

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

SECTION 1: Planning Applications

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

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

09/05/2017

Item 1.1

Ref. No. 9/2016/0931/OX

Applicant:
Mr G R Barnett
17 Ladyfields
Midway
Swadlincote
DE11 PZ

Agent:
Mr David Raybould
David Raybould & Associates Ltd
23A West Street
Swadlincote
DE11 9DG

Proposal: OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE ERECTION OF 5 DWELLINGS (THREE TOWN HOUSES AND TWO APARTMENTS) WITH ASSOCIATED PARKING ON LAND TO THE REAR OF 61 HIGH STREET NEWHALL SWADLINCOTE

Ward: NEWHALL & STANTON

Valid Date 06/09/2016

Members will recall deferring this case to enable the committee to visit the site. There have been no changes to the report below as attached to the agenda of 11 April.

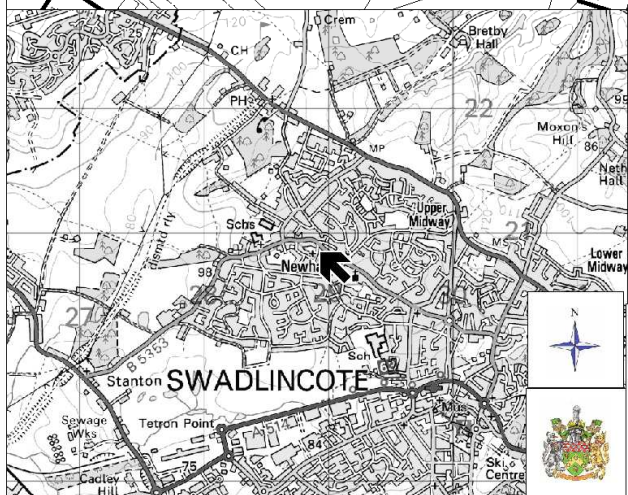
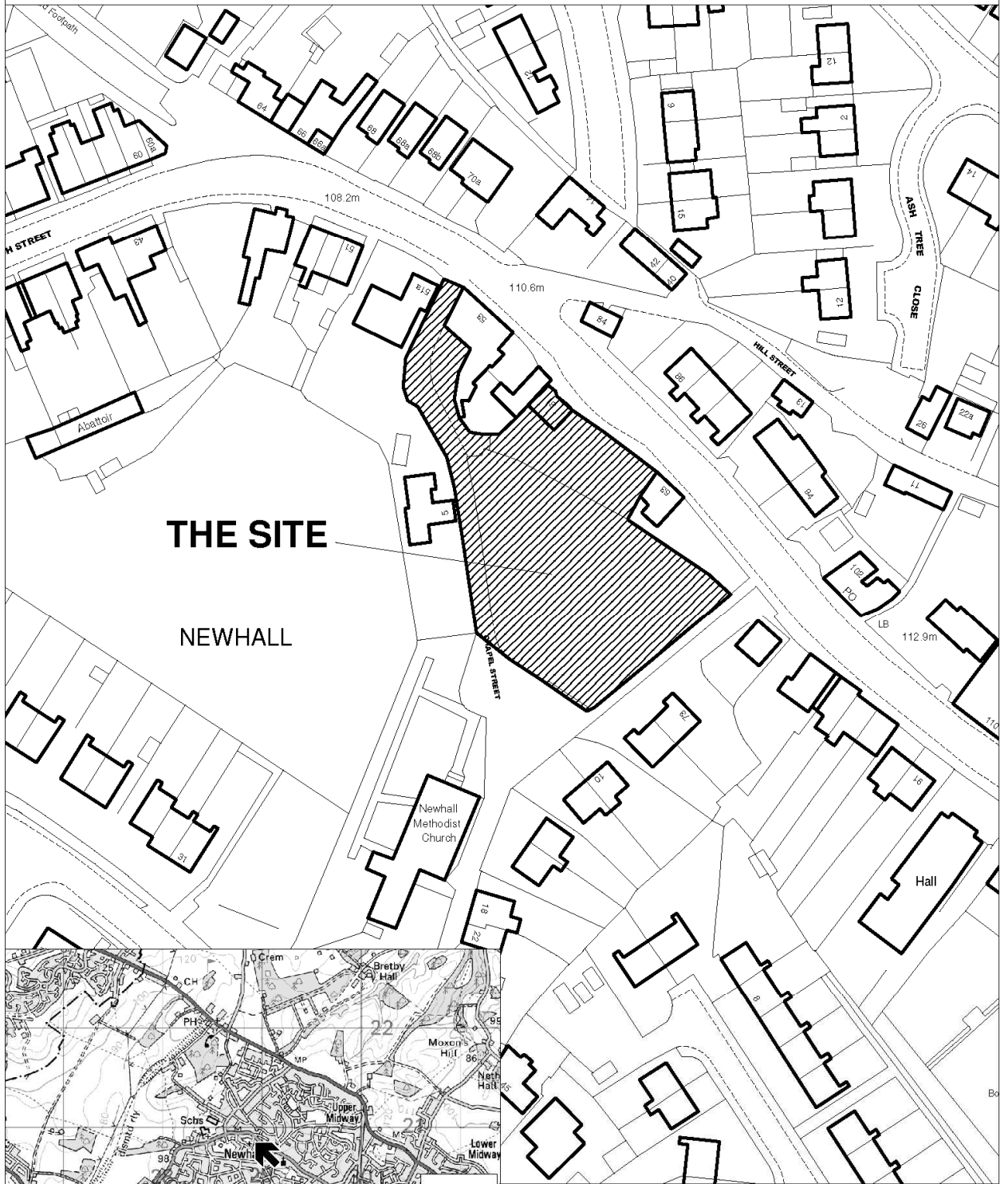
Reason for committee determination

Councillor Richards has requested this item be determined by the committee because local concern has been expressed about a particular issue.

Site Description

This brownfield site to the rear of 61 High Street is accessed via Chapel St, an unmade road accessed between 51a and 53 High Street. The site extends to the east to the rear of 61 and 63 High Street and south towards, but stops short of, Newhall Methodist Chapel, a Grade II listed building. The site is relatively steep sloping south away from High Street and towards Orchard Street with the Church set down below High Street and also being served by Orchard Street where a parking area exists. The site had previously been the location of a row of terraced houses set back from High Street as indicated on the Historic mapping of 1923 included in the Design and Access Statement. To the east of the site lies a public right of way running between High Street and Chapel Street. The site slopes away from High Street and towards the Methodist Church to the south.

9/2016/0931 - Land to the rear of 61 High Street, Newhall, Swadlincote
DE11 0HT



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Proposal

This application seeks outline consent for the erection of five dwellings on the site. All matters except for access are reserved. The main effect of the scheme in highway safety terms is the proposed closing of Chapel Street at its junction with High Street and a new junction where it fronts High Street further to the south east with much improved visibility with a new access road over the application site. The application also includes an indicative plan and elevations showing a scheme which includes three townhouses and two apartments with associated car parking.

