public highway along Church Street. Also, the general increase in traffic, and lack of provision of footways on the internal access road.

Arboriculture and Biodiversity

- Objections were raised in relation to the loss of the copper beech tree, however the main concerns related to the proposed landscaping. In particular, how the proposed trees would be protected from being removed by future occupants of the development, the suitability of the trees proposed for the site (and references to shadowing and damage of properties), and the proposed management of the shared landscaping areas within the site was queried.

Other Matters

- Various other points were raised including the impact of the provision of 10no. bins that would need to be presented to the kerbside on collection day; that no provision for electric vehicle charging appears to have been made; a query related to the plans for the signboards on Castle Street; query whether Historic England would comment upon the scheme; comments that the existing birch tree is causing damage to the Chantry Close driveway; comments that no details of foul or surface water management have been provided as part of the application.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- Local Plan Parts 1 and 2: H1, INF6, BNE1, BNE2, BNE10, SD1, INF2, BNE7, BNE3
- Melbourne Neighbourhood Plan: DP1, DP3, DP2, HC1, OS3

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

Planning considerations

The determining issues are as follows:

1. Principle of the development;
2. Design and Impact on Heritage Assets;
3. Residential Amenity;
4. Highways;
5. Archaeology;
6. Arboriculture and Landscaping;
7. Biodiversity;
8. Other Matters.

Planning assessment

Principle of the Development

There are two key aspects relevant to the principle of the development in this case:

- The principle of residential development within the site; and
- The loss of the Senior Citizen's Centre, a community facility.

Policy H1 sets out the Settlement Hierarchy for the District which is based on the range of services and facilities that are offered by each settlement and directs development to sustainable locations. Melbourne is a Key Service Village where residential development of all sizes is considered appropriate.

The Melbourne Neighbourhood Plan forms part of the development plan against which the application must be considered. Policy DP1 of the Neighbourhood Plan supports development within the defined settlement boundary where it is of appropriate scale, character and does not result in adverse environmental impacts. Policy DP3 of the Neighbourhood Plan states that *proposals for development of new dwellings within the defined settlement boundaries of Melbourne and Kings Newton will be supported if they have four bedrooms or fewer...*

The proposal for 4no. 3-bed terraces and 1no. 4-bed detached house, within the Key Service Village of Melbourne would accord with Policy H1 of the Local Plan and Policy DP3 of the Neighbourhood Plan. The scale and character of the dwellings would be in keeping with the surroundings, and it is considered that matters of environmental impact would be appropriately managed (as discussed in the following sections), in accordance with Policy DP3 of the Neighbourhood Plan.

Policy INF6 of the Local Plan seeks to protect community facilities unless it can be demonstrated that there is no longer a need to retain the use or where a suitable alternative is made. Whilst defined as a community aspiration and not a planning policy, the Neighbourhood Plan includes Community Aspiration (CA8) which notes that the future of the Senior Citizen's Centre building is uncertain. It highlights that the community facility is important to maintain, and that development of the site for anything other than community uses would not be supported by the parish. There are also provisions in the NPPF, paragraph 99, that indicate that existing community facilities should not be built on unless an assessment has been undertaken which shows that the facility is surplus to requirements, or the loss would be replaced by equivalent or better provision.

A Community Facilities Analysis (ref. P22-0486) has been submitted as part of the planning application (DMPA/2023/0065), together with the Additional Information regarding Community Facilities in Melbourne (TUK Rural) (dated 12 April 2023). The latter report was provided in response to feedback from the Local Planning Authority on the previously withdrawn submissions (ref. DMPA/2023/0065 and DMPA/2023/0228).

Members of the local community have raised concerns related to the loss of the facility in the context of an ageing population, the suitability of alternative venues, the loss of cohesion due to the breaking up of the Senior Citizen's Group; highlight that the demand for the centre would have increased following lifting of Covid-19 restrictions in February 2022; and assert that the level of information provided as part

of the facilities analysis is insufficient. The loss of the facility is not a point of objection raised by any of the statutory or non-statutory consultees however, including the Parish Council or Melbourne Civic Society.

The Community Centre building is understood to have been installed as a temporary building in the 1960s and is now in a state of disrepair. Section 3 of the Additional Information document sets out that the Senior Citizen's charity leased the building for a duration of five years from June 2016, that the site was closed in January 2022, and the charity is in the process of being 'wound up'. It notes that the site was provided for the exclusive use of the Senior Citizens Group, with a rent of £1.00 per annum, and that *'unfortunately the Estate can no longer afford to continue to honour this arrangement, as the site requires a significant investment into repair and maintenance, as does Melbourne Hall and the surrounding Parkland. The redevelopment of this site will generate funds for the enhancement and protection of the important heritage assets at Melbourne Hall Estate'*.

The Community Facilities Analysis identified a number of groups that used the site before it closed in 2022. The Additional Information section highlighted that there are 17 alternative facilities for users of the site and sets out information on the capacity of these alternatives. This includes the Melbourne Assembly Rooms, The Royal British Legion, Melbourne Methodist Church, and Melbourne Sporting Partnership venues, which are all in proximity to the application site and all are evidenced to have substantial availability. In specific reference to the bowling green, it is noted that there is an alternative green on Packhorse Lane, c. 1km from the application site with availability for memberships. Section 4 of the Additional Information report describes where previous users of the community centre are known to have relocated to. The majority of groups appear to have relocated to the aforementioned venues. In a few cases however, it is apparent that the group as relocated could not be identified (e.g. Weightwatchers, Probus, Gardening Club) in an alternative venue, although it seems unlikely that this is due to lack of capacity of the alternative venues.

Whilst the views of some of the members of the local community are noted, the level of information provided within the Community Facilities Analysis and Additional Information is considered sufficient to make an assessment of the scheme in the context of Policy INF6, and furthermore it is considered proportionate to the scale of the issues from the perspective of assessment under paragraph 99 of the NPPF (a material consideration, rather than policy).

From the submitted information, it appears that the Senior Citizen's group appears to have disbanded (or to be in the process of this) owing to the closure of the facility, and the sense of cohesion within this particular community group (the Senior Citizen's) is likely to have been dispersed. It is also clear that there is enough capacity within the alternative venues within Melbourne to cater for the groups previously run from the facility, and/or in the case that the specific groups could not be identified, it is evident that there are similar groups operating within the vicinity that have availability for membership.

Taking the above into account, it is considered that there is 'suitable alternative' community facilities as most of the groups that previously undertook activities within the application site appear to have found alternative venues, and/or there is sufficient capacity within existing, alternative venues to accommodate the groups. Most of these alternative venues are in proximity to the application site and in Melbourne. These factors are considered to be the key considerations for this case in the context of policy INF6, and the proposal would therefore comply with this policy, and the NPPF as a material consideration. It is acknowledged that the development would be contrary to a strict interpretation of Community Aspiration CA8, but it is notable that the principle of the scheme has not been subject to objections from the Parish Council who are the neighbourhood plan making body for Melbourne.

Overall, it is considered that the proposal for redevelopment of the community centre site would be in accordance with Policy INF6, particularly when it is balanced in the context of the provision of 5no. new dwellings that would accord with Policy H1 and Neighbourhood Plan Policies DP1 and DP3.

Design and Impact on Designated Heritage Assets

There are many factors that have been considered in the application process, including the position of

the dwellings, scale and massing, contemporary/traditional design, material choice, architectural detailing, alignment, architectural rhythm, vernacular styling, layout (parking, bin stores, subdivision of amenity land) and landscaping. The applicant has worked proactively with the Council's Conservation Officer to find a potential solution for the site, and the Council's Design Officer has also been involved in the process. The applicant has submitted a Materials and Design Statement, and Heritage Statement as well as the planning application drawings and artist's impression.

There are objections from the local community and Civic Society on the design of the scheme, and a number of contributors propose alternative options for the site, with conflicting views on an appropriate form of development (from maintaining as an open gap site to providing built frontage closer to Castle Street). The requirement for the decision-maker, in this case the Planning Committee, is to assess whether the plans submitted by the applicant would be acceptable in the context of the development plan policies and material considerations. Whilst there are other potential options for the development of the site, these should not be reasons to refuse permission should the current proposal be considered acceptable.

The development plan framework for consideration of design and related impact on designated heritage assets is as follows. Policy BNE1, which sets out a number of design principles for development. For a scheme of this scale, the most relevant principles are that new development should create places with locally inspired character that responds to context and has regard to valued landscape, townscape, and heritage characteristics; is visually attractive, appropriate, respects important landscape, townscape and historic views and visits, contributing to achieving a sense of continuity and enclosure within the street scene and possessing a high standard of architectural and landscaping quality. The Design Guide SPD supplements this policy with specific guidance on detailing of design. Additionally, the heritage Policies BNE2, BNE10 and Neighbourhood Plan policies DP2 and HC1, which make provisions to protect, conserve and enhance South Derbyshire's heritage assets, are fundamental. Furthermore, paragraph 197 of the NPPF states that in determining applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

Taking the different components of the design of the development in turn and the aforementioned policy context, the following observations are made. There is no requirement under the development plan policies to reinstate the former arrangement of the site prior to the WWII bombing (as has been suggested by the local community and Civic Society). The proposed development does however take cues from this historical context, with a large, detached dwelling on the frontage of Church Street, and a row of terraces orientated towards Castle Street. The proposed arrangement would set the row of terraces (plots 1-4) back from the street on the eastern boundary, which would maintain a sense of openness (as has been the case for the past 80 years and including at the time of the Conservation Area designation) and the view towards the Grade I listed church from this location. The memorial plaque would be accommodated within the development.

It is noted that the Conservation Area Character Statement itself has some conflict within it as it acknowledges the site both as a gap site, and the tight pattern of development in the locality, which perhaps reflects the different responses from the local community. The proposal which incorporates a terrace row and accommodates the existing openness of the site, would represent a reasonable approach to the site in this context. The proposed parking and arrangement of bin stores, a point of particular concern in the comments from the local community, would need to be accommodated somewhere within the site and the positioning, set down adjacent to the 1m eastern boundary wall would screen much of the vehicles.

The scale and massing would be in keeping with the surroundings, as is evident from the elevations, streetscene and section drawings. As is set out in the applicant's Materials and Design Statement, the

architectural detailing draws upon the features in the surrounding context, including gable roof design with feature ends, parapets, header details and stone cills/ lintels. Dormer windows are also apparent in a number of dwellings including no. 65 Church Street. The materials palette proposed would be in keeping with the Conservation Area Character Statement, subject to the provision of samples to confirm this.

The Council's Conservation Officer has been involved in the planning process and raises no objections to the different components of the scheme. The Conservation Officer's assessment is that the removal of the poor-quality timber building is considered to be an enhancement, which should be balanced against the less than substantial harm (low end of the spectrum) that would be created by the development. The design of the development does respond to the local context with architectural detailing that is apparent in the neighbouring properties, the view from Castle Street to the Grade I listed church (which has been in place for c. 80 years) would be maintained, the grain of the development would be reflective of that on both Castle Street and Church Street, and the proposal would preserve the setting of the designated heritage assets and the appearance of the Conservation Area.

Under paragraph 202 of the NPPF, as underpinned by Policies BNE2 and BNE10 of the Local Plan, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In this case, as the harm would be at the lower end of the spectrum, it is considered that the harm would be balanced by the removal of the existing, dilapidated building and outweighed by the provision of smaller scale dwellings which meets the requirements of the Neighbourhood Plan.

The proposed development would integrate with the existing surroundings and would comply with the requirements of Policies BNE1, BNE2 and BNE10 of the Local Plan, Neighbourhood Plan policies DP2 and HC1, and the NPPF. Conditions could be added to secure samples of the materials prior to incorporation in the proposed buildings, as well as hard and soft landscaping and other necessary detailing. Also, it is considered necessary and reasonable in this instance to restrict permitted development rights in order to maintain control in the interest of the character of the area.

Residential Amenity

Policy BNE1 h) requires that new development does not have an undue adverse effect on the privacy and amenity of existing nearby occupiers and that similarly, the occupiers of new development should not be unduly affected by neighbouring land uses. The Design Guide SPD recommends 15 to 21m distance between primary habitable room windows to avoid overlooking and to protect privacy. In order to protect outlook and avoid overshadowing of habitable rooms between 9 and 12m is recommended. There is no distance recommended to protect private amenity spaces, although this would likely be accounted for in the overall guidelines.

Concerns were raised by members of the local community in relation to the impact of the scheme on residential amenity. Officers raised the potential for the previous scheme for 6no. dwellings (ref. DMPA/2023/0065) to affect residential amenity, specifically in relation to no. 21 Castle Street. However, the plans were modified prior to receipt of the current planning application, which moved plot 1 further from this neighbouring dwelling. The plans have been measured and the recommended distances of the Design Guide SPD are met, or very close thereto, in all cases. There would be a minimum of 21m between the closest point of plots 1-4 and the eastern elevations of Chantry Close (which are set higher than the proposed dwellings), 26m between the eastern side elevation of plot 5 and no. 65 Church Street, and 11m between the rear elevation windows of no. 21 Castle Street and the northern elevation of plot 1. In the latter case, the distance between plot 1 and no. 21 Castle Street falls short of the recommended standard by just 1m at the closest point. With plot 1 orientated away from no. 21 and the distance very close to the standard, the relationship is considered acceptable. There would also be c. 14m between the front elevation of plot 5 and properties on the southern side of Church Street, which would be sufficient taking into account the intervening road. Although the relevant distances would be met, it is noted that there are a number of side-facing, secondary windows proposed which could potentially reduce the privacy of the neighbouring dwellings / private amenity space, or in the

case of plot 5 the privacy of future occupants could be impacted by the public house. It would therefore be reasonable to obscure glaze the side facing windows proposed. With such conditions in place, it is considered that the proposal would meet the requirements of policies BNE1 and the amenity of neighbouring dwellings would not be materially impacted in terms of privacy, outlook, overshadowing etc.

The proposal also raises some considerations regarding potential noise, disturbance and air quality impacts in the context of policy SD1 and BNE1. The scheme would be located adjacent to an existing public house (no. 53 Church Street, the 'Spirit Vaults'), with associated decking area for users and the presence of 2no. extractor fans on the eastern elevation. The proposed development has been altered through the planning process in response to comments received on the withdrawn application (ref. DMPA/2023/0065) and in recognition of these constraints and with a view to minimising the potential impact on future occupants of the plot 5 dwelling, and in turn to avoid prejudicing the operation of the existing public house. A boundary wall would be incorporated on the edge of plot 5, whilst an additional 'extension' with blank western elevation was added onto the western elevation of the new dwelling in order to reduce any overlooking from the users of the pub decking.

The Council's Environmental Health Officer (EHO) was consulted on the planning application. No objection was raised, although it was highlighted that noise and odour monitoring would be required to establish the background noise and smells arising from the neighbouring public house, and their acceptability in relation to the proposed residential use adjacent. The EHO expressed a preference for these surveys to be undertaken prior to determination. Further information was therefore requested from the applicant, and the Planning Statement Addendum – Noise Assessment was submitted in response. The statement includes a review of the planning permission related to the public house extractor fans (ref. DMPA/2020/0397), and highlights that they must be operated in accordance with the requirements of British Standard 8233:2014 as per condition 4 which states:

'The rating level of sound (as defined by BS4142:2014 or subsequent revision) emitted from the kitchen extract ventilation system shall not exceed background sound levels by more than 5dB(A) between the hours of 0700-2300 (taken as a 15 minute LA90 at the nearest sound sensitive premises) and shall not exceed the background sound level between 2300-0700 (taken as a 15 minute LA90 at the nearest/any sound sensitive premises)'.

Various other mitigating factors are highlighted, for example, the hours that food are served is in reality less than the condition allows for; and a series of mitigation measures are set out in section 4 of the report, which could be incorporated within the scheme, if considered necessary following the undertaking of the recommended noise monitoring. Whilst it would be preferable to have the monitoring results in advance of the determination, this would not be essential in light of the wording of the planning condition related to the extractor fans, amendments that have been made to plot 5 to take account of them (including the boundary wall), and the various mitigation measures that could be incorporated. It is therefore recommended that any forthcoming planning approval include a suitably worded planning condition that requests the noise monitoring to be undertaken and helps to define any mitigation requirements, and that an informative be added to highlight that the applicant may have to provide mitigation in relation to the adjacent public house as an 'agent of change' as highlighted by the EHO.

The EHO also considered the potential for odour impacts. Officers would highlight as a mitigating circumstance, that any future residents would be aware of the public house prior to occupancy of the plot 5 dwelling, and would be aware that such odours (and noise) could occur. Again, similar mitigation could be incorporated (such as air conditioning of certain rooms) to overcome the concerns if necessary upon monitoring. A similar condition to require odour assessment would therefore be recommended, suitably worded to ensure that any recommended mitigation be adopted prior to occupation.

Other conditions related to management of the construction impact of the proposals (e.g. working hours and dust) were also proposed and would be reasonable to apply to reduce disturbance to neighbouring properties.

Highways

Policy INF2 sets the local policy framework for sustainable transport and states that planning permission will be granted for development where appropriate provision is made for safe and convenient access to and within the development for users of the private car and other modes of transport.

The proposed development would use the existing vehicular access from Church Street and would provide a new pedestrian access from Castle Street. The local community raised concerns about the existing access being too narrow, and the visibility of this in the context of cars parked on the public highway along Church Street. Also, the general increase in traffic, and lack of provision of footways on the internal access road.

The County Highway Authority was consulted on the planning application and raised no such concerns or objections. It was recommended that standard conditions (related to implementation of visibility splays, parking prior to occupation, turning space and surface water drainage etc.) be incorporated into any forthcoming planning permission. No concerns were raised regarding the narrowness of the access, or the lack of a pedestrian route alongside the internal access route, and it is concluded that the proposed arrangements would be acceptable from the perspective of highway safety. The Highway Authority subsequently clarified that it would not be reasonable to request alterations to an established access, when the intensity of the proposed use of the site is unlikely to be materially different compared to the previous community centre use, and there would not be a notable increase in traffic compared to the existing permitted use. Also, that on street parking is a common issue and does act as traffic calming by slowing vehicle speeds thereby reducing the required visibility splays.

The scheme would incorporate 2no. car parking spaces for each of plots 1-4 and 3no. spaces would be provided for plot 5, which meets the requirements of the Design Guide SPD. Although the plans do not show provision for electric vehicle charging points, it is noted that this would be addressed through the Building Regulations process. Overall, it is considered that the scheme would be acceptable from the perspective of impact on the safety of the public highway and would comply with the requirements of policy INF2.

Archaeology

Policy BNE10 requires any proposed development which impacts on archaeological remains to be accompanied by an archaeological evaluation. The County Archaeologist was consulted as part of the planning process and commented that Historic mapping, some of which is reproduced in the applicant's 'heritage statement' shows that the site was formerly occupied by buildings including a substantial house of 1670 apparently on the site of a still earlier building. Following bomb damage in 1940 the majority of these buildings were demolished, and the site was redeveloped as a fire station and then with the existing community centre building. As the majority of the site has remained relatively undisturbed since WW2 there is a high potential for below-ground archaeology relating to the medieval and early post-medieval buildings on the site and to associated activity.

It is noted that the archaeologist recommended archaeological evaluation (trial trenching) prior to determination. This point was reviewed by Officers, and it was concluded that as any evaluation would ultimately result in a scheme of appropriate recording, this mitigation would not preclude development of the site. It would not be necessary or reasonable to require the investigations prior to determination therefore, and such evaluation could be undertaken as part of a pre-commencement planning condition. It is considered that the requirements of Policy BNE10 could be met in this way, and indeed the County Archaeologist recommended a suitably worded condition for this scenario.

Arboriculture and Landscaping

The site includes a mature copper beech tree towards the southern boundary, a mature silver birch tree towards the northern boundary, a group of mixed species trees (including several cypress species, and

2no. dead trees) on the western boundary, and low hedgerow on the southern boundary. The trees are protected by virtue of the Conservation Area; they are not subject to Tree Preservation Order (TPO). The mature silver birch tree would be retained whilst the copper beech tree and group of mixed species would be removed. A landscaping scheme has been put forward as part of the application.

Policy BNE7 relates to the safeguarding of protected trees and requires that appropriate measures are secured to ensure adequate root protection buffers. The Council's Tree Officer has been consulted. No objections were raised, although it was highlighted that the copper beech tree and mixed species group would need to be removed to facilitate the development. The copper beech tree in particular offers substantial contribution to the streetscene currently, although Officers would note that this loss would, in time, be offset through the proposed replacement planting of 2no. field maple trees near to the proposed access and other trees with high amenity value throughout the site. Generally, the landscaping, which incorporates 21no. new trees would offset the loss of the copper beech tree and western boundary tree groups, over time. It is accepted that there would be a temporary period whilst the trees are maturing that there would be lower value, for example through screening neighbouring properties. Some residents in Chantry Close raised concerns in this regard, however as the amenity distances would be met between the proposed new terraced row and the existing dwellings, the tree planting would not be relied upon to protect neighbouring privacy.

The Council's Tree Officer was consulted upon the suitability of the proposed trees in the landscaping scheme, as shown on the Proposed Site Plan. Initially, there were some reservations about the appropriateness of the sweet cherry species. This was discussed with the Tree Officer, and it was subsequently concluded that such species could be accommodated, as the exact positioning of each tree species within the site had not been identified. It is recommended that the full details of the proposed landscaping, including locations and specifications of proposed trees, be attached as a planning condition as part of any forthcoming permission. Additionally, the silver birch tree that would be retained as part of the development would need to be protected during the construction works, as is recommended in the Arboricultural Impact Assessment.

Insofar as the protection of the trees within the landscaping scheme generally, as was queried by some of the local community, it is recommended that a suitable condition be attached to any forthcoming permission that ensures replacement of any trees that fail within a period of 5 years following planting. After this period, any trees should be sufficiently sized so as to be protected by virtue of the Conservation Area (and could therefore not simply be removed by future occupants of the development).

The potential impact of proposed trees shadowing existing residences was raised as a concern by the local community. It is noted that there is already a dense tree group present on the western boundary, so the replacement planting is unlikely to represent a material change. The trees that are proposed to the west of no. 65 Church Street would be c. 11-12m distant from the dwelling and unlikely to materially impact the light within habitable rooms albeit there are no specific policies within the development plan through which to assess this matter. It is noted that the references within Policy BNE7 Aii) to undue shading are intended to protect existing trees from the pressures (e.g. to prune or fell) that may occur following granting of planning permission, rather than to restrict the planting of trees; and generally, if the landscaping scheme is deemed appropriate for the site, as the Tree Officer has confirmed it is, then the issue of shadowing from the proposed trees should not be material.

One neighbour also highlighted the potential for roots from the proposed trees to impact no. 65 Church Street. The Council's Tree Officer responded that the National House Building Council guidelines state that trees should be planted at a minimum distance of 75% of the mature height of a tree. In the case of field maple, the mature height is a maximum of 18.0m, which would take at least 40 years to obtain. This would result in a planting distance of c.13m, which would be a maximum value (that could be less depending on the specific ground conditions). The plans as submitted indicate that the field maple would be c. 11-12m from the dwelling. This is not considered to be materially different from the recommended distance, and it is considered that the exact positioning of the trees could be reviewed as part of the above recommended condition on landscaping.

Finally, the local community queried how the management of the landscaping areas would be managed, and where the responsibility of this would fall. It is expected that the areas would be maintained by the future occupants of the development, as is typically the case for developments of this size.

The proposal is considered to comply with the provisions of policy BNE7.

Biodiversity

Policy BNE3 supports development which contributes to the protection, enhancement, management and restoration of biodiversity. Policy OS3 of the Neighbourhood Plan supports new development that seeks to protect and enhance biodiversity.

A Preliminary Ecological Appraisal was submitted as part of the planning application, which was updated in July 2023 with the findings of bat emergence surveys. The surveys found no evidence of roosting bats, although the site was recorded as utilised for foraging and commuting purposes. Some habitat onsite (notably, the hedgerow along the southern boundary) would be suitable for nesting birds, which would be lost as part of the proposal. Derbyshire Wildlife Trust was consulted and raised no objection to the proposal, although requested some clarification on the method of daytime bat assessment, as this would in turn influence the number of emergence surveys required. The applicant was requested to provide the additional clarification prior to determination, although opted for further survey work to be conditioned as part of any forthcoming planning permission.

It is considered that the loss of some features within the site, including the hedgerow and the existing mature trees, would be offset by the proposed tree planting within the site. However, to ensure a suitable net gain to biodiversity (proportionate to the scale of the site), it is recommended that Biodiversity Enhancement Measures, including the incorporation of bird bricks, bat bricks and hedgehog gaps be incorporated into the scheme, secured by condition. Other conditions were recommended also, including sensitive lighting, and Ground Level Tree Assessment, as well as avoidance of vegetation clearance during the bird nesting season. With such conditions in place it is considered that the proposal would meet the requirements of Policy BNE3 of the Local Plan and Policy OS3 of the Neighbourhood Plan.

Other Matters

Some members of the local community highlighted that no details on the foul and surface water strategy that will be adopted for the site have been provided in support of the application. It is noted that such matters are typically managed through the Building Regulations process for sites of this size, and that as the site is located within flood zone 1, there are no particular concerns related to the drainage provision. A condition would be added to ensure that there is no runoff onto the public highway, as discussed above, and it is considered that this would be sufficient to address this matter in the planning remit considering the scale of the development.

The concern that 10no. bins would need to be presented on the kerbside on collection day, and that this would inhibit use of the pavement is noted. This is a common, temporary disturbance that would be difficult to avoid with any development of the site and is attributed limited weight in determination of the application.

Some members of the community raised concern that the intensification in use through increased vehicle movements including delivery vehicles to the site would lead to an increase in noise and disturbance that will have a detrimental impact on the amenity of adjacent properties. As noted in the highways section above, no such intensification of use of the site is expected.

There was one query regarding the plans for the 2no. signboards that are situated within the application site, adjacent to Castle Street. This would not be a material consideration in determination of the planning application, although it is expected that suitable alternatives could be found.

Some of the comments from the neighbours referenced the Vertical Sky Component methodology for

determining impact on residential amenity. This does not form part of the development plan policy or Design Guide SPD method of assessment for impact on residential amenity, although it is noted that any such determination would not preclude other legislation that exists on these matters (such as the right to light).

One member of the public queried whether Historic England had commented on the scheme. Historic England should only be consulted on cases that affect a Grade I or II* listed building or its setting. The Conservation Officer assessed the proposal as resulting in no additional harm to the setting of heritage assets, including the Listed Buildings within visual distance of the development site, and therefore there is no requirement to consult Historic England on this case.

Another highlighted that the birch tree within the site is affecting the condition of the driveway to Chantry Close. This is not a planning matter; it is a civil matter that would need to be addressed privately between the relevant parties.