Applicant's supporting information

The application is supported by a Design and Access Statement which sets out the context of the proposal including historic background in relation to the site, concluding that development would comply with relevant policies in the adopted plan and the NPPF.

A Coal Mining Risk Assessment concludes that there are negligible risks associated with the site subject to complying with the reports recommends.

An Ecology Report prepared by Solum Environmental concludes that development of this site may have the potential to affect habitats. However, it sets out recommendations to avoid, mitigate and compensate for the predicted loss of habitats.

Planning History

9/2000/0035 - The residential development (all matters other than access reserved) of approximately 0.18 hectares of land at the rear of – granted 16 November 2000.

9/2003/1091 - The renewal of planning permission 9/2000/0035/O for the residential development (all matters other than access reserved) of approximately 0.18 hectares of land - granted 24 October 2003.

9/2006/0826 - The renewal of planning permission 9/2003/1091/R for the residential development (all matters other than access reserved) of 0.18 hectares of land – granted 04 October 2006.

9/2009/0817 - Application for approval of details reserved by condition (9/2006/0826/B) for the residential development of 0.18 hectares of land – withdrawn 26 November 2009.

9/2010/0614 - Outline application (all matters except for access to be reserved) for the erection of five dwellings with associated parking – granted 13th September 2010.

9/2010/778 - The felling, pruning and removal of deadwood of trees covered by South Derbyshire District Council Tree Preservation Order Number 319 – granted 13th September 2010.

9/2013/0639 – Application to replace extant permission 9/2010/0614 - Outline application (all matters except for access to be reserved) for the erection of five dwellings with associated parking – granted 4th October 2013.

Responses to Consultations

The Highway Authority has no objections subject to the inclusion of conditions relating to visibility, relocation of bus stop and parking.

Derbyshire County Council Flood Risk Team – No objections in principle but suggest a condition relating to the preparation of a management and maintenance plan of surface water drainage of the site.

Environmental Health has no objection in principle but suggest conditions relating to the use of generators on site, bonfires and hours of working.

The Contaminated Land Officer has no objection subject to condition.

The Coal Authority has no objection subject to condition.

Severn Trent Water has no objection subject to the inclusion of a condition requiring drainage details to be provided prior to commencement.

Derbyshire Wildlife Trust has no objection subject to conditions relating to clearance of site, safeguarding of protected species and lighting strategy.

Responses to Publicity

Councillor Richards (ward member) states that the application has been previously refused on issues relating to the entrance and exit onto the Newhall Main/High Street and cannot see if there is a revised plan for access to the highway.

Three objections have been received, raising the following concerns:

- a) The main access to Chapel St should not be touched
- b) Other residents needs must be considered.
- c) Parking for no 53 at the rear would be an access issue.
- d) Residents who have caravans or horse boxes.
- e) Surface water run-off will have an adverse impact on the integrity of 5 Chapel St due to no effective drainage.
- f) Access for residents in Chapel Street will be restricted if the bollards shown in the indicative plan were in place.
- g) New development would be an invasion of privacy to 5 Chapel St.
- h) Parking provision for new houses will impact on existing residents.
- i) The Chapel requires access up Chapel St for funerals and weddings and vehicles could struggle to get down Chapel St with revised layout and possible damage to the boundary fence of no 5 Chapel St.
- j) Chapel St needs to be widened to 5.5m and each property should have a gate incorporated.

- k) Maintaining an effective road will enable council refuse lorries to use the bottom of end of Chapel St.
- l) Proposed bollards appear to be in an odd location.
- m) Damage to existing properties during construction. The council should arbitrate in such circumstances.
- n) Whose responsibility will the maintenance of the new and existing road be?
- o) Temporary access roads will be required during construction.
- p) The design and Access Statement makes no mention of the inclusion of the area behind 53 High St.
- q) Boundary treatments have not been proposed for the landscaped area to the Chapel car park and public footpath, currently flexible and should not continue as such.

Further representations have been received on behalf of Newhall Methodist Church which can be summarised as follows:

- a) The Chapel should have been notified of the application.
- b) Potential impact of development on the setting of the listed building (Methodist Chapel) built to be a prominent building in the area.
- c) The proposed access is over engineered and formalises an informal open space.
- d) Without knowing where the development will be it is impossible to know whether the development will have a harmful impact.
- e) If there is harm to the setting of this listed building then this should be outweighed by public benefits, of which there is no mention.
- f) The proposed location of the dwellings appears awkward and is not of a sufficient quality to be sitting so close to a building of national significance.
- g) Alien layout and poor and confused design detailing insufficient in quality for this location.
- h) Insufficient information submitted to be able to determine whether substantial harm caused to the setting of the listed building.
- i) Inadequate parking and access.
- j) The development will lead to access to the chapel being restricted to all patrons.
- k) Concern over the lack of access to patrons, including the disabled, during the construction of the dwellings.
- l) As a grade II listed building the Chapel should be afforded the protection offered under adopted policy BNE2. The application does not specify how the developer is going to achieve such protection.
- m) Para 128 of the NPPF requires the applicant to describe the significance of any heritage assets which is not done in this instance.
- n) The Council has failed to consult the owners of the chapel and have therefore failed to correctly notify adjoining land owners.
- o) Whilst the application is said to be in outline with all matters reserved except for access, insufficient detail is provided in respect of the access from High Street.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1, S2, H1, SD3, SD4, BNE1, BNE2, BNE3, BNE4, INF2, INF8
- 1998 Local Plan (saved policies): EV9, EV13

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: SDT1, BNE7 and BNE10

National Guidance

- National Planning Policy Framework (NPPF) 6-10, 14, 17, 32 , 49, 56, 64, 109, 118, 131, 132, 186, 187, 203 and 206
- Planning Practice Guidance (PPG) ID21 - Design

Local Guidance

- Housing Design and Layout Supplementary Planning Guidance (SPG)

Planning Considerations

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

- Principle of development
- Heritage
- Residential amenity
- Ecology
- Other matters

Planning Assessment

Principle of Development

The fact that a very similar scheme for the site was recently approved and has only recently lapsed is a material consideration in this case which carries substantial weight. The test therefore is to examine whether there has been any material change in circumstances (e.g. policy considerations) that would suggest an alternative outcome this time.

Whilst the Council has formally adopted a new Local Plan since the determination of the last application, the policy context has changed little in terms of the principle of development in this location. The site is within the confines of the urban area of Swadlincote and Newhall where new development is considered acceptable in principle. The settlement has a wide range of services and facilities, and regular bus services making this a sustainable site in general terms consistent with Local Plan policy H1 and emerging policy STD1. The proposal is also consistent with National Planning Policy Framework paragraph 14 being a sustainable location and proposals that accord with the development plan should be approved without delay.