Conclusion

The principle of the development is considered to be acceptable, as the scheme would provide 5no. dwellings within a Key Service Village in accordance with the settlement hierarchy (policy H1 and Neighbourhood Plan policies DP1 and DP3), and there appears to be sufficient capacity within alternative community facilities within the vicinity to accommodate the loss of the community centre, such that policy INF6 would be met. There are divergent opinions on the proposed design for the site. Officers have assessed the proposed plans for the site and concluded that the design would be in accordance with the relevant policies and the level of harm to the designated heritage assets is considered to be less than substantial. Officers consider that the harm would be at the lower end of the spectrum, and that this would be balanced by the removal of the existing, dilapidated building and outweighed by the provision of smaller scale dwellings which meets the requirements of the Neighbourhood Plan. It is considered that all other material considerations namely the impact on residential amenity, the safety of public highways, archaeology, arboriculture, and biodiversity, can be appropriately managed through suitably worded planning conditions. Accordingly, the application is recommended for approval subject to conditions.

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

Recommendation for DMPA/2023/0673

Approve with conditions.

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans/details:
 - Existing Site Plan (received 23 May 2023)
 - Location, Site and Access Plan FINAL REV B-A2L-2209-MHSCC-A-P01 (received 19 July 2023)
 - Plot 5 Floor Plans & Elevations FINAL REV B-A2L-2209-MHSCC-A-P03 (received 19 July 2023)
 - Plots 1-4 Floor Plans & Elevations FINAL REV B-A2L-2209-MHSCC-A-P02 (received 19

July 2023)

- Site Section & Site Plan FINAL REV B-A2L-2209-MHSCC-A-P05 (received 19 July 2023)
- Plot 5 Street Scene FINAL REV B-A2L-2209-MHSCC-A-P04 (received 19 July 2023)

unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. No development shall start until a Highway Construction Management Statement /Plan has been submitted to and approved in writing by the Local Planning Authority. The statement / plan shall include details specifically relating to:
- a) parking for vehicles of site personnel, operatives and visitors
 - b) site accommodation
 - c) storage of plant and materials
 - d) provision of roadside boundary hoarding behind any visibility zones
 - e) any proposed temporary traffic management.

Only the approved details shall be implemented, which shall be maintained throughout the construction period.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety, recognising that initial preparatory works could bring about unacceptable impacts / inconvenience for existing highway users / nearby residents and in accordance with Policy INF2 of the Local Plan.

4. Prior to commencement of the development, a noise report following the methodology in BS4142 and BS8233 shall be submitted to the Local Planning Authority, which shall assess the noise from the extraction unit and raised terrace from the neighbouring public house (no. 53 Church Street) on the proposed development. No development shall take place until a written scheme providing full details of controls for noise mitigation on the proposed development has been agreed in writing with the Local Planning Authority.

Reason: To safeguard the amenities of nearby occupiers in accordance with Policy BNE1 of the Local Plan.

5. Prior to commencement of the development, an odour survey report that complies with IAQM guidance on the assessment of odour shall be submitted to the Local Planning Authority, which shall assess the potential odour impact from the neighbouring public house on the proposed development. No development shall take place until a written scheme providing full details of controls for mitigation on the proposed development has been agreed in writing with the LPA.

Reason: To safeguard the amenities of nearby occupiers in accordance with Policy BNE1 of the Local Plan.

6. No development, including demolition, shall take place until a scheme of dust mitigation measures has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented throughout the demolition period.

Reason: To safeguard the amenities of nearby occupiers in accordance with Policy BNE1 of the Local Plan.

7. a) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and
1. The programme and methodology of site investigation and recording
 2. The programme for post investigation assessment
 3. Provision to be made for analysis of the site investigation and recording

4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
5. Provision to be made for archive deposition of the analysis and records of the site investigation
6. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation"

b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a).

c) The development shall not be occupied until the site investigation and post investigation reporting has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (a) and the provision to be made for publication and dissemination of results and archive deposition has been secured.

Reason: In the interests of the cultural heritage of the District and in accordance with Policies BNE2 and BNE10 of the Local Plan.

8. a) No development (including demolition or vegetation clearance) shall commence until an internal building inspection shall be undertaken to determine the suitability (Low, moderate or high) for the building to support bats and Ground Level Tree Assessment (GLTA) shall be undertaken to identify potential roosting features within the trees to be felled. The survey shall be undertaken in accordance with the Bat Surveys for Professional Ecologist - Good Practice Guidelines (Collins, 2016).
- b) Following a, and if required, further emergence surveys should be undertaken in accordance with the aforementioned guidelines, and in the event that roosting bats are evidenced, a scheme of appropriate mitigation that meets Natural England's mitigation licensing requirements shall be submitted to and agreed in writing with the Local Planning Authority. Such approved mitigation shall be implemented in full and retained as such for the lifetime of the development.

Reason: In order to safeguard protected and/or priority species from undue disturbance and impacts in accordance with Policy BNE3, noting that initial preparatory works could have unacceptable impacts.

9. No development, including preparatory works, shall commence until protective fences have been erected around the silver birch trees shown to be retained on the approved plans and as per the Arboricultural Impact Assessment TWC_399_R-002A (Tree and Woodland Company) (received 23 May 2023). Such fencing shall conform to best practice as set out in British Standard 5837:2012 (or equivalent document which may update or supersede that Standard) and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The fences shall be retained in situ during the course of ground and construction works, with the protected areas kept clear of any building materials, plant, debris and trenching, and with existing ground levels maintained; and there shall be no entry to those areas except for approved arboricultural or landscape works.

Reason: In the interests of safeguarding a protected tree and in accordance with Policy BNE7 of the Local Plan.

10. Prior to the first occupation of any dwelling hereby permitted, the existing access to Church Street shall be provided with visibility sightlines of 2.4m x 43m in both directions. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety and in accordance with Policy INF2 of the Local Plan.

11. Prior to the first occupation of any dwelling hereby permitted a pedestrian inter-visibility splay of 2m by 2m shall be provided on each side of the access, the depth measured from the back of the

footway and the widths outwards from the edges of the access. No fence, wall or other obstruction to visibility between 0.6m and 2m in height above ground level shall be erected within the area of such splays.

Reason: To provide adequate visibility for drivers entering or leaving the site and to ensure the safety of pedestrians and vehicles and in accordance with Policy INF2 of the Local Plan.

12. Prior to the first occupation of each dwelling, space shall be provided for the parking of vehicles associated with that dwelling in accordance with the approved plans and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, such space shall be maintained throughout the life of the development free of any impediment to its designated use.

Reason: To ensure adequate parking and turning provision, in the interests of highway safety and in accordance with Policy INF2 of the Local Plan.

13. The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary (back of footway) and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with the National Planning Policy Framework (2019).

14. Prior to the construction of any driveways or parking areas, details of surface water drainage provision to those areas (so as to adequately mitigate runoff of surface water on to the highway) shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage details shall be fully implemented prior to first occupation and thereafter maintained in a fully functional state.

Reason: To ensure safe and suitable conditions are maintained on the public highway, in the interests of highway safety and in accordance with Policy INF2 of the Local Plan.

15. Any entrance gates shall be set back a minimum of 5m from the highway boundary (back of footway) and maintained at that distance for the life of the development unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure parked vehicles do not overhang the adjoining public highway, thereby adversely affecting highway users and in accordance with Policy INF2 of the Local Plan.

16. Except in an emergency, no demolition, site clearance, construction, site works or fitting out shall take place other than between 08:00 hours and 18:00 hours Mondays to Fridays, and between 08:00 hours and 13:00 hours on Saturdays. There shall be no such activities whatsoever on Sundays, public holidays and bank holidays.

Reason: To safeguard the amenities of nearby occupiers in accordance with Policy BNE1 of the Local Plan.

17. Notwithstanding the submitted details, prior to incorporation within the development, a detailed scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning

Authority. The scheme should evidence the proposed locations of each tree species, the size of each type of tree (standard, select standard, or heavy standard with girth dimensions), the mix of any proposed grass areas, and the proposed locations and sizes of any ornamental shrubs (in litre pots). The works shall be undertaken in accordance with the agreed details prior to occupation of the development. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the date of this decision; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

Reason: In accordance with policies BNE1, BNE2, BNE7, BNE10 of the Local Plan and for the avoidance of doubt and in the visual interest of the development.

18. Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). Such approved measures will be implemented in full.

Reason: In order to protect biodiversity and habitat on or adjacent to the site in accordance with Policy BNE3 of the Local Plan.

19. No stripping, demolition works or vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

Reason: In order to protect biodiversity and habitat on or adjacent to the site in accordance with Policy BNE3 of the Local Plan.

20. The following Biodiversity Enhancement measures shall be incorporated within the scheme, as set out on a plan to be submitted to and agreed in writing by the Local Planning Authority, prior to construction above foundation level:
 - 5x Integrated Universal Bird Bricks
 - 5x Integrated Bat Bricks
 - 130mm x 130mm hedgehog gaps to be incorporated within fencingSuch approved measures shall be implemented in full and maintained thereafter.

Reason: In order to ensure a biodiversity enhancement in accordance with Policy BNE3 of the Local Plan.

21. Notwithstanding the submitted details, prior to incorporation within the development, samples and detailed specifications of all external facing and hard landscaping materials to be used shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be undertaken in accordance with the agreed materials.

Reason: In accordance with policies BNE1, BNE2 and BNE10 of the Local Plan and for the avoidance of doubt and in the visual interest of the building.

22. The side facing, first floor windows on the northern elevation of plot 1, southern elevation of plot4 and eastern and western elevations of plot 5 shall be top hung and obscurely glazed to Pilkington level 4 or 5 (or such equivalent glazing which shall first have been approved in writing by the local planning authority). The windows shall be retained as such for the lifetime of the development.

Reason: In order to protect the amenity of neighbouring properties and future occupants of the development in accordance with Policy BNE1 of the Local Plan and the Design Guide SPD.

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

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

24. 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 hereby permitted shall not be enlarged, extended or altered, no satellite dishes shall be affixed thereto, and no buildings, gates, walls, fences or other means of enclosure (except as authorised by this permission or allowed by any condition attached thereto) shall be erected on the site without the prior grant of planning permission pursuant to an application made to the local planning authority in that regard.

Reason: To maintain control in the interests of the visual amenity of the site and the historic interests of the Melbourne Conservation Area in accordance with policies BNE1, BNE2 and BNE10 of the Local Plan and Melbourne Neighbourhood Plan.

28. The applicant as the 'agent of change' may have to provide mitigation to the adjacent public house no. 53 Church Street (e.g. barriers, improved kitchen extraction) and/or and a potentially upgraded scheme of acoustically treated ventilation to the property

Reason:

Informatives:

- a. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action 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 developer'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.
- b. Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to 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 dished channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- c. Planning permission does not give you approval to work on the public highway. To carry out works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email highways.hub@derbyshire.gov.uk or telephone 01629 533190.

Recommendation for DMPA/2023/0676

Approve with conditions

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

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

2. No development, including demolition, shall take place until a scheme of dust mitigation measures has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented throughout the demolition period.

Reason: To safeguard the amenities of nearby occupiers in accordance with Policy BNE1 of the Local Plan.

3. Except in an emergency, no demolition, site clearance, construction, site works or fitting out shall take place other than between 08:00 hours and 18:00 hours Mondays to Fridays, and between 08:00 hours and 13:00 hours on Saturdays. There shall be no such activities whatsoever on Sundays, public holidays and bank holidays.

Reason: To safeguard the amenities of nearby occupiers in accordance with Policy BNE1 of the Local Plan.

4. a) No development (including demolition or vegetation clearance) shall commence until an internal building inspection shall be undertaken to determine the suitability (Low, moderate or high) for the building to support bats and Ground Level Tree Assessment (GLTA) shall be undertaken to identify potential roosting features within the trees to be felled. The survey shall be undertaken in accordance with the Bat Surveys for Professional Ecologist - Good Practice Guidelines (Collins, 2016).

b) Following a, and if required, further emergence surveys should be undertaken in accordance with the aforementioned guidelines, and in the event that roosting bats are evidenced, a scheme of appropriate mitigation that meets Natural England's mitigation licensing requirements shall be submitted to and agreed in writing with the Local Planning Authority. Such approved mitigation shall be implemented in full and retained as such for the lifetime of the development.

Reason: In order to safeguard protected and/or priority species from undue disturbance and impacts in accordance with Policy BNE3, noting that initial preparatory works could have unacceptable impacts.

5. No development, including preparatory works, shall commence until protective fences have been erected around the silver birch trees shown to be retained on the approved plans and as per the Arboricultural Impact Assessment TWC_399_R-002A (Tree and Woodland Company) (received 23 May 2023). Such fencing shall conform to best practice as set out in British Standard 5837:2012 (or equivalent document which may update or supersede that Standard) and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The fences shall be retained in situ during the course of ground and construction works, with the protected areas kept clear of any building materials, plant, debris and trenching, and with existing ground levels maintained; and there shall be no entry to those areas except for approved arboricultural or landscape works.

Reason: In the interests of safeguarding a protected tree and in accordance with Policy BNE7 of the Local Plan.

6. No development shall start until a Highway Construction Management Statement / Plan has been submitted to and approved in writing by the Local Planning Authority.

The statement / plan shall include details specifically relating to:

- a) parking for vehicles of site personnel, operatives and visitors
- b) site accommodation
- c) storage of plant and materials
- d) provision of roadside boundary hoarding behind any visibility zones
- e) any proposed temporary traffic management.

Only the approved details shall be implemented, which shall be maintained throughout the construction period.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety, recognising that initial preparatory works could bring about unacceptable impacts / inconvenience for existing highway users / nearby residents and in accordance with Policy INF2 of the Local Plan.