Heritage

The application site lies to the north of the Grade II Listed Newhall Methodist Church the main aspect of which faces northwest. The Conservation Officer raised no objections in his comments to the 2010 application and notes that the access arrangements avoid conflict with the setting of the listed building. Whilst this application is submitted in outline and the plans submitted are therefore only indicative, the proposed dwellings front directly onto the listed building and the widened Chapel Street and this approach ensures a high quality scheme will be developed. It should also be noted that the historical context of the Design and Access statement indicates that the Church has not always been set in such spacious surroundings and the proposal is therefore considered to reflect the character of the area and protect, conserve and enhance the heritage asset of the Methodist Church.

An objection made on behalf of the Church by a conservation specialist states that there would be less than substantial harm to the listed building. Notwithstanding the fact that the Conservation Officer previously considered the proposal acceptable and that no harm would be caused by the proposal, if this is the case the NPPF states at paragraph 134 that the harm should be weighed against the public benefits of the proposal. Apart from the benefits that would ensue from an extra five dwellings towards the District housing supply and the ensuing increase in Council tax revenue, the new access that would be created for the development would be a significant benefit in addition to the widening of Church Street which would benefit the church itself in terms of access for funeral cars and their congregation. Chapel Street at its junction with High Street would be closed off with bollards leading to significant highway improvements through the use of the new access leading to Chapel Street adjacent to the site. In addition, the new access would lead to significant improvements in terms of improved surface water drainage from the newly constructed access. These public benefits are considered to outweigh any harm that may be caused by the proposal.

Residential Amenity

As the application is in outline with all matters reserved except for access, there is little detail in terms of potential impact on the residential amenity on existing neighbours. However, it is clear that the site is of sufficient size to be able to accommodate five dwellings without compromising existing neighbour's residential amenity.

Ecology

The proposal seeks to utilise an area of scrubland comprising vacant buildings, hardstanding, trees, hedgerow and scrub of which all except for the trees are to be removed to facilitate the development. The site has been virtually abandoned for many years creating an urban haven for wildlife. Derbyshire Wildlife Trust requested an ecology survey which was duly submitted, the results of which led to recommendations for compensation and enhancement measures as part of the development. This approach is in accordance with Policy BNE3 and paragraph 109

of the NPPF. Conditions have been added to the recommendation to ensure compliance.

Other Matters

Previous applications have included a condition seeking a contribution through a Unilateral Undertaking towards public open space. However, since the clarification in a ministerial statement in 2015 and confirmation in the PPG that financial contributions should not be sought on proposals of less than 10 dwellings or proposals of a combined floorspace of 1,000sq.m. this condition has been removed.

The issue of flooding has been raised as an objection to the proposal. The Lead Local Flood Authority was consulted and raised no objections, subject to the inclusion of a condition relating to the submission of details for surface water drainage. The proposal is likely to improve the situation for neighbours on Chapel Street with the introduction of enhanced surface water drainage as part of the development as a whole.

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

Recommendation

GRANT permission subject to the following conditions:

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

(b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

2. Approval of the details of appearance, landscaping, layout and scale (the Reserved Matters) shall be obtained from the Local Planning Authority in writing before any development is commenced.

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

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

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

- B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

- 4. 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 LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

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

- 5. Prior to the occupation of the first new dwelling, space shall be provided within the site curtilage for the parking and turning of 2 vehicles for each of the existing and proposed houses and on the basis of 1.5 spaces per apartment. The spaces shall be laid out in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety.

- 6. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the area of protected trees (Tree Preservation Order 319) shall be fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the Local Planning Authority.

Reason: To protect the trees/landscape areas from undue disturbance.

7. Prior to any works commencing, an Order for the stopping - up of the first 30m of Chapel street from High Street in a manner to be agreed in writing by the Local Planning Authority, to be carried out under Section 247 of the Town and Country Planning Act 1990, shall have been confirmed by the Department of Transport.

Reason: In the interest of highway safety.

8. Prior to any other works commencing and notwithstanding the submitted drawing, the existing bus stop shall be relocated in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority in consultation with Derbyshire County Council's Public Transport Unit.

Reason: In the interest of highway safety.

9. Before any other operations are commenced, space shall be provided within the site curtilage for storage of plant and materials/site accommodation/loading and unloading of goods vehicles/parking and manoeuvring of site operatives' and visitors' vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

Reason: In the interest of highway safety.

10. Prior to any other works commencing, the new street junction shall be formed with High Street. Notwithstanding the submitted drawings, the access shall have a width of 5.5m, 2 x 1.8m footways, 8m radii on each side, constructed to base level and provided with visibility sightlines extending from a distance of 2.4m back from the carriageway edge to the extremities of the site frontage abutting the highway in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The area in advance of the sightlines shall be levelled, constructed as footway and not form part of any plot or other subdivision of the site.

Reason: In the interest of highway safety.

11. Prior to any works commencing on the new dwellings, the new street shall be laid out, constructed to base level, drained and lit in accordance with Derbyshire County Council's specifications for adoptable roads.

Reason: In the interest of highway safety.

12. The gradient of the access shall not exceed 1 in 14 for the first 5m into the site from the existing highway boundary.

Reason: In the interest of highway safety.

13. Prior to any other works commencing, details of a means of highway surface water drainage disposal via a positive, gravity-fed means to an approved outfall (highway drain, public sewer or watercourse sanctioned by the Highway Authority, Water Authority or Environment Agency respectively) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety.

14. Within 28 days of the new road being taken into use, the existing means of access along Chapel Street onto High Street shall be permanently stopped-up in accordance with the confirmed Stopping up Order.

Reason: In the interest of highway safety.

15. Prior to any works commencing on the new dwellings, the section of Chapel Street adjacent to the development site shall be widened to provide a 4.25m carriageway and a 1.8m footway on the north-eastern side, laid out and constructed, lit and drained in accordance with Derbyshire County Council's specifications for adoptable highways, in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety.

16. Prior to any works commencing on the new dwellings, the access shall be formed from the new road into the residential site. The access shall be laid out in accordance with the application drawing, constructed as a splayed vehicular crossover with the entire site frontage onto the new road cleared and maintained thereafter clear of any obstruction exceeding 1m in height (600mm in the case of vegetation) relative to the nearside carriageway edge for a distance 2m back from the new highway boundary in order to maximise visibility for emerging drivers.

Reason: In the interest of highway safety.

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

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

18. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

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

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

20. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

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

21. Prior to the commencement of development site intrusive investigations must be undertaken in accordance with the recommendations contained within the Coal Mining Risk Assessment produced by GRM Development Solutions dated 8th August 2013 which accompanied the application, the results of which shall be submitted to and agreed in writing by the Local Planning Authority. Should the site intrusive investigations confirm the need for remedial works to treat any areas of shallow mine workings and/or any other mitigation measures (e.g. gas protection) to ensure the safety and stability of the proposed development, details of these works shall be submitted to and agreed in writing by the Local Planning Authority. The development shall only be implemented in accordance with the agreed remedial works as well as the other recommendations contained within the Coal Mining Risk Assessment produced by GRM Development Solutions dated 8th August 2013 which accompanied the application unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development is adequately protected from the dangers of unstable land resulting from former coal mining activity.