7. a) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and
 1. The programme and methodology of site investigation and recording
 2. The programme for post investigation assessment
 3. Provision to be made for analysis of the site investigation and recording
 4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 5. Provision to be made for archive deposition of the analysis and records of the site investigation
 6. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation"

b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a).

c) The development shall not be occupied until the site investigation and post investigation reporting has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (a) and the provision to be made for publication and dissemination of results and archive deposition has been secured.

Reason: In the interests of the cultural heritage of the District and in accordance with Policies BNE2 and BNE10 of the Local Plan.

Item No. 1.12

Ref. No. [DMPA/2022/1058](#)

Valid date: 27/07/2022

Applicant: Stewart Adams

Agent: Ian Pick Associates Ltd

Proposal: **Change of use of land to permit the development of a container storage facility at Badger Farm, Willowpit Lane, Hilton, Derby , DE65 5FN**

Ward: Hilton

Reason for committee determination

The applicant does not accept the recommended time limit condition is reasonable or necessary to make the application acceptable on planning grounds. In these circumstances it is considered reasonable to allow the applicant to address the committee with these concerns.

Site Description

Badger Farm was originally developed as a free-range egg production unit in 2001. Since 2001, the site has evolved from agricultural into a business park through several planning consents. The current uses on the site include 2 No. office buildings, and 2 No. storage buildings, converted former poultry houses, together with a ground mounted solar array, and car parking areas. The site is now entirely in non-agricultural uses.

The existing access to Badger Farm is located on the east side of Willowpit Lane, approximately 100m north of the roundabout at junction 5 of the A50. The site is well screened by existing buildings to the west, a ground mounted solar array to the north, a mature hedgerow to the east, and a mature hedgerow to the south.

The application proposes the change of use of 0.2 hectares of existing block paved hardstanding, located on the east of the Badger Farm Site.

The proposal

The applicant is seeking the approval of a change of use of the land to permit the development of a container storage facility. It is proposed that 54 shipping containers would be sited on 0.2 hectares of land which is currently block paved, and these containers would be individually let for domestic and commercial storage purposes.

The existing access to Badger Farm on the east side of Willowpit Lane is proposed to be used and there is existing vehicle parking provision located at the site.

Applicant's supporting information

The application has been supported by a range of documents set out and summarised below:

Drawings and Plans:

Location Plan

Site Plan

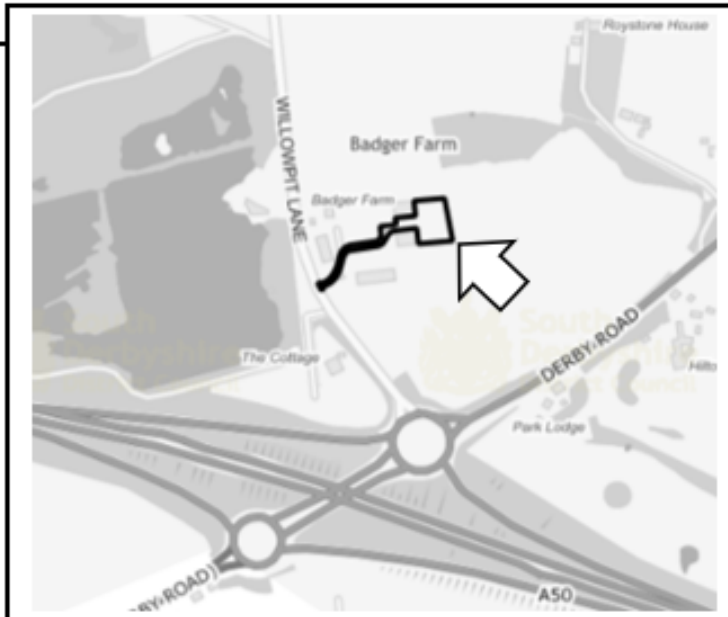
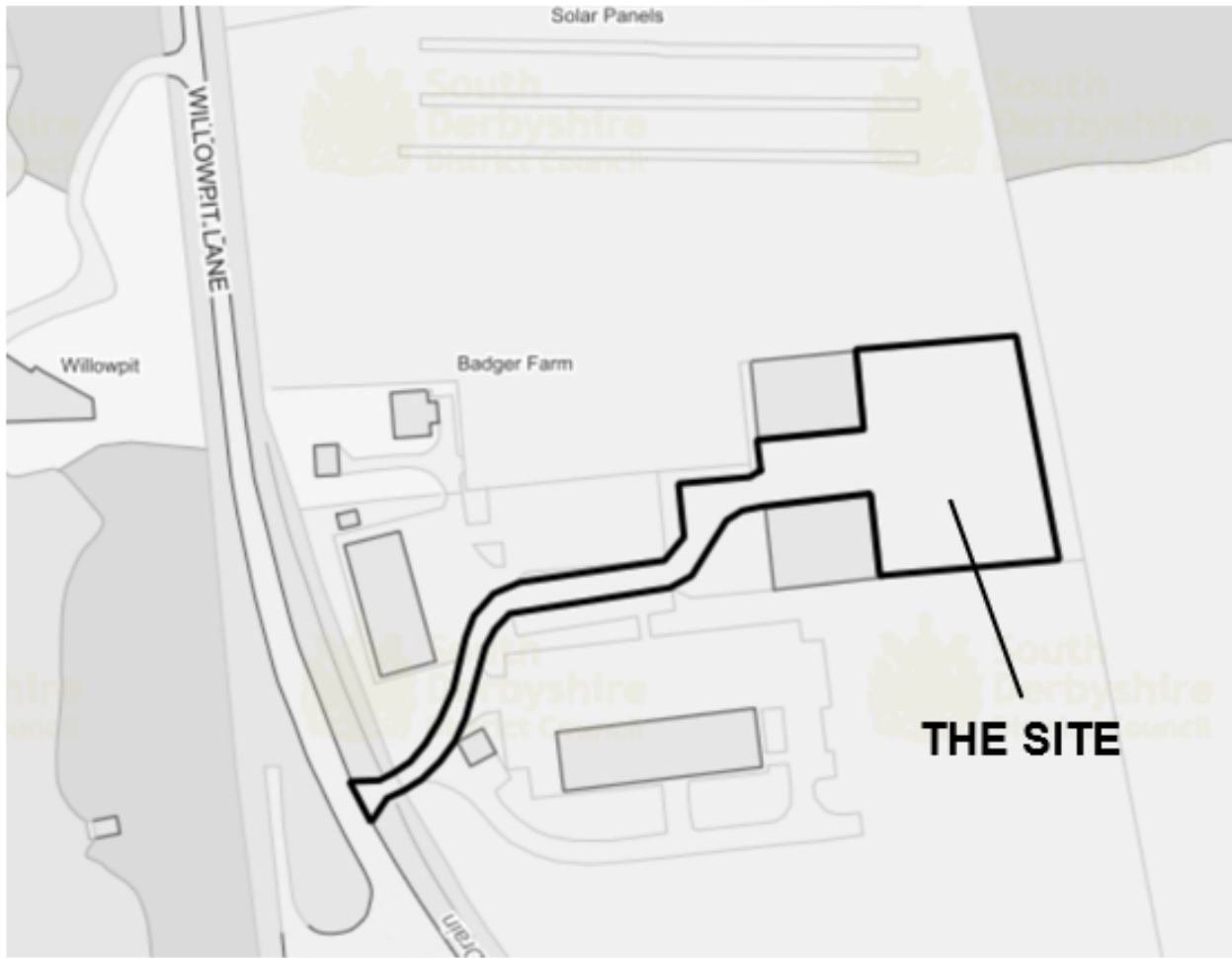
Container Elevations

Supporting Documents:

Design and Access Statement

A Business Case Letter written by Bowler Adams LLP - which advises that their letting department has identified a strong demand in the locality for smaller storage units from domestic and business tenants.

DMPA/2022/1058 – Badger Farm, Willowpit Lane, Hilton, Derby, DE65 5FN



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South Derbyshire District Council. LA 100019461.2020

It is advised that these enquires are from householders seeking additional storage, with enquiries including storage for furniture, classic cars, boats etc. Enquiries from business customers are primarily from local self-employed tradesman, including plumbers, electricians, joiners and builders seeking an individual storage unit to store their tools, supplies and equipment.

Bowler Adams LLP advised they consider that the proposals represent an investment in the development of the site of approximately £350,000 and would create a full-time job for a site manager to operate the development.

Relevant planning history

DMPA/2020/0939 - Erection of a research and development facility including offices, warehouse, grow rooms and associated infrastructure - Approved.

9/2018/1287 - The erection of 2 no. Two storey office buildings and associated car and cycle parking - Refused.

9/2017/0823 – Change of use of agricultural buildings to storage - Approved with conditions

9/2005/1498 - The erection of a double garage with store - Approved.

Responses to consultations and publicity

Highway Authority

It is noted that a planning condition was imposed on a previously approved application on this site (Ref: 2020/0939) that required the provision of a new footway link on Willowpit Lane prior to first use of the approved development. However, it appears the footway has not yet been provided. However, given the nature of the proposed development associated with this application it is considered that pedestrian access will be minimal and therefore no footway is required for this current application. Taking the above into account there are no highway safety objections to the above planning application.

Environmental Health

No concerns.

Environmental Agency

From a controlled waters protection perspective we have no objection to this application.

LLFA

No comments to make.

Derbyshire Wildlife Trust

No objection. However, if the introduction of new lighting is required as part of the proposals then a lighting scheme should be submitted prior to approval.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): Policy S1 Sustainable Growth Strategy; Policy S2 Presumption in Favour of Sustainable Development; Policy S6 Sustainable Access; Policy SD1 Amenity and Environmental Quality; Policy SD3 Sustainable Water Supply, Drainage and Sewerage Infrastructure; Policy E7 Rural Development; Policy BNE1 Design Excellence; Policy BNE3 Biodiversity; and Policy INF2 Sustainable Transport.

2017 Local Plan Part 2 (LP2): SDT1 Settlement Boundaries and Development, and Policy BNE5 Development in Rural Areas.

Hilton Neighbourhood Development Plan 2021; Policy N1 Noise Mitigation; Policy B1 Business Units; Policy T1 Active Travel.

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Planning considerations

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

- The principle of the proposed development;
- The effect of the proposal on the character and appearance of the area
- Residential amenity
- The effect of the proposal on the highway network; and
- The effect on Landscape Character

Planning assessment

This application seeks to develop a container storage facility on the site, utilising an area of block paved hardstanding on the eastern side of the site. The block paved area to be utilised for the siting of the steel containers extends to 0.2 hectares and will accommodate 54 No. steel containers.

Principle of the proposed development and visual impact

Policy E7 of LP1 relates to rural development and the Council will support employment activities outside of settlement boundaries where it is supported by a sound business case, can accommodate the traffic generated, does not impact on neighbouring amenity, is well designed and impact on the character of the locality is minimised. Policy BEN5 relates to development in rural areas and states permission will be granted where development i) is allowed by policy E7 and v) will not unduly impact on landscape character and quality.

Policy SD1 states: 'A The Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments.'

Policy BNE4 part B states: '*Development that will have an unacceptable impact on landscape character (including historic character), visual amenity and sensitivity and can not be satisfactorily mitigated will not be permitted.*'

The business case submitted with the application outlines there is a strong demand in the locality for smaller storage units from domestic and business tenants. These enquires are from householders seeking additional storage, with enquiries including storage for furniture, classic cars, boats etc. Enquiries from business customers are primarily from local self-employed tradesman, including plumbers, electricians, joiners, and builders seeking an individual storage unit to store their tools, supplies and equipment. The proposed development will create a single full-time job which will be office based within the Bowler Adams office accommodation on site at Badger Farm. The Council's Economic Officer has reviewed the submitted business case and believes it to be sound for the proposed use.

On review it does not appear permission was granted for the hardstanding area previously, but this application will also look to regularise this element. The storage units would be located on the area of hardstanding and would be located to the rear of the site and would not be visible from Willow Pit Lane. Whilst it does project further into the open countryside it would be viewed as an extension to the existing business which has been established for a number of years. The hardstanding area is not considered to significantly alter the rural character of the site and would be considered an acceptable in this instance.

As stated above the development will create a single full-time job which will be office based within the

Bowler Adams office accommodation on site at Badger Farm. Policy E7 requires that the proposal should support the social and economic needs of the rural communities in the District. Policy B1 supports appropriate class E development for small scale or micro business defined as buildings around 150 -200 square metres, less than 10 employees and turnover of under 2m subject to a number of criteria including adequate access and parking and no undue impact on neighbour amenity. Although the proposal would be fully in accordance with elements of the policy in creating a single job and having a turnover of less than £2million the overall floor area of the containers in combination would be approximately 822 square meters. However, it is not considered on balance that there is conflict with policy B1 overall due to the number of jobs, the existing hardstanding on which the containers would be sited, the anticipated turnover, the lack of harm to highway safety and neighbouring amenity, the fact that the storage container use is reversible, and a condition is recommended to initially allow the use to operate only for a temporary period.

The creation of 1 job would provide a small contribution to job creation and on balance it is deemed appropriate to allow for temporary permission for the units for 18months so that the business can be assessed over a period of time to see how it operates in practice. This is considered to amount to an appropriate balance between what is not an insignificant element of built form in the countryside whilst recognising that there are good points made regarding inward investment in the applicant' business case and these should be considered on the basis of the operation in practice. The units would be placed at ground level and not stacked on top of one another and would be coloured green to be in keeping with the surrounding landscape. Mature hedgerows and some trees exist on the surrounding boundaries of the site providing some level of screening to the wider countryside views. A condition will be added to reinforce the existing boundary treatment with further planting to create a stronger level of screening and decrease any visual intrusion to the wider countryside.

Overall, subject to temporary permission and conditions being imposed the proposed development would be deemed acceptable.

Residential Amenity

Policy SD1 supports development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers. Policy BNE1 requires development to not cause demonstrable harm to neighbouring amenity. Policy N1 requires appropriate noise mitigation to be undertaken. Given the distance of the units from any neighbouring properties and the nature of the units for storage which would not result in constant comings and goings and the lack of objection from Environmental Health, the proposed development would not result in any excessive levels of noise or any harmful impact to any neighbouring properties in the wider area. The proposal is therefore considered to accord with policies BNE1, SD1 and N1 in terms of the impact on residential amenity.

Highways

The existing access into the site will be utilised and ample parking is available on site currently. Given the nature of the storage units and the large size of the site and the access to accommodate extra traffic and storage vehicles, the proposal is unlikely to result in any unacceptable traffic congestion or highway safety issues. In practice such a use will be accessed by people delivering or collecting items to store in their cars or vans, and in this context, there is not considered to be conflict with Policy T1 of the Neighbourhood Plan. The Highway Authority have assessed the application and have raised no objections and it is considered that the development would comply with Policy INF2 of the Local Plan.

Conclusions

In this instance the applicant has provided a sound business case and the nature and intensity of the proposed development would not impact negatively on the adjacent neighbouring properties or highway safety. It is concluded that the proposals accord with the relevant policies of the South Derbyshire Local Plan (Parts 1 and 2), together with national guidance, and it is recommended that temporary planning permission be granted subject to the imposition of appropriate conditions.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or

obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Approve subject to the following conditions:

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

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

2. The works hereby permitted shall be carried out in accordance with the submitted plans and drawings Location Plan received 27th July 2022, Design and Access Statement received 27th July 2022, Business Case received 27th July 2022, Proposed Site Plan received 27th July 2022, Container Elevations and Plans received 27th July 2022 and Supporting Statement received 19th April 2023 unless as otherwise required by condition attached to this consent.

Reason: For the avoidance of doubt.

3. The storage containers hereby approved shall be laid out at ground level and not stacked on top of one another at any time.

Reason: To preserve the character and appearance of the wider site.

4. The storage units shall be coloured Juniper green as outlined in the submitted Design and Access Statement received 27th July 2022 and retained so permanently.

Reason: In the interests of the character and appearance of the site and wider area.

5. The applicant shall notify the Local Planning Authority in writing of the date the permission is implemented. The storage containers hereby approved shall be removed from site within 18 months from this date of implementation unless permission for an extended period of time is granted by way of a further planning application.

Reason: To allow the Local Planning Authority to assess the business over a period of time to see how it operates in practice.

6. Prior to the first use of the storage units, a scheme of soft landscaping along the eastern boundary shall be submitted to and approved in writing by the local planning authority. Details of soft landscaping should evidence compliance with British Standard (BS) 3936: 'Part 1 - Specification for trees and shrubs', BS3969 - 'Recommendations for turf for general purposes' and BS4428 - 'Code of practice for general landscape operations (excluding hard surfaces)'.

All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of the storage containers or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the local planning authority gives written consent to any variation.

Reason: In the interests of the visual setting of the development site and environmental quality of the site and surrounding area.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or

replacing that Order, no external lighting shall be installed at the site or affixed to the external faces of the buildings/containers.

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

2. Planning and Other Appeals

(References beginning with a DMPA, DMPN, DMOT or 9 are planning appeals and references beginning with an ENF or E are enforcement appeals)

Reference	Place	Ward	Outcome	Decision level
DMPA/2022/0838	Bretby	Repton	Allowed & no costs awarded	Committee
DMPA/2021/1014	Lullington	Seales	Dismissed	Committee

Appeal Decision

Site visit made on 23 May 2023

by **John Gunn DipTP, DipDBE, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 June 2023

Appeal Ref: APP/F1040/W/23/3316427

Knights Lodges, Knights Lane, Bretby, Burton-On-Trent DE15 0RT

- 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 Dean Willshee against the decision of South Derbyshire District Council.
 - The application Ref [DMPA/2022/0838](#), dated 9 June 2022, was refused by notice dated 9 September 2022.
 - The development comprises the erection of 8 holiday lodges.
-

Decision

1. The appeal is allowed, and planning permission is granted for the erection of 8 holiday lodges at Knights Lodges, Knights Lane, Burton-On-Trent DE15 0RT in accordance with the terms of the application, Ref DMPA/2022/0838, dated 9 June 2022, subject to the conditions in the schedule at the end of this decision.

Preliminary Matters

2. I have taken the description of the development from the application form however I have deleted reference to 'retrospective application' as this is superfluous.
3. Notwithstanding the above I noted on my site visit that the 8 holiday lodges were substantially complete with some of the buildings being occupied. Landscaping works, including tree and shrub planting had also been carried out on the appeal site.
4. I note that the Council's Committee Report makes reference to 'negotiations on a Unilateral Agreement or Section 106 Agreement in respect of restrictions on the use of the lodges'. This is a matter I will come back to in the event that I am minded to allow the appeal.

Main Issue

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

Reasons

6. The holiday park is located within a hedged field on Knights Lane. The surrounding landscape is characterised by undulating fields with mature trees within the hedgerows.

7. The main parties agree that the principle of development on the appeal site has been established, with permission having been granted for the erection of 8 holiday cabins (Phase 2)¹ in January 2020. The permitted 'holiday cabins' were intended to be similar to those on phase 1, being prefabricated and with little physical contact with the ground. The appeal scheme provides for a more permanent form of construction and an increase in the size of the units.
8. I acknowledge that the lodges would be of a more permanent construction and would be larger than those permitted under reference DMPA/2019/1305. That said, they are located within large plots, with significant spaces between them, and look similar in appearance to those buildings that have been erected on phase 1 of the development. Furthermore, the wood clad walls and anthracite coloured standing seam roofing of the lodges results in a high quality design that sits well with the neighbouring cabins and leisure building. As a result, the buildings do not appear as discordant or prominent features within the landscape.
9. I have also taken into account the comprehensive landscaping scheme that was submitted with the proposal. I saw on my site visit that some landscaping has already been carried out on the appeal site, which further mitigates the impact of the development on the surrounding countryside. However, I cannot say, with any certainty, that this has been fully completed in accordance with the submitted scheme. Therefore, if I was to allow the appeal it would be appropriate to attach a condition requiring the full completion of the submitted landscaping scheme and its maintenance thereafter.
10. Accordingly, I conclude that the development is a scale and design appropriate for its location and does not have a harmful effect on the character and appearance of the area. The proposal would therefore comply with policies E7, BNE4 and INF10 of the South Derbyshire Local Plan Part 1 and policy BNE5 of the South Derbyshire Local Plan Part 2. These policies, amongst other matters, support tourism development in appropriate locations, and require the protection of the character and appearance of a locality through high quality design.

Other Matters

11. I have taken into account the requirement to provide a sustainable design as required by policy INF10 of the South Derbyshire Local Plan Part 1. In this regard I agree with the Council conclusion, as set out in their Committee report, that when compared with the approved scheme, it would be difficult to conclude that there is a materially greater detrimental impact in terms of sustainability, and therefore the development would not conflict with policy.
12. I have also had regard to the indication, as set out in the Council's Committee report that they would be seeking a Unilateral Agreement or Section 106 Agreement to restrict the use of the lodges. I have no evidence before me, from either main party, indicating that any form of legal agreement has been negotiated. That said, I am satisfied that condition 2, as set out below, provides a suitable mechanism to prevent the creation of unrestricted dwellings.

¹ DMPA/2019/1305

Conditions

13. I have imposed a condition (1) to specify the relevant drawing numbers as this provides certainty.
14. A condition (2) is necessary to limit the use of the holiday lodges to holiday accommodation only, and to prevent the creation of unrestricted dwellings in a location which would be contrary to the development plan and the objectives of sustainable development.
15. A condition (3) is necessary to ensure that the external materials used for the development are appropriate for the rural area within which it is set.
16. A condition (4) is necessary to ensure the landscaping is completed in accordance with the approved details, and maintained thereafter, thereby protecting and enhancing the landscape character of the area and providing a biodiversity net gain.
17. A condition (5) is necessary to ensure that the development does not increase flood risk and that the principles of sustainable drainage are incorporated into the development.
18. It is necessary to impose a condition (6) in the interests of the biodiversity of the site and surrounding area.
19. A condition (7) is necessary to limit light pollution in a countryside location.
20. I do not consider that a condition relating to the provision of 2 parking spaces, and manoeuvring space, for each lodge, prior to occupation, is required as this had already been provided at the time of my site visit. However, a condition (8) requiring their retention and maintenance would be reasonable and necessary to ensure that sufficient parking is available for the development in the future.
21. I do not consider a condition is necessary to secure parking and manoeuvring for delivery vehicles within the appeal site boundary is justified. The appeal development forms part of a wider development, and it is likely that delivery activity will be focussed adjacent the reception/leisure building which lies outside of the appeal site boundary.
22. A condition (9) is necessary to ensure that the submitted noise mitigation scheme is implemented thereby avoiding undue disturbance to occupiers of neighbouring lodges/cabins. However, I accept the appellant's argument that with the inclusion of a quiet site policy between 10pm and 8am and a restriction to prevent the playing of external music, there will be no requirement to provide further mitigation in respect of the use of the hot tubs.
23. It is necessary to impose a condition (10) to ensure that the proposed attenuation pond does not increase flood risk, that the principles of sustainable drainage are incorporated into the proposal, the system is operational prior to first use and that maintenance and management of the sustainable drainage systems is secured for the future.
24. A condition (11) is necessary to ensure that the drainage system is constructed to nationally recognised standards. However, as the lodges are already being occupied, I have allowed a three month period for the verification report to be submitted.

Conclusion

25. There are no relevant considerations, of sufficient weight, to indicate the application should be determined other than in accordance with the development plan when considered as a whole. For the reasons given above, I therefore conclude that the appeal should be allowed subject to the conditions set out below.

John Gunn

INSPECTOR

SCHEDULE OF CONDITIONS

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

Site Location Plan, drawing no. 1560W 15 rev. C;
Proposed Site Plan Scale 1:200, drawing no. 1560W 13 rev. C;
Proposed Site Plan Scale 1:500, drawing no. 1560W 14 rev. C;
Proposed 2 Bed Lodge – Gallahad, drawing no. 1560W 11;
Proposed 3 Bed Lodge – Lancelot, drawing no. 1560W 12;
Material Schedule, drawing no. 1560W 23;
Tree Planting Proposals, drawing no. GL0797 01 rev. J prepared by Golby and Luck Associates;
CONFIDENTIAL Business Plan June 2022, prepared by Marrons Planning;
Ecological Impact Assessment April 2022, prepared by Ecolocation;
Ecological Condition Discharge Letter January 2021, prepared by Ecolocation;
Landscape and Ecological Management Plan, prepared by Golby and Luck Associates; and
Landscape Visual Impact Assessment (June 2022 update), prepared by Marrons Planning.
2. Notwithstanding the provisions of Part C Class 3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015, (or any Order(s) revoking or re-enacting either or both Order(s)); the 8 lodges hereby approved shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order without the prior grant of planning permission by the local planning authority, and:
 - i. the buildings shall not be occupied as a person's sole, or main place of residence;
 - ii. the accommodation shall not be occupied by a person or group of persons for a continuous period of more than 28 days and shall not be re-occupied by the same person(s) within 3 months following the end of that period; and
 - iii. the site operator shall maintain an up-to-date register of the names of all occupiers of the holiday cabins, and of their main home addresses, and shall make that information available at all reasonable times to the local planning authority. The contact details for the site operator shall be supplied in writing to the local planning authority within 1 month of the date of this decision, any subsequent change in operator (including their contact details) shall be notified to the local planning authority no later than 5 days following that change.
3. The facing and roofing materials and fenestration details, to be used in the construction of the external walls and roof of the lodges shall be carried out in accordance with the approved details and materials schedule.
4. The approved Tree Planting Proposals plan GL0797 01 J shall be implemented in full in the first planting season following the first occupation of the development. All planting, seeding or turfing comprised in the approved details of soft landscaping shall be carried out in accordance with

- the approved scheme and timetable; and any plants which within a period of five years (ten years in the case of trees) from the completion of the phase die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period.
5. The development shall take place in accordance with the drainage proposals outlined within the Flood Risk Assessment, prepared by PRP and the following drainage documents:
 - Drainage Construction Details, drawing no. 108 rev. P1
 - Drainage Layout, drawing no. 105 rev. P10 - Package Plant Maintenance Schedule
 - Infiltration Rates - Maintenance Schedule - Management Schedule for Surface water during Construction
 - Trial Pit Logs
 - Greenfield Runoff Rates
 - 1 in 1 year, 1 in 30 year, 1 in 100 year + 40% climate change and 1 in 100 year storm calculations.
 6. The development hereby approved shall be carried out in accordance with the biodiversity enhancement recommendations in Section 5 of the Ecological Impact Assessment 2020-11 (08) produced by Ecolocation dated 1st April 2022. The measures shall be implemented and retained as such thereafter.
 7. No external lighting shall be installed until precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to the local planning authority for approval in writing. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the latest guidance published by the Institute of Lighting Engineers.
 8. The parking and manoeuvring areas shown on drawing no. 1560W 13 rev. C and 1560W 14 rev. C, shall be laid out and maintained throughout the life of the development free of any impediment.
 9. The submitted Noise Mitigation Scheme shall be implemented as approved. This scheme as a minimum should include measures to ensure: i) a quiet site policy to be enforced between 10pm and 8am; and ii) no external music to be permitted or facilitated. Any physical measures included as part of the noise mitigation scheme shall be retained/maintained as such, with all other measures in the noise mitigation scheme carried out in accordance with the approved scheme throughout the lifetime of the development.
 10. The infiltration pond should not be brought into use until such a time as it is fully designed and constructed in line with CIRIA SuDS manual C753 and an associated management and maintenance plan, in line with CIRIA SuDS Manual C753, and in accordance with details to be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented and retained as such thereafter.
 11. Within 3 months of this decision, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the local

planning authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

END OF SCHEDULE

Application for Costs

Appeal Reference: APP/F1040/W/23/3316427

LPA Reference: DMPA/2022/0838

Appellant: Mr Dean Willshee

The Council: South Derbyshire District Council

Appeal against the decision of South Derbyshire District Council to refuse a retrospective application for the retrospective application for the erection of 8 holiday lodges at Knights Lodges, Knights Lane, Bretby, Burton on Trent, DE15 0RT