22. No vegetation clearance or works to the site shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the site for active birds' nests immediately before work is commenced and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority for their approval.

Reason: To protect local ecology and biodiversity.

23. In order to safeguard any hedgehogs, a Species of Principal importance under the provisions of the NERC Act 2006 that may be present on site, the site should be cleared under the supervision of an experienced ecologist in a systematic fashion and any hedgehog discovered should be moved to an area of safety within retained habitat on site.

Reason: To protect ecology and biodiversity.

24. No development shall take place until a lighting strategy has been submitted to and approved in writing by the LPA. The approved scheme must be implemented in full and retained for the life of the development.

Reason: In the interest of highway safety and in accordance with the requirements of Derbyshire Wildlife Trust.

25. Prior to the development hereby commencing, an ecological enhancement plan (detailing measures for replacement hedgerow, bats, birds and native planting) should be submitted to and approved in writing by the LPA. Such approved measures must be implemented in full.

Reason: To protect ecology and biodiversity.

26. During the period of construction of any phase of the development, no work including deliveries shall take place outside the following times: 0800 - 1800 hours Monday to Friday and 0800 - 1300 hours on Saturdays and any time on Sundays, Bank and Public holidays (other than emergency works).

Reason: To protect the amenity of existing neighbours.

27. During the construction phase of the development no portable generators should be used on site without prior written consent from the LPA.

Reason: To protect the amenity of existing neighbours.

Informatives:

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

2. The footpath must remain open, unobstructed and on its legal alignment at all times.

3. There should be no disturbance to the path surface without prior authorisation from the Rights of Way Inspector for the area.

4. Consideration should be given to the safety of members of the public using the path during the works. A temporary closure of the route may be granted but prior approval must be sought from the Rights of Way Section.

5. There should be no encroachment of the path and no fencing should be installed without consulting the Rights of Way Section.

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

For further assistance in complying with planning conditions and other legal requirements applicants should consult ""Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated"". This document has been produced by local authorities in Derbyshire to assist developers, and is available from http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer

(contaminated land) in the environmental health department:
pollution.control@south-derbys.gov.uk.

7. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 12 weeks prior notification should be given to the Environmental Services Department of Derbyshire County Council before any works commence on the vehicular access within highway limits; please contact 01629 538537 for further information.

8. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

9. Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Strategic Director of the Economy, Transport and Environment Department at County Hall, Matlock (Tel: 01629 533190). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 38 Agreement.

10. Highway surface water shall be disposed of via a positive, gravity-fed system (i.e. not pumped) discharging to an approved point of outfall (eg existing public sewer, highway drain or watercourse) to be sanctioned by the Water Authority (or their agent), Highway Authority or Environment Agency respectively. The use of soakaways for highway purposes is generally not sanctioned.

11. The proposed development works, the subject of condition 14, entail the use of land, which currently forms part of the public highway. No works may commence until the land in question has been stopped-up. Pursuant to Section 247 of the Town and Country Planning Act 1990, a stopping-up application should be made to the Department of Transport at the earliest opportunity. As part of the consultation process associated with such applications, the Highway Authority and other interested parties will be given the opportunity to object to the proposed stopping-up. It should be noted that the Highway Authority's acceptance of the proposals for planning purposes does not preclude an objection being raised by the Authority at this stage.

12. The applicant is required to contact Derbyshire County Council's Public Transport Unit (01629 580000) with regards to the relocation of the High Street bus stop, which fronts the site.

13. Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal

mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:

<http://coal.decc.gov.uk/en/coal/cms/services/permits/permits.aspx>

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

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: www.coal.gov.uk/services/permissions/index.cfm.

15. The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.

09/05/2017

Item **1.2**

Ref. No. **9/2016/1318/MR**

Applicant:
Mr Shaun Cruise
Fitzpatrick Cruise
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Proposal: **THE ERECTION OF 13 DWELLINGS AND ANCILLARY WORKS AT FORMER CHURCH GRESLEY COUNTY INFANT AND NURSERY SCHOOL YORK ROAD CHURCH GRESLEY SWADLINCOTE**

Ward: **CHURCH GRESLEY**

Valid Date **11/01/2017**

Reason for committee determination

This case is presented to Committee at the discretion of the Planning Services Manager.

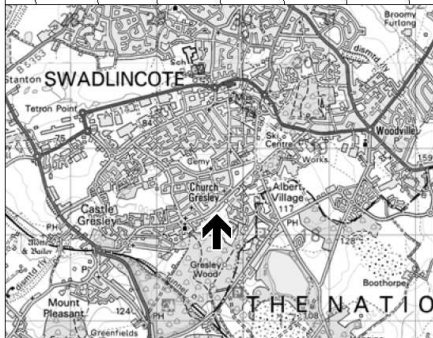
Site Description

The 0.25 hectare site is located on the corner of York Street and School Street on the site of the former Infants and Nursery School in Church Gresley. The site has large mature Lime trees on the York Road frontage and other trees on the School Street frontage and southern boundary. These trees are covered by TPO 397. The site has two prefabricated school buildings and a variety of small sheds and enclosures associated with the former use. There are residential properties to the north east and south west, the existing Infant School is to the west and there is a Methodist Church opposite the site to the north.

Proposal

Full permission is sought for 13 dwellings with a breakdown of two 1 bedroom dwellings and eleven 3 bedroom dwellings. The scheme would be 100% affordable housing. Four dwellings would form an L-shape on the corner and two dwellings would be set 10 metres from the York Street frontage in order to retain the two Lime trees. The remaining dwellings would face School Street or be enclosed within the

9/2016/1318 - FORMER INFANT & NURSERY SCHOOL, YORK ROAD, CHURCH GRESLEY, DE11 9QQ



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development. The dwelling on the prominent corner would be hipped and designs are gabled roof properties with stone cills and headers.

Applicant's supporting information

The Design and Access Statement describes the site and its context, being located within walking distance of local shops and the town centre. It includes an analysis of the surrounding buildings styles which describes the design as having Victorian proportions and style and continues the streets in its layout. Planning policy is listed.

The Arboricultural Survey appraised 12 trees and 4 groups of trees and/or hedgerows on or just outside the site boundary. It considers that 1 tree meets the standard for a High (A) Classification and that 6 are worthy of a Moderate (B). 3 trees and 4 groups are considered merit a Low (C) Classification. It recommends the removal of 6 trees.

A Viability Assessment has been submitted in order to justify the lack of Section 106 contributions for health, education and open space amounting to a total of £51,357. Trent and Dove Housing Association are involved in the scheme and have secured HCA funding to gap fund the development. The land would be transferred to the HA at minimal profit even without the S106 contributions.