Introduction

1. This is an application for a full award of costs made on behalf of Mr Dean Willshee ("the Appellant"). This application is made against South Derbyshire District Council ("the Council"), in respect of the Council's unreasonable behaviour in failing to approve the above planning application, preventing or delaying development which we submit should clearly be permitted. It is the Appellant's submission that the Council's conduct has caused unnecessary and wasted costs of an appeal, which was wholly avoidable.
2. The conduct of members of the Council's Planning Committee is fundamental to the consideration of this application for costs. The behaviour of Planning Committee Members during the determination process for the planning application is set out at paragraph 3.39 of the Appellant's SoC and at Appendix 8 of our SoC. We do not propose to rehearse these facts but respectfully request that the Inspector considers this application in conjunction with the Appellant's Statement of Case and Final Comments and has particular regard to the timeline of local authority actions since May 2022. The purpose of this separate application for costs is to demonstrate how the Council's conduct aligns with the Planning Practice Guidance ("PPG") and the costs regime.
3. This application for costs is made at this stage of the Appeal following receipt of the Council's Statement of Case, which is not only contrary to their more

detailed consideration of the appeal proposals as set out within the officer Report to Committee (enc. 301), but confirms that the inherent acceptability of the proposals, and of an additional 8 holiday cabins of a similar overall scale, height and external materials used, accords with the Development Plan for South Derbyshire.

The Costs Regime

4. The PPG provides that the aim of the costs regime is to (our emphasis):-
 - *encourage all those involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case*
 - *encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay,*
 - *discourage unnecessary appeals by encouraging all parties to consider a revised planning application which meets reasonable local objections.*

Paragraph: 028 Reference ID: 16-028-20140306

5. The PPG indicates that costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour directly causes another party to incur unnecessary or wasted expense in the appeal process.
6. The PPG makes clear (paragraph 032) that costs applications may relate to events before the appeal or other proceeding but costs that are unrelated to the appeal or other proceeding are ineligible.
7. Further the PPG advocates (paragraph 033) that whilst costs cannot be claimed for the period during determination of the planning application, parties are expected to behave reasonably throughout the planning process. Behaviour

10. The Council's putative reasons for refusal demonstrate a disregard for and misapplication of the Development Plan and the NPPF. The Council's misconceived position is that:

- The 8 holiday cabins proposed are of too great a scale; and
- That the impact of the holiday cabins upon the character and appearance of the countryside is visually harmful

i. Holiday Cabin Scale and Landscape Impact

11. As set out within the Appellant's SoC, the Council previously granted planning permission for a very similar type of development under planning permission ref: DMPA/2019/1305. In terms of the schedule of accommodation provided, this was also demonstrably very similar, as set out at paragraph 5.9 of the Appellant's SoC. The only material difference with regards to the proposals put forth under this appeal is a proportionate increase in the GIA of the holiday cabins, the base materials used (but NOT the external cladding materials), and the number of parking spaces proposed.

12. As part of the original planning application submission the Appellant provided extensive technical evidence, inclusive of a Landscape Visual Impact Assessment, Proposed Site Levels and Surfaces Plan and a Landscape and Ecological Management Plan for consideration. Council officers found no conflict arising from the proposals with the Development Plan for South Derbyshire and reported the application to Committee with a recommendation to approve. This recommendation was informed by several key statutory consultees, including the Council's Landscape Officer who considered the proposals to be acceptable with regards to landscape impact following on from revised plans sent to the Council during the determination period for the application.

13. Despite this recommendation, acting contrary to professional officer's advice, informed by key statutory consultees, members of the Planning Committee motioned to refuse the proposals with one putative reason for refusal identified.

17. The Council have prevented and delayed development, which we submit, should clearly be permitted, when having regard to the development plan, national policy and other material planning considerations. Further it has done so whilst failing to substantiate its reasons for refusal and failing to acknowledge or consider the full extent of the Appellant's case.
18. The Council should be held accountable for this conduct. It is respectfully submitted that a full award of costs is made against the Council.

Marrons Planning

11 May 2023

Terry Scott
The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

Dear Terry,

Town and Country Planning Act 1990

Site Address: Knights Lane, Bretby, BURTON-ON-TRENT, DE15 0RT

This letter is a response to the appellants application for a full award of cost against the Councils' decision to refuse planning permission for the retrospective application for the erection of 8 holiday lodges at the above address.

The appellant claims that Planning Committee members, in particular have acted unreasonably during the determination of the application by refusing planning permission in the following ways:

- *None of the Committee Reports record Councillor Southerd's planning reason(s), if any, for calling the applications in which is required by the Council's Planning Code of Good Practice.*
- *Concerns over the conduct of certain Members, not only having misdirected themselves but having approached the decision on the application with closed minds. (Please see comments in full at Appendix 8 of the Appellant's SoC)*
- *preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.*
- *vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.*

It is acknowledged the appellants claims mentioned above are listed under the NPPG section "What type of behaviour may give rise to a substantive award against a local planning authority?", in addition to the above, the NPPG also lists other examples of behaviour which are deemed to be unreasonable as stated below:

- *acting contrary to, or not following, well-established case law;*
- *persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable;*
- *not determining similar cases in a consistent manner;*
- *failing to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances;*

- *refusing to approve reserved matters when the objections relate to issues that should already have been considered at the outline stage;*
- *imposing a condition that is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects, and thus does not comply with the guidance in the National Planning Policy Framework on planning conditions and obligations;*
- *requiring that the appellant enter into a planning obligation which does not accord with the law or relevant national policy in the National Planning Policy Framework, on planning conditions and obligations;*
- *refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal;*
- *not reviewing their case promptly following the lodging of an appeal against refusal of planning permission (or non-determination), or an application to remove or vary one or more conditions, as part of sensible on-going case management; and*
- *if the local planning authority grants planning permission on an identical application where the evidence base is unchanged and the scheme has not been amended in any way, they run the risk of a full award of costs for an abortive appeal which is subsequently withdrawn.*

Having regard to all of these potential examples of unreasonable behaviour and specifically the points put forward in the appellants costs application, it is not considered that any of these apply to the Council's conduct in this instance. As explained in the Council's Statement of Case (SoC) the application was made valid from 9th June 2022 and was heard at Planning Committee on 23rd August 2022 where the Officer's recommendation was for approval. This was one of a number of applications on this site, and the site had recently been visited by members of the committee who also had the benefit of a powerpoint presentation with details of plans and photographs of the site.

The appellant has stated in their Soc that the Officer's recommendation demonstrates the inherent acceptability of the proposals with regards to the impact of the proposed development upon the character and appearance of the surrounding area, the acceptability of the scale of the proposals and the materials used, the impact upon amenities of nearby properties, biodiversity, historic environment, drainage, and highways safety. Whilst it is acknowledged the Officer's recommendation was for approval, the Committee members, following a site visit, exercised their own planning judgement and believed the proposed scheme was not acceptable and would cause detrimental harm to the rural character and appearance of the site. From their interpretation of planning policy, the proposed scheme was not in accordance with the Local Plan, and they believed there was sufficient planning reasons for disagreeing with the officer recommendation of approval that merited intervention of the Planning Committee. The refusal reason was therefore squarely within the scope of reasonable planning judgment and reasonable planning grounds were given for taking a different decision.

In addressing the Appellant's point that none of the Committee Reports record Councillor Southerd's planning reason(s), if any, for calling the applications in; Members don't need to specify the reason for a call in and in most cases, as was the case here, it relates to a particular issue causing local concern (that they don't need to specify) justifying a referral to committee. Members including Cllr Southerd have all had committee training (which all members need to do at SDDC in order to sit on

the Planning Committee), and they are all aware of the need to maintain an open mind at the point of the decision. The appellant has not presented any evidence that any member of the committee had a closed mind at the point of decision. Members are entitled to reach a different view from officers in this case following a site visit and a substantially different and larger scheme to that previously approved.

The appeal scheme was considered to be *'an excessive scale which are visually harmful to the local landscape and rural character of the area. The proposed development is therefore contrary to Policies E7, BNE4 and INF10 of the Local Plan Part 1, and contrary to Policy BNE5 of the Local Plan Part 2'*.

This is a reasonable planning judgment to reach. The 8 lodges subject to this appeal have been substantially completed prior to obtaining planning permission. As outlined in the Council's Committee report, the 8 lodges are not only bigger in size than previously approved but also constructed of more permanent materials and located in slightly different location. Paragraph 5.11 of the appellants appeal statement outlines the size difference between the previous scheme and the appeal scheme. *'The largest holiday cabin approved under planning permission ref: DMPA/2020/0395, the three bed cabins had a total footprint of 112.4m². By way of comparison, the footprint of the three bed lodge for the appeal proposals is 143m², an increase of only 24%. The footprint of the two bed lodge for the appeal proposals is 123m², an increase of just 9.8%'*

The committee members based their decision to refuse planning permission on a reasonable interpretation of adopted local plan policy having viewed the site prior to making a decision.

The Council refutes the appellants claim of unreasonable behaviour and they have properly exercised development management responsibilities in line with the Councils relevant planning policies and have also behaved reasonably in relation to procedural matters at the appeal stage.

It is respectfully requested that the application for costs is dismissed.

Yours faithfully,

Leah McGuinness



Costs Decision

Site visit made on 23 May 2023

by **J Gunn DipTP, DipDBE, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 June 2023

Costs application in relation to Appeal Ref: APP/F1040/W/23/3316427 Knights Lodges, Knights Lane, Bretby, Burton-On-Trent, DE15 0RT

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Dean Willshee for a full award of costs against South Derbyshire District Council.
 - The appeal was against the refusal of planning permission for the erection of 8 holiday lodges.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. It sets out that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example: -
 - By preventing development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations;
 - Failure to produce evidence to substantiate each reason for refusal on appeal;
 - Making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis;
 - Refusing planning permission on a planning ground capable of being dealt with by conditions; and
 - Not determining similar cases in a consistent manner.
4. I accept that the applicant provided extensive technical evidence in support of his proposal, and the Council officers found no conflict with the development plan. Furthermore, I note that the Council's Landscape Officer raised no objection to the scheme. That said, the Planning Committee, following a site visit, were fully entitled to exercise their own planning judgement regarding the acceptability of the proposed development. Consequently, I find that the Council did not act unreasonably in coming to its decision.

5. Although I found differently to the Council in terms of the effect of the scheme on the character and appearance of the area, I am satisfied that it substantiated its reason for refusing the application making reference to development plan policy.
6. Whilst recognising that calling in planning applications for Planning Committee consideration can cause delay in the decision making process, I have no substantive evidence to indicate that this significantly delayed the determination of the application. Furthermore, I have no evidence to indicate that the members of the Committee did not determine the application with an open mind. I am also satisfied that a conditional approval would not have provided a mechanism that would have addressed the issues that concerned the Council.
7. Although the appeal scheme related to a form of development similar to those previously approved, there were marked differences between the schemes in terms of the scale of the proposed buildings. The differences between the schemes were clearly identified in the Officer's report and alluded to in the Council's Statement of Case. Consequently, I find that the Council were entitled to reach a different decision on the appeal application to those that had been reached previously.
8. Given my findings above I consider that the appellant's time and expense in defending the appeal was a necessary part of the process. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated.

J Gunn

INSPECTOR

Appeal Decision

Hearing held on 18 April 2023

Site visit made on 19 April 2023

by Gareth W Thomas BSc(Hons) MSc(Dist) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2023

Appeal Ref: APP/F1040/W/22/3313316

Land North of Lullington, Swadlincote, Derbyshire, DE12 8EW

- 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 Lullington Solar Park Ltd against the decision of South Derbyshire District Council.
 - The application Ref [DMPA/2021/1014](#), dated 22 June 2021, was refused by notice dated 8 August 2022.
 - The development proposed is for the installation of ground mounted solar photovoltaic panels with associated infrastructure and works, including substations, converters, inverters, access tracks, security fencing, boundary treatment and CCTV on land to the north of Lullington, Swadlincote DE12 8EW.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - the effect of the proposed development on the use of best and most versatile agricultural land, including consideration of site selection processes;
 - the landscape and visual impacts arising from the appeal scheme; and
 - whether there would be unacceptable impacts on the significance of identified heritage assets.

Reasons

Policy Background

3. A material consideration in the determination of planning proposals for renewable energy are the National Policy Statements (NPS) for the delivery of major energy infrastructure. The NPSs recognise that large scale energy generating projects will inevitably have impacts, particularly if sited in rural areas. In September 2021, draft updates to the Overarching National Policy Statement for Energy (EN-1) and the National Policy Statement for Renewable Energy Infrastructure (EN-3) were published. Both the existing and proposed NPSs state that the NPSs can be a material consideration in decision making on applications that both exceed or sit under the thresholds for nationally significant projects.