A Coal Mining Risk Assessment concludes that the site is within the zone of influence from workings in 6 seams of coal at 140m to 430m depth that were last worked in 1965. No workings have been recorded at shallow depth. The site is not within the boundary of any mine entries; opencast workings; mine gases or subsidence claims. The site is considered to be a medium risk from coal mining due to possible instability due to shallow coal workings. Although there is no information relating to mine shafts for this particular site, there is a possibility that unrecorded shafts and/or other mine entries may exist on the site and due to the coal present at shallow depths there is a therefore a medium risk of shafts or bell-pits being uncovered. Intrusive site investigations and ground gas prevention measures are recommended.

Planning History

9/2014/1077 - Outline application (all matters reserved) for the erection of 8 dwellings, Granted 19/5/15

CD9/2008/0033 - The erection of two canopies outside of existing classrooms leading into existing playground area, No objection 3/7/08

Responses to Consultations

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

The County Highways Authority has no objection and recommends conditions regarding provision of site compound, mud prevention, the access and accesses onto School Street, pedestrian visibility splays and parking, manoeuvring area and gates.

The Coal Authority has not responded as yet but the site lies in a low risk area therefore only an informative is required.

The Council's Tree Officer has no objection to the amended layout and recommends that a Tree Protection Plan and Arboricultural Method Statement be submitted detailing tree barriers and the use of cellular confinement systems for RPA's that extend into the proposed hard surfacing.

The NHS Southern Derbyshire CC requires a £5,022 contribution to provide the extra capacity required to meet the increase patient demand at Gresleydale Surgery.

The County Education Authority requires the following contributions for education. £11,399.01 towards the provision of 1 infant place at Church Gresley Infant and Nursery School via 'Project A – Classroom Adaptation'; £22,798.02 towards the provision of 2 junior places at Pennine Way Junior Academy via 'Project A: Classroom extension scheme'

Responses to Publicity

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

- a) Whilst the development is supported in that it will remove an eyesore there are concerns that the 1 bedroom properties only have one parking space which may increase on-street parking.
- b) There are dangerous junctions adjacent to the site and any increase in on-street parking would increase the danger.
- c) The Methodist Church car parking cannot be used as any unauthorised vehicles would be clamped.
- d) The proposed access is opposite a bus stop which causes road safety and traffic flow concerns at present and the access should be re-located or bus stop moved.
- e) The boundary line should be away from their fence and not used as a boundary.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), H1 (Settlement Hierarchy), H20 (Housing Balance), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport) and INF9 (Open Space, Sport and Recreation).
- 1998 Local Plan (saved policies): EV9 (Trees)

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE7 (Trees, Woodland and Hedgerows).

National Guidance

- National Planning Policy Framework (NPPF) 7, 14, 17, 32, 49, 56, 58
- Planning Practice Guidance (PPG)

Local Guidance

- Housing Design and Layout SPG
- Section 106 Agreements – A Guide for Developers

Planning Considerations

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

- Principle of Development
- Design and residential amenity
- Trees
- Highways
- S106 and Viability

Planning Assessment

Principle of Development

The principle of residential development was established in the granting of outline permission for 8 dwellings in 2015. Local Plan Part 1 (LPP1) Policy H1 considers development of all sizes within the settlement boundary to be appropriate and Local Plan Part 2 (LPP2) Policy S2 has a presumption in favour of sustainable development. Submitted (LPP2) Policy SDT1 defines the settlement boundary of Swadlincote and states that development will be permitted where it accords with the development plan. The site is located within the urban area of Church Gresley within walking distance of local shops and Swadlincote town centre and on a main route assessable by a choice means of transport. The proposal is thus considered appropriate and sustainable and accords with these policies.

Design and Residential Amenity

LPP1 Policy BNE1 relates to design excellence and requires developments: to be designed to minimise crime and anti-social behaviour, to have streets that relate to their context, to be assessable by all user groups, to have regard to townscape characteristics and to be visually attractive with a high standard of architectural and landscape quality. NPPF paragraphs 56 and 58 have similar aims. The proposed layout is considered to reflect the character and context of the area as the dwellings

would continue the streets whilst retaining the existing mature trees on the frontage. Good natural surveillance would be provided on the streets and within the development to minimise crime. The dwellings are considered to be a high quality design with features such as stone cills and lintels that reflect the design and scale of existing properties on York Street. The most prominent corner would have a hipped roof section to minimise its dominance and dental coursing would be used to compliment the traditional design.

LPP1 Policy BNE1 requires that new developments do not have an adverse impact on the privacy and amenity of nearby occupiers. LPP1 Policy SD1 supports development that would not have an adverse impact on the environment or amenity of existing and future occupiers within or around proposed developments. The nearest properties adjacent to the eastern and south western boundaries have either secondary windows or are blank elevations. Properties adjacent to the south eastern boundary would be 26m from the rear of the nearest proposed dwelling. On this basis, the proposal is considered to accord with the Council's space standards as the impacts on the residential amenity of neighbouring properties are not considered significant. The proposal therefore accords with LPP1 Policy BNE1 and paragraphs 56 and 58 of the NPPF.

Trees

Saved Local Plan Policy EV9 states that developments that would result in the loss of trees of value to their landscape setting shall not be permitted. Submitted LPP2 Policy BNE9 states that where development is proposed that could affect trees of high value, developers will be expected to demonstrate that: the layout and form of development has been informed by an appropriate arboricultural survey; the 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 around trees, woodland and hedgerows. It states that the felling of protected trees will only be permitted in exceptional circumstances and a replacement of an appropriate number, species, size and in an appropriate location will normally be required.

The proposed layout has been informed by the submitted Arboricultural Assessment and the high value mature trees are to be retained. The two Lime Trees on York Road and Oak in the south eastern corner are considered the highest value. The Council's Tree Officer has reviewed the assessment and considers the proposed layout acceptable. The trees proposed for removal are not considered high value and should be replaced with more suitable species. Conditions in respect of the protection of trees during construction and in the future are recommended.

Highways

LPP1 Policy INF2 requires that new development have appropriate provision for safe and convenient access and a similar aim is outlined in NPPF paragraph 32. The Highways Authority has no objection to the scheme in relation to highway safety as the access and parking is considered sufficient. Thus the proposal accords with the above mentioned policy and guidance.

S106 and Viability

LPP1 Policy H20 relates to housing balance and seeks to provide a balance of housing that includes a mix of dwelling type, tenure, size and density, taking into account the Strategic Housing Market Assessment (SHMA) and Local Housing Needs Study. It states that viability of a development would be considered through determining a scheme's housing mix and adaptable housing is promoted. LPP1 Policy H21 seeks to secure up to 30% of new housing development as affordable housing as defined in the NPPF on sites over 15 dwellings. Consideration would be given to the local housing market, the viability and the tenure mix and dwelling types.

LPP1 Policy INF9 relates to open space, sport and recreation and identifies a shortfall in provision and to address this, the Council will work with partners to provide sufficient provision to meet the needs of the new residential development and, where possible, that of the existing population. The S106 contributions requested in this case would be £51,357 (including £17,160 for public open space).

The proposal would secure 13 affordable homes, managed by the Housing Association Trent and Dove with a housing mix in line with the housing needs of the area. They would be for affordable rent and would be let on assured tenancies and allocated in accordance with the Council's choice based lettings policy. Thus, the homes would increase the District's affordable housing provision. The viability assessment submitted by Trent and Dove confirms that the scheme would only be viable with the Homes and Communities Agency (HCA) funding which has been secured. The scheme costs are only affordable with the funding and with the added costs of S106 contributions the scheme would not be viable.

In such cases it is usual for the benefits of such developments to be recognised as outweighing the need to secure off-site contributions which can usually be met by open market schemes.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with drawing no's 2015-431-00, 2015-431-P02D, 2015-431-P10B, 2015-431-P11B, 2015-431-P12C, 2015-431-P13C, 2015-431-P14C, 2015-431-P15C, 2015-431-P16B and 2015-431-P17B; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material

minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

3. Before any works involving the construction of any dwelling commences precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the dwellings have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

4. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), prior to the erection of boundary treatments plans indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

5. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

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

6. Before any works involving the construction of any dwelling commences, details of the finished floor levels of the dwellings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

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

7. Before any works involving the construction of any dwelling commences, a scheme of soft and hard landscaping shall be submitted to and approved by the Local Planning Authority which shall include replacement trees and implemented in accordance with the approved details.

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

8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next

planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

9. 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; none of the dwellings hereby permitted shall be enlarged or extended without the prior grant of planning permission on 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 site area and effect upon neighbouring properties and protected trees.

10. Before any other operations are commenced, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

Reason: In order that safety is maintained from the construction phase onwards.

11. Throughout the period of development 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 interests of highway safety.

12. Before any other operations are commenced, the existing access to York Road shall be modified in accordance with the revised application drawings, laid out, constructed and provided with 2.4m x 43m visibility splays in both directions, the area in advance of the sightlines being maintained clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.

Reason: In the interests of highway safety.

13. Prior to the occupation of plots 1, 2, 12 & 13 a new vehicular accesses shall be created to School Street in accordance with the revised application drawings, laid out, constructed and provided with 2.4m x 33m visibility splays in both directions, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: In the interests of highway safety.

14. The accesses, the subject of conditions 3 & 4 above, shall not be taken into use until 2m x 2m x 45° pedestrian intervisibility splays have been provided on either side of the access at the back of the footway, the splay area being

maintained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

16. There shall be no gates or other barriers located across the entire frontage of the property.

Reason: In the interests of highway safety.

17. No barge boards, fascia boards or soffits shall be used.

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

18. Before any works involving the construction of any dwelling commences a Arboricultural Method Statement and Tree Protection Plan, including details of excavation techniques to minimise disruption with the Root Protection Areas of the protected trees, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details agreed therein.

Reason: To safeguard the health of the nearby protected trees.

Informatives:

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

2. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com.

3. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be

built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.

4. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport & Communities at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp, email ETENetmanadmin@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.

5. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.

6. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

09/05/2017

Item **1.3**

Ref. No. **9/2017/0123/RX**

Applicant:
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Agent:
Miss Fiona Shaw
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Proposal: **APPROVAL OF RESERVED MATTERS FOR LAYOUT, SCALE, APPEARANCE AND LANDSCAPING ONLY OF PLANNING PERMISSION REF: 9/2015/0291 ON LAND AT SK3824 2697 ASHBY ROAD MELBOURNE DERBY**

Ward: **MELBOURNE**

Valid Date **20/02/2017**

Reason for committee determination

The item is presented to Committee at the request of Councillor Harrison as local concern has been expressed about a particular issue and unusual site circumstances should be considered by the Committee.

Site Description

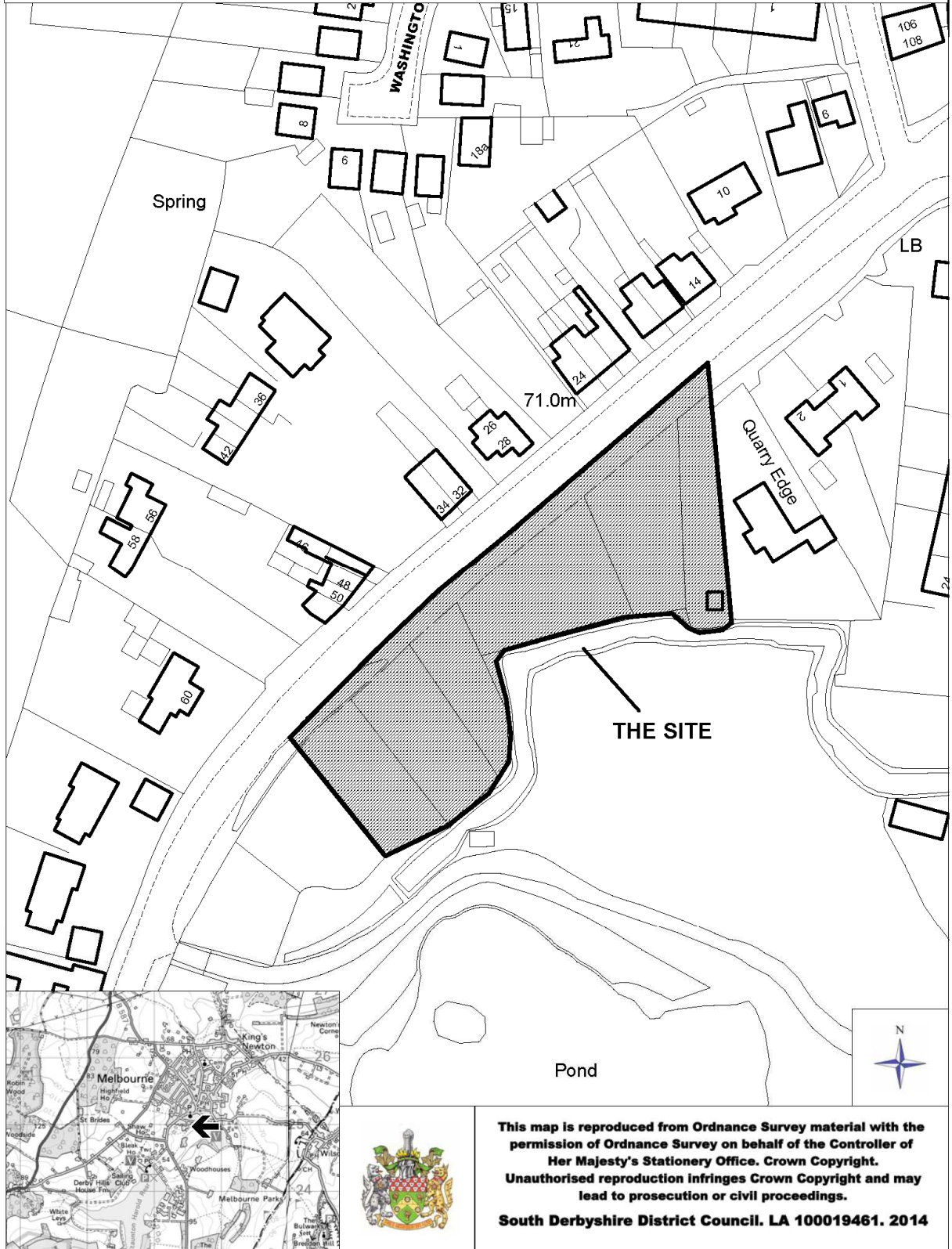
The site is located on the south-western edge of Melbourne. The site is confined by woodland and a former quarry to the eastern boundary of the site and a cliff-face, Ashby Road runs along the western boundary of the site beyond a hedgerow and grass verge with existing housing on the opposite side of the road. An existing bungalow is located to the north-east of the site separated by a close boarded fence. The site is well contained from the wider landscape by existing woodland to the south-east and south-west. As the level of Ashby Road falls to the south-east the site levels rise.