4. The UK Government has set a statutory target of achieving net zero emissions by 2050, and this is a significant material consideration. It has also declared a climate emergency. Since the declaration, the Sixth Assessment Report of the Intergovernmental Panel on Climate Change has indicated that it is more likely than not that global temperature increases will exceed 1.5 degrees Celsius above pre-industrial levels. The report indicated that delay in global action to address climate change will miss a brief and rapidly closing window to secure a liveable future. The UK Energy White Paper, Powering our Net Zero Future (2020), describes the costs of inaction as follows:

"We can expect to see severe impacts under 3°C of warming. Globally, the chances of there being a major heatwave in any given year would increase to about 79 per cent, compared to a five per cent chance now. Many regions of the world would see what is now considered a 1-in-100-year drought happening every two to five years.

At 3°C of global warming, the UK is expected to be significantly affected, seeing sea level rise of up to 0.83 m. River flooding would cause twice as much economic damage and affect twice as many people, compared to today, while by 2050, up to 7,000 people could die every year due to heat, compared to approximately 2,000 today. And, without action now, we cannot rule out 4°C of warming by the end of the century, with real risks of higher warming than that. A warming of 4°C would increase the risk of passing thresholds that would result in large scale and irreversible changes to the global climate, including large-scale methane release from thawing permafrost and the collapse of the Atlantic Meridional Overturning Circulation. The loss of ice sheets could result in multi-metre rises in sea level on time scales of a century to millennia."

5. The draft NSPs recognise that to meet the Government's objectives and targets for net zero by 2050, significant large and small scale energy infrastructure is required. This includes the need to 'dramatically increase the volume of energy supplied from low carbon sources' to ensure a reduction in the reliance of fossil fuels (which accounted for 79% of energy supply in 2019). Solar (together with wind) is recognised specifically in Draft EN-1 (para 3.3.21) as being the lowest cost way of generating electricity and that by 2050, secure, reliable, affordable, net zero energy systems are 'likely to be composed predominantly of wind and solar'.
6. At a national level, in combination with the drive to reinforce provision of renewable energy sources, the Government also acknowledges the need to ensure that projects come forward in appropriate locations. PPG guidance on renewable and low carbon energy states that 'there are no hard and fast rules about how suitable areas for renewable energy should be identified, but in considering locations, local planning authorities will need to ensure they take into account the requirements of the technology and critically, the potential impacts on the local environment, including from cumulative impacts.' (Paragraph: 005 Reference ID: 5-005-20150618).
7. Paragraph 152 of the National Planning Policy Framework (the Framework) confirms that the planning system 'should support the transition to a low carbon future in a changing climate', should 'contribute to radical reductions in greenhouse gas emissions' and 'support renewable and low carbon energy and associated infrastructure'. This recognises the responsibility placed on all communities to contribute towards renewable energy production. Therefore,

there is a strong strategic policy framework which supports renewable and low carbon development proposals. The Framework also confirms that applicants are not required 'to demonstrate the overall need for renewable or low carbon energy' (para 158).

Best and Most Versatile Agricultural Land

8. The parties agreed that the Written Ministerial Statement (WPS) dated 25 March 2015 relating to the unjustified use of agricultural land remains extant. It states therein that any proposal for a solar farm involving the best and most versatile agricultural land (BMV) would require to be justified by the most *compelling evidence* (my emphasis).
9. The WMS is linked to updated National Planning Policy Guidance¹ (NPPG), which explains that where a proposal involves greenfield land, consideration should be given as to whether the proposed use of any agricultural land has shown to be necessary, whether poorer quality land has been used in preference to higher quality land and to whether the proposed development would allow for continued agricultural use where applicable and/or where biodiversity improvements around arrays would be provided. This is reflected in the National Planning Policy Framework (the Framework)² which suggests that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of higher quality.
10. Policy BNE4 of the South Derbyshire Local Plan Part 2 (SDLP) states that the local planning authority will seek to protect soils that are 'Best and Most Versatile', (Grades 1, 2 and 3a in the Agricultural Land Classification) and wherever possible direct development to areas with lower quality soils while Policy BNE5 of the SDLP states that otherwise acceptable development outside of settlement boundaries in rural areas will be granted where it will not unduly impact on BMV agricultural land.
11. Paragraph 174(b) of the Framework states that planning decisions should recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.
12. The Glossary to the Framework explains that BMV comprises land that falls within grades 1, 2 and 3a of the Agricultural Land Classification. It is not disputed that the appeal proposal would result in the loss of almost 34 Ha of BMV land consisting of 15% grade 2, 34% grade 3a and 48% grade 3b with the remaining 3% defined as other land (blocks of woodland or water bodies), which would lead to a temporary loss of 49% of BMV land at the appeal site.
13. The appellant's Site Selection Assessment (SSA) fixed the study area for the appeal proposal by a requirement to connect to a viable local electricity network that was agreed with the local distribution network operator at the application stage. The agreed point of connection would be into the 132kv network that crosses the western end of the appeal site and which connects into the major substation at Drakelow, some 6km from the connection point. A 2km offset around the 132kv line was therefore drawn at a distance of no more

¹ Paragraph 013, Reference ID: 5-013-20150327, Revision date: 27 March 2015

² Paragraph 175 Footnote

than 8km from the Drakelow facility, which coincides with the maximum cabling connection that would be economically viable.

14. The SSA found that there were no suitable brownfield sites within the study area whilst there are only very few areas of lower grade agricultural land. These areas were grade 4 land but considered unsuitable for the siting of solar arrays due either to their being either too small or had physical or environmental constraints that limited their inclusion. The SSA was also informed by a number of other constraints, including levels of irradiance, sensitive landscape, ecological or heritage designations, sensitive human receptors and access/highway considerations, amongst others. The Council offered no evidence that would contradict these findings. The SSA confirmed that there were no sites of suitable size for a 50MW solar farm within a suitable distance from the grid connection point that lie wholly outside BMV land although on grounds of costs and practical feasibility, no soil survey work was completed other than within the appeal site. This factor is a significant omission.
15. The appellant provided an assessment of alternative sites to demonstrate why agricultural land is to be used for the appeal development. This included assessing the opportunities that might be available on previously developed land (PDL)/brownfield land, commercial rooftops and lower grade agricultural land (grades 3b, 4 and 5).
16. It is clear that a robust assessment has not been made of the grading of agricultural land within the remainder of the study area, which from the data held by Natural England has significant areas of Grade 3 agricultural land. While I accept the argument that it would not be practicable to undertake extensive investigation of the entire study area, I agree with the Council who pointed out that the explanatory note³ to the Agricultural Land Classification maps sets out that Grade B reflects 'areas where 20-60% of the land is likely to be 'best and most versatile' agricultural land'. This to my mind adds to the criticism that the evidence has failed to demonstrate that there is no land available for this development within the study area of a lesser agricultural quality, contrary to national and local policy. It also does not stand up to scrutiny as the 'compelling evidence', which is sought in the WMS.
17. My attention was also drawn to the Oaklands Farm Solar Limited (BayWa r.e. UK Ltd) Preliminary Environmental Information Report⁴ submission to the National Infrastructure Planning Unit of the Planning Inspectorate for the purposes of a Development Consent Order for a 163MW solar farm and onsite storage facility at a site also within the appellant's study area to the north-west of the present appeal site and within South Derbyshire District. From the appellant's evidence, it is clear that this site would also include extensive areas of Grade 3 land, which has not been assessed. It must be assumed that lower quality grade 3 agricultural land might well be available as an alternative to the appeal site.
18. To complete the assessment, the appellant considered the availability of previously developed land (PDL) and the possibility of utilising commercial

³ Explanatory note for Likelihood of Best and Most Versatile (BMV) Agricultural Land – Strategic scale maps – ALC021 (naturalengland.org.uk)

⁴ Oaklands Solar Farm About the Project BayWa r.e. <https://www.baywa-re.co.uk/en/solar/oaklands-solar-farm#about-solar-energy> viewed 12/5/23

rooftop sites. Data from the Council's brownfield land register together with the adjoining Lichfield and East Staffordshire District Councils were used to assess PDL sites. The most recent databases held by the three local authorities contain 8 PDL sites all of which are very considerably smaller than the 70.18 Ha. These sites would not be capable of generating a comparable megawatt output and would therefore not be economically viable in terms of factors such as the cost of connecting into the electricity distribution network. Moreover, they are either allocated for housing or have planning permission for such purposes. In terms of utilising rooftops, there is only one suitable building within the study area in nearby Burton-on-Trent. However, this site is allocated for residential development with a pending outline application to be determined and can be discounted. I am satisfied that the identified sites are either allocated for alternative uses or are more constrained than the appeal site in terms of their suitability for solar development.

19. The appellant explained that the appeal site land will remain available for agricultural use with the land below the solar arrays possibly utilised for sheep grazing purposes. It was explained at the hearing that the 40 years of fallow would enable the quality of the soils to be repaired. Moreover, biodiversity improvements proposed include new planting of trees and hedgerows with wildlife friendly species and enhancement of existing habitat corridors throughout the site. New planting and landscaping would leave a lasting environmental legacy beyond the lifetime of the solar farm.
20. While recognising that it may not be reasonable to expect developers to fully investigate every possible location for a solar farm within a wide study area and neither is it incumbent on appellants to demonstrate that there is no possible alternatives to an application site, nevertheless, the wider study area is expansive and sufficiently so that it is being earmarked as a potential national infrastructure project. In acknowledging that the main issues for food security as identified by DEFRA⁵ are climate change and soil degradation, this only serves to emphasise the importance of maintaining higher quality agricultural land where this is found in food production.
21. The hearing heard that the land hereabouts is a valued resource with tenant farmers under contract to a national potato crisps manufacturer who demand the highest quality of outputs. It was pointed out that there are only 80 such farms in the country producing the required grade of potato crop. Moreover, no calculation had been made of the existing bioenergy plant that is being generated each year and which contribute to renewable energy targets that may also close should the proposed solar farm goes ahead. The evidence presented at the hearing on this was scant however and has not featured highly in my consideration.
22. There is no definition of what might constitute 'compelling evidence' but I accept the Council's arguments that the evidence fails to demonstrate that there are no suitable poorer quality areas of land in the study area that could be used or accommodate the appeal development save for a broad brush map-based review. In this regard, the appeal proposal contravenes relevant provisions of BNE4 of the SDLP, the NPPG and the WMS. The loss of just under 50% of BMV is a significant negative aspect of the appeal proposal which weighs heavily against the development.

⁵ United Kingdom Food Security Assessment 2009 – Department of Environment, Food and Rural Affairs

Landscape and Visual Impact

23. There is little question that the nature and scale of large-scale solar farms may result in landscape harm. Both national and development plan policy adopts a positive approach towards this form of renewable energy development where harms are outweighed by the benefits of solar schemes. There is a distinction to be made between impact on landscape, which should be treated as a resource, and impact on visual amenity, which is the effect on people observing the development in places where the development can be viewed, such as villages, roads, public rights of way and individual dwellings and I have assessed the appeal development on this basis.

Landscape character

24. Paragraph 174 of the Framework indicates that the intrinsic character and beauty of the countryside should be recognised. It does not seek to protect, for its own sake, all countryside from development; but rather, places emphasis on protecting 'valued landscapes'. The concept of a valued landscape is not defined in the Framework, but the principal parties agreed that the landscape of the appeal site and immediately beyond should not be described as such. The site does not form part of any designated landscape but from the perspective of some interested parties, the value of a given area within a particular landscape may depend on the value attributed to it by an individual or groups of people.

25. Given that landscapes will be valued by someone at some time, the term valued landscape must mean that they are valued for their demonstrable physical attributes, which elevate them above just open countryside but below those areas that are formally designated, such as National Parks, AONBs etc. There was consensus at the hearing that impacts on the wider landscape was not of significant concern and that it is the likely effects on the more local landscape where opinions differed. From my comprehensive accompanied site visit, there is nothing that I saw and nothing that I have read that would elevate the appeal site or its surroundings to that of a Framework valued landscape. The heavily ploughed or grazed nature of the site and its comparatively slight undulating form, despite being crossed by public rights of way that help give it a degree of popularity by virtue of it being accessible, does not to my mind elevate it above an area of modestly attractive countryside. In other words, there are no attributes that take it out of the ordinary to a level below that associated with designated landscapes.

26. In terms of landscape studies, both parties have relied on the Derbyshire County Council's 'The Landscape Character of Derbyshire' (published in 2003 and updated in 2014) (The LCD), which identifies the site as falling within the National Character Area 72 (Mease/Sence Lowlands) as defined by Natural England and of the 'Village Estate Farmlands type, which broadly constitutes a gently rolling agricultural landscape, intensively farmed with scattered villages, including Lullington and Cotton-in-the-Elms with prominent tall church spires that punctuate the agricultural landscape along with plantation woods and well-maintained low shaped hedgerows. The LCD describes the area as a well-ordered landscape of open views and quiet rural character. Beyond, woodland is becoming more visually prominent due to the National Forest initiative.

27. The appeal site itself comprises a series of agricultural field parcels that form an elongated shape running east to west and contain the occasional isolated

sparse woodland remnants following intensification by arable agriculture and hedgerows on field boundaries with few trees. A backcloth of woodland copses and woodland belts frame the wider landscape to the north. These features contribute to the appeal site generally having a contained character despite being dissected in half by Lullington Road. The LCD's Planting and Management Guidelines seeks amongst other things to promote linked extensions to ancient woodland by natural regeneration and planting while re-establishing and enhancing the physical links between isolated woodland and hedgerows. I agree with the appellant's assessment that with the presence of so few incongruous elements (other than the existing pylons within the western section of the site), the site makes a positive contribution to the local landscape on the basis that it contains many of the attributes associated with the 'Village Estate Farmlands' character type identified in the LCD.