The site extends to approximately 0.36 hectares, and was previously in use as an allotment although the site has recently been cleared of vegetation.

Proposal

The application seeks reserved matters approval for access, appearance, landscaping, layout and scale following outline approval (9/2015/0291) for the

9/2017/0123 - LAND AT ASHBY ROAD, MELBOURNE, DE73 8ES



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redevelopment of the site for up to 5 dwellings, considered by this Committee in November 2015.

The proposal is for the erection of 5 detached dwellings in a mix of sizes (1 x 2 bed, 1 x 3 bed and 2 x 4 bed dwellings). With the exception of plot 4 all of the dwellings address Ashby Road, and all are designed in a traditional style. Plots 1 and 3 are designed with low ridge and eaves heights with rooms in the roof and dormer windows, plots 2 and 5 have a Georgian style with a symmetrical front façade and low pitch slate hipped roofs; plot 4 is designed to appear as an outbuilding to plot 5.

Three separate vehicular access points are proposed to serve the development with plots 2 and 3 and 4 and 5 sharing an access; pedestrian access to the site is provided by an extended footway linking in from the existing footway on the southern side of Ashby Road.

Applicant's supporting information

A Design Statement has been submitted in support of the proposal which outlines the topographical and engineering requirements for the site, this comprises a 5m buffer to the top of the cliff and a further 2.5m stand-off to any buildings. The site landscaping aims to create visual cohesion between the houses and root them in the landscape. Large gaps are retained between the dwellings to maintain through to the landscape boundary beyond, with the garages set back in order that they are not visible from the streetscene. A natural buffer is proposed along the south-eastern boundary to provide a natural buffer to the conservation area, with evergreen hedges to Ashby Road to enhance the existing native boundary treatments.

The height of the development relates to and does not exceed buildings in the area, with a variety of ridge heights to maintain the variety and style of local character. The houses are simple and uncluttered in their detailing with simple roof, gable and dormer features. The dwellings are proposed with traditional detailing and constructed in a mix of brick and stone with plot 2 proposed in painted brick. Overall the proposal is considered to be a result of careful consideration of the Melbourne's landscape and built character and that the resulting proposals are both sympathetic and complementary to the village, addressing any concerns raised at the outline stage.

The submitted Landscape and Ecological Management Plan outlines the measures to protect existing habitats, details of the creations of new habitats and management of these areas with the proposed residential development. Due to the size of the site, opportunity for ecological enhancement is limited. Landscaping will therefore focus on the retention and enhancement of existing boundary features with additional shrub planting. Other enhancements will include the provision of gaps to be left under fence lines to allow small mammals access around the site and the installation of bird boxes on the southern hit and miss fencing.

Planning History

9/2015/0291 Outline planning permission (all matters reserved) for residential development of up to 5 dwellings. Approved 28/04/16.

Responses to Consultations

The Highway Authority has no objection to the proposed development following the inclusion of a 2m wide footway along the site frontage to Ashby Road. It is considered that the individual vehicular accesses serving each plot are suitable in terms of visibility and geometry and the parking provision and turning facilities available for each plot sufficient.

The Pollution Control Officer has no comments on the proposal.

Derbyshire Wildlife Trust considers that the information submitted in respect of the landscape and ecological management plan is sufficient subject to some minor additions.

Melbourne Parish Council has raised concerns about the loss of highway land and car parking on a busy road.

Responses to Publicity

Melbourne Civic Society makes the following comments on the proposal:

1. No schedule of materials is provided;
2. Where stone walls are used this should be to go down below ground level;
3. The chamfered plinth should be omitted on Plot 1. The stone quoins are also a bad idea of a property of this character;
4. The plans do not show and the planners do not seem to realise that the site of Plot 5 is higher than the road, and the plans fail to take the levels in to account. No heights are specified and the retaining wall could be anything up to 5 or 6 feet. If the houses are built at existing levels there will be several problems. This plot would dominate the streetscene and the houses opposite. This was a major reason for objection to and refusal of the previous application here some 15-20 years ago;
5. The drive for Plot 5 is too close to the bend on Ashby Road.

16 letters of comment /objection have been received, raising the following concerns/points:

- a) How will plots 4 and 5 be incorporated in to the steeply sloping land?
- b) The layout and scale will have an overbearing impact on the properties on the opposite side of the road (28/32/34);
- c) There will be clear views in to windows;
- d) The development will not be in-keeping with the small farm cottages opposite;
- e) Impact on wildlife;
- f) Increased driveways will cause additional safety hazards, particularly for current residents who have no visibility. Traffic calming measures need to be in place now, without this the new driveways remains a life threatening hazard;

- g) How has permission been granted to build on such a dangerously situated piece of land, and the drop to the rear;
- h) Loss of car parking for properties on Ashby Road who park on the grass verge;
- i) Levels for Plots 4 and 5, and resultant overlooking;
- j) Increased risk of flooding;
- k) The trees to the side of plot 5 need to be retained as these are now part of the village
- l) Concern at highway safety and the general speeds on this part of Ashby Road;
- m) Significant traffic issues will be caused with the loss of verge for car parking;
- n) Concern at the lack of notification on this and the previous application;
- o) Increased risk of flooding for other dwellings on Ashby Road;
- p) The drives for Plots 4 and 5 are too close to the bend, where turning right will cause a traffic safety issue;
- q) The houses should be sited further back in to the site with shrubs and trees planted along the frontage. This would result in less of a ribbon development which could create a precedent for further development towards Woodhouses to the detriment of the amenity and character of this approach to the historic settlement of Melbourne;
- r) The provision of a footpath appears to have been forgotten. How is the postman supposed to deliver to these houses? How are the children accessing the schools?
- s) There are no other instances of high walls and solid gates along the road and this is not appropriate here;
- t) If the development is to include areas of stonework this ought to be mandatory so this cannot be removed at a later date due to cost;
- u) The hipped roofs on Plots 2 and 5 are out of place, and will stick out and look ridiculous;
- v) Plot 2 has over fussy bay windows and detailing too symmetrical compared with plots 1 and 3 either side. The 3 pane over 6 windows are impractical and appear squat. If the design is trying to reflect No 28 a much better effort should be attempted;
- w) The site would be visible from the Conservation Area at many points;
- x) In order to harmonise with the nearby properties, the development should be scaled down in height, have flood avoidance measures and retain hedgerows and all trees;
- y) The dwellings are much larger than anything else in this part of Ashby Road;
- z) The materials proposed on Plot 2 are not in-keeping;
- aa) The wooden bollards are usually found on city council estates and are not commonplace in Melbourne;

- bb) The existing hedge should be retained and rejuvenated, it provides a valuable landscape and wildlife feature;
- cc) Safeguards need to be made for the retention of the existing hedgerows and tree, such as preservation orders or an extension to the conservation area;
- dd) A suitable boundary needs to be provided on the cliff edge, which should be provided as a brick wall to ensure a permanent safety boundary is put in place.