28. From my extensive site visit, I would concur with the findings of the appellant's Zone of Theoretical Visibility (ZTV) study in relation to the likely impacts within close proximity (1km) of the site and the potential visibility of the solar arrays, particularly from higher ground within the search area of 2km from the site. Due to the presence of existing vegetation, including woodland belts and hedgerows, existing undulations, there would be limited relationship and little intervisibility from Lullington itself and, at the very worst, there would only be glimpsed views of the development from the norther section of the village.
29. I would also concur that, notwithstanding paragraph 174 of the Framework, the site and its immediate surroundings have a medium landscape value and a medium susceptibility or sensitivity to change. This means that despite the nature of the appeal development, the landscape hereabouts has the ability to absorb the proposed development without loss of key characteristics or features or specific aesthetic or overall landscape character. I find that the proposed development would have a moderate adverse effect on the landscape character of the site leading to minor adverse impact on the wider landscape. That is not to say that the initial magnitude of impact, particularly on the public right of way that leads through the site from the north towards Lullington and from public highways would indeed be substantial adverse upon first commissioning but given the standoff, the reinforcement of hedgerows and new planting that is intended to also link the existing isolated woodland areas, I do not consider that the development would be unduly harmful in landscape terms.
30. Overall, despite the impacts arising from the initial commissioning phase, which will undoubtedly lead to substantial adverse impacts, as the planting matures, the proposed landscaping scheme will cause the development to become less prominent in the landscape and lessen the degree of impact when viewed from outside. It is concluded that by Year 15 as envisaged by the appellant, I would agree that the appeal proposal would have a moderate adverse effect on landscape character from within the site leading to a minor adverse effect on the landscape character of the wider area. These are within acceptable tolerances.

Visual effects

31. Visual amenity relates to the direct visual impacts on receptors (people) rather than on the landscape. The appellant's assessment of visual effects is based upon an assessment of views from 26 representative viewpoints, including

views from residential properties, footpaths and public highways in the immediate vicinity of the site and from the wider landscape with an assessment of likely effects upon receptors at construction, year 1 and year 15.

32. The hearing spent some time exploring the likely impacts on the 'Coffin Trail' (Lullington FP1/Coton-in-the-Elms), a much valued and well-used local rights of way; I was able to walk this route and appreciate the significance of its association with Lullington Church and acknowledged the strong emotional and historical ties felt by the local community. Direct views of the appeal development would be seen along this route and users will experience an immediate landscape that is dominated by the solar farm, its paraphernalia and associated infrastructure. Planting would be unlikely to diminish this impact and the effects on receptors will be significant. It is difficult to envisage that users of the footpath will have the same sense of enjoyment of the wider landscape for much of its length as they do now. Furthermore, hedgerows designed to reach a height of 4m although providing good screening would appear discordant by comparison with the existing style and shape of existing hedges in the area.
33. That said, the appellant's landscaping scheme has sought to respect the need to offset the arrays along much of the route such that the impression of a once slow procession towards Lullington with its historic church spire always acting as a focal point drawing the eye ever closer would be retained. Given that the users of this footpath not only enjoy the vista of the church spire for much of its length, which would be adequately mitigated by the offsetting of the arrays, but also the wider rolling landscape, I would agree with the Council's assessment that the effect at year 1 would be major adverse leading to moderate adverse by year 15; I find this would not be significant.
34. During my extensive site visit, I was able to take in most of the selected viewpoints either at the specified locations or as close to those locations that was possible without encroaching on private properties and land. In each case I found that the assessment undertaken by the appellant to underscore to a limited extent the effects on some receptors, most notably, the review viewpoints (2, 3, 4 and 5) along Lullington FP1 and Coton-in-the-Elms FP7 at year 15. The change from the existing views of a wide expanse of gently rolling landscape to that of high hedgerow screening would have a moderate adverse effect. The effects would not however be significant.
35. Similarly, the landscaping proposals incorporate provision to strengthen existing isolated woodland as noted above while the introduction of new grass mix below the array together with substantial tree, hedgerow and new woodland planting in accordance with recommendations of the National Forest would provide adequate screening for the appeal proposal and lead to landscape and biodiversity enhancement. It would nevertheless change the nature of views from other footpaths and transport routes. I do not agree with the Council that the effects would be moderate adverse. Rather, the landscape change as a consequence of the landscaping proposals would amount to slight adverse effect at year 15, which would be acceptable.
36. There would be no appreciable views from residential properties within Lullington, particularly given the nature and extent of proposed planting. I find that the appellant's assessment is generally accurate, which is a view supported by officers during consideration of the planning application and

supported by the Council's landscape consultant who surprisingly was not present at the hearing. During my site visit, I was able to assess the likely effects on Lady Lees, Home Farm and Grafton House, which were the properties identified for greatest scrutiny at the hearing. There is little difference in the conclusions drawn by the parties with respect to these properties although I accept that due to the proximity of Grafton House and the elevated nature of Lady Lees and thus both being of high sensitivity, the Council's assessment of the development having a moderate adverse effect at year 15 is more accurate. That said, although at an acceptable level in planning terms, the effects would be keenly felt by occupiers of these properties.

37. Bringing all the above together, I would acknowledge that a large-scale solar farm located in an otherwise largely unspoilt countryside would have an adverse effect on landscape character and lead to visual impact. The appeal site is accessible by the public from the local public footpath network and includes a historic route which is still used extensively and enjoyed as a recreational resource. It is accepted that the landscape is not a valued landscape in terms of the Framework and no prominent landmarks would be affected. Due to the combination of factors, including the gentle rolling nature of the landscape, existing field patterns, the heavy arable practices and the opportunity to strengthen existing woodland tracts and hedgerows through mitigation, the long-term moderate adverse effects that have been identified would be within acceptable tolerances. There would be no residual impacts following decommissioning. There would also be benefits from better management of hedgerows and woodland blocks, in line with National Forest management objectives.
38. Consequently, I would conclude that the proposed development would comply with South Derbyshire District Council Local Plan Part 1 (LP Part 1) Policies SD6 and BNE4 and Local Plan Part 2 Policy BNE5 (LP Part 2). Collectively, these policies amongst other things, seek to encourage renewable energy developments provided they do not give rise to unacceptable landscape and visual impacts, are well-designed and lead to protection, enhancement, management and restoration of biodiversity and the landscape with particular reference to the objectives of the National Forest and where adequate mitigation to overcome adverse impact to the character of the receiving landscape would be provided.

Heritage Impacts

39. The Statement of Common Ground identified two areas of concern for the Council in relation to the impacts of the development on the settings of The Church of All Saints Grade II* Listed Building and the Lullington Conservation Area (the CA). These assets are some distance from the southern edge of the appeal site. During the course of the application, officers believed that there would be some harm to the settings of Lady Leys Farm and Grafton House both Grade II Listed Buildings; however, following consideration by the Council's Planning Committee, members resolved to oppose the development but altered its position to that contained in the officer report to Committee.
40. The parish church dates from the 14th century and contains an impressive three-stage spire. Its significance is derived from its architectural and historic interest together with its association with prominent local families and its role

and function in the religious and community life of the village. Along with its associated churchyard, churchyard walling and graves and monuments, the church has a close physical relationships with village roads, the former village school, village green and buildings fronting Main Street. Its spire moreover by virtue of its height and position within the landscape forms a distinctive and discernible point of reference although this diminishes over distance. The importance of the spire as a landmark cannot be understated; however, the remainder of the church is closely associated with the main body of the village and cannot readily be viewed from outwith.

41. Discussions relating to heritage assets at the hearing focussed primarily on the alleged harm to the setting of the church arising from the potential degradation of how it is appreciated by users of the 'Coffin Trail' Lullington FP1. However, from this distance, the spire continues to pierce the skyline above existing trees and continues to act as a landmark when approaching the village from the north. It is quite inconceivable that the appeal proposal would harm this feature, which only forms an element of the overall architectural and historic significance of the church itself. The church spire will not be directly and physically affected by the solar arrays. Due to the topographical nature of the development and the land, there will be no severance of views of the spire and certainly no interrelationship with the church itself.
42. For these reasons, I find that no harm to the setting of the church would arise as a consequence of the development. The setting of the church would be unaffected. For the purposes of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), the appeal scheme would preserve the listed building along with its features of special architectural or historic interest, which would remain wholly unchanged.
43. I would agree with the Council's assessment that due to the distance from the proposed development, the landscape topography and existing and proposed tree and hedgerow cover, the proposal would not be harmful to the special interest or setting of Grade II Listed Buildings, namely Lady Leys Farmhouse, Woodfields Farm, Raddle Farm, Manor Farm and the Old School House or the locally listed Grafton House, which were identified in the officer's report.
44. With the exception of the church spire, I am satisfied that the proposed development would not be visible in views from or towards any part of the CA. The proposed development would not have any meaningful effect on the setting and therefore the significance of the CA and thus both the character and appearance would be preserved in line with s72(1) of the 1990 Act.
45. In my assessment, the proposal would not cause any harm to historic assets and this matter would not weigh against the appeal development. Consequently, there would be no conflict with LP Part 1 Policies SD6 and BNE2 or LP Part 2 Policy BNE5, which together seek to support renewable energy developments provided there are no unacceptable impacts on the historic environment and that proposals for development protect, conserve and enhance heritage assets.

Planning balance and conclusion

46. There is little doubt that we are close to a point where climate change is a reality and that if left unchecked will have very serious consequences for large parts of our planet. The development would clearly make a significant

contribution to providing energy from a renewable source. The proposal would produce 53,627 MWh/year which the appellant states is the equivalent to the electricity demand from approximately 17,300 homes or 17% of the population of the South Derbyshire District Council area. UK electricity demand is expected to double by 2050 and the decommissioning of existing carbon generating assets will require new low-carbon generation facilities as well as wider transitions outside of the power sector in order to meet national and international targets to reduce carbon emissions and mitigate the effects of climate change.

47. The Framework at paragraphs 153, 155 and 158 encourage the development of renewable and low carbon developments whilst Government wants to accelerate the development of renewable and low carbon technologies through the deployment of wind, nuclear, solar and hydrogen. The ambition for solar is to increase capacity by 14GW and by 5 times by 2035. Whilst national policy is to encourage large scale projects to be located on previously developed, or lower quality value land where possible and to avoid, mitigate and compensate for impacts of using greenfield sites, there is no question that energy from solar will form a critical element of the plan to decarbonise the UK electricity sector. These factors coupled by the timeliness of delivery and relatively easy connection to the national grid in this instance weighs significantly in favour of the appeal proposal.
48. I recognise the time limited nature of the appeal scheme and that agriculture may well continue during the scheme's lifetime although no guarantees were offered at the hearing. Whilst the 40-year period may allow for the restoration of the soil structure and reduce the problems associated with nitrates usage, it appears to me, as it has done to other Inspectors at appeals cited by the Council, that 40 years would indeed constitute a generational change. I accept the appellant's arguments that where sites are made up of a patchwork of agricultural gradings, it is not feasible or practical to separate small areas of BMV land from development, particularly as this would result in that land having little commercial agricultural utility. However, this proposal would harm the BMV resource, which amounts to just under half the total available hectareage and would make an unacceptable indent on the contribution that a large proportion of the site makes towards food security for a significant period of time.
49. There was little dissension that the appeal scheme would provide substantial ecological enhancements with the landscaping proposals providing a 270% gain in habitat units and 46% net gain in hedgerow units as detailed in the appellant's Biodiversity Net Gain Assessment, which is well above policy requirements. The appellant's Landscaping Strategy Plan is well thought through and would in time provide a mature landscaped setting to the appeal scheme, as well as improving ecological connectivity in support of the National Forest objectives. The impact on biodiversity arising from the proposed development would be positive and moderate with no unacceptable adverse impact on internationally or nationally designated sites, habitats or species. This carries positive weight in favour of the appeal proposal.
50. The early implementation of a substantial renewable energy scheme that would provide clean electricity for some 17,300 homes should rightly carry significant positive weight. The biodiversity net gain and long-term landscape benefit

would also carry moderate weight. The parties agreed that the job creation would similarly carry moderate weight.

51. While collectively the benefits arising from the appeal scheme are significant, the harm that would be caused by allowing the development of just below 50% of the site's hectarage over a period of 40 years would be of greater significance.
52. Taking all this into account, the appeal proposal would be conflict with the development plan and the Framework and would not constitute sustainable development.
53. Accordingly, for the reasons stated I conclude that the appeal be dismissed.

Gareth W Thomas

INSPECTOR

Appearances:

For the Appellant:

Gareth Phillips	Partner, Pinsent Masons
Graham Robinson	Associate Director, Hodges Land Pro
Christopher Jackson	Regional Director, Land Pro
Andrew Rudge	Fuller Long
Matthew Carpenter	Senior Associate, Pinsent Masons
Lesley Giles	Project Manager, Island Green Power
David Elvin	Head of Projects, Island Green Power
Daniel Baird	Daniel Baird Consultancy

For the Council:

Bob Woollard	Director, Planning & Design Group
Stuart Hammond,	Planning Officer, South Derbyshire District Council

Interested Parties:

Cllr Amy Wheelton	South Derbyshire District Councillor
Cllr Helen Bailey	Chair of Lullington Parish Council
Jason Bailey	Local tenant farmer
Denise Walsh	Local resident
Valerie Shaw	Local resident, Chair of Lullington Village Hall Committee
Steven Mills	Local resident
Emma Hooper-Smith	Local resident
Stuart Whitby	Local resident

Documents presented to the Hearing:

Document 1:	Core Documents List
Document 2:	Appeal decisions not included in evidence
Document 3:	Suggested site visit route map
Document 4:	Liz Lake Associates Photo Location Plan