Five letters of support have been received, which note the following points:

- a) The scheme will significantly improve the approach to the village. This impressive and sympathetic scheme would be a great addition to Melbourne;
- b) The applicant is well known for high quality schemes and this application should be encouraged;
- c) The removal of parking on the Ashby Road verge and associated fly tipping will be of benefit;
- d) The development would blend in with the recent award winning development on the opposite side of the road, and would convert a very unsightly piece of wasteland and create a wonderful approach to the town centre.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); S4 (Housing Strategy); H1 (Settlement Hierarchy); H20 (Housing Balance); SD1 (Amenity and Environmental Quality); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); BNE1 (Design Excellence); INF2 (Sustainable Transport); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness); BNE2 (Heritage Assets)
- 1998 Local Plan (saved policies): EV9 (Protection of Trees and Woodland); EV11 (Sites and Features of Natural History Interest); EV12 (Conservation Areas)

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: SDT1 (Settlement Boundaries and Development); BNE10 (Heritage); BNE7 (Trees, Woodland and Hedgerows)

National Guidance

- National Planning Policy Framework (NPPF), in particular; Paras 6-10 (Achieving sustainable development); Paras 11-14 (The presumption in favour of sustainable development); Para 17 (Core principles); Section 4 (Promoting sustainable transport); Section 6 (Delivering a wide choice of quality homes); Section 7 (Requiring good design); Section 8 (Healthy Communities); Section

10 (Meeting the challenge of climate change, flooding etc.); Section 11 (Conserving and enhancing the natural environment); Section 12 (Conserving and enhancing the historic environment); Paras 186 & 187 (Decision-taking); Para 196 & 197 (Determining applications); Paras 203-206 (Planning conditions and obligations); Annex1 (Implementation)

- National Planning Practice Guidance; ID18a (Historic environment); ID15 (Consultation); ID26 (Design); ID53 (Health and wellbeing); ID33 (Contaminated land); ID45 (Land stability); ID8 (Natural environment); ID36 (Tree preservation); ID21a (Conditions).

Local Guidance

- Housing Design & Layout SPG

Planning Considerations

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

- Layout, scale and appearance
- Landscaping
- Access

Planning Assessment

As detailed above outline planning permission was granted in 2015 for the re-development of the site for the erection of 5 dwellings, thus establishing the principle of developing the site for residential purposes. This report will therefore concentrate on the reserved matters for which the application seeks approval.

Layout, scale and appearance

This part of Melbourne, outside the conservation area, is characterised by a mix of dwelling types and sizes with no distinctive character with which to draw a direct comparison, rather there is a mix of dwelling types, ages and styles. The development itself is visible from Ashby Road as you leave the village, but is somewhat screened on the approach from the west due to the existing hedgerows / trees and the curvature of Ashby Road.

In granting the outline planning permission the applicant was advised of the need for any development of the site to take into account the prevailing open nature of the site. The site presents one main physical constraint to development that being the cliff-face which runs along the south-eastern boundary, and as such a 5m stand-off is required for the provision of any domestic curtilages with a further 2.5m required for any built development. In addition, the site levels rise in a south-westerly direction i.e. towards plot 5.

The layout of the site proposes the erection of 5 detached dwellings, with all but plot 4 fronting Ashby Road. The development of the site extends the built form of the village along this eastern side of Ashby Road, with the dwellings sited between 5 and

6m from Ashby Road, behind a grass verge. The continuation of the built frontage of Ashby Road aids in integrating this site with the existing built form of the village rather than create a detached development which would appear visually disjointed on this edge of village location.

The dwellings are separated by the proposed vehicular accesses, and gardens with garages set back from the site frontage to ensure that an element of spaciousness is preserved between the buildings. These gaps in-between the dwellings provide views through to the woodland beyond and ensures that the development remains subservient to the mature woodland setting that borders and encompasses the former quarry beyond to the east. It is this landscape setting that acts as a buffer between the application site and conservation area and ensures that the site does not impact on the character and appearance of the conservation area.

The appearance of the proposed dwellings has been approached with three different elements proposed. Plots 1 and 3 have the appearance of traditional 1½ storey dormer cottages, with projecting gables, front pitched dormer windows and relatively low eaves and ridge heights with a mix of brick and stone detailing provided. Plot 4 exhibits some similar characteristics with a low ridge height and rooms provided within the roofspace and the use of stone as a facing material to Ashby Road. Plot 4 is designed to appear as a subservient outbuilding to plot 5, within the range of buildings proposed around a courtyard. Plots 2 and 5 have been designed with the appearance of a traditional 2 storey detached Georgian villas, with symmetrical front elevations, deep eaves and relatively low pitched hipped slate roofs. Plot 2 is proposed in painted brick with stone cills and lintels and plot 5 in brick with brick lintels and stone cills.

The dwellings in their form, style and design have taken their cue from the historic areas of Melbourne which in this area of mixed architectural style and quality is considered to be a sympathetic approach, and the designs overall are considered to successfully respond to the site context and would enhance the appearance of this part of Ashby Road.

The north-eastern area of the site is relatively level with Ashby Road and flat, but as the level of Ashby Road falls as you leave Melbourne the level of the site relative to Ashby Road becomes more pronounced and the south-western part of the site further rises towards the south-eastern boundary. These level changes result in the requirement for a retaining wall to the front of plot 5 and the provision of a stepped rear amenity space, a suitable form of boundary landscaping to the site frontage would soften the impact of the required retaining wall. This change in levels will result in the dwelling appearing to sit higher on the site than its neighbours, and more pronounced. It is considered that this change in levels, coupled with the design of plot 5 provides for an appropriately designed dwelling with which to form a 'book-end' to development at the edge of the village aided by the mature landscaped area to the south-west. Overall the layout, scale and appearance proposed are considered to result in an enhancement to the character and appearance of the street scene and wider setting and address the recommendations made in the outline permission.

Landscaping

The existing landscaped area to the east and south of the site are retained within the proposals, which aids in integrating the site within the wider landscape. Within the site the main areas of landscaping are along the site frontage to Ashby Road, which seek to replace and bolster where appropriate the existing post-mature gappy hedge with various evergreen hedges (including mixed and holly hedging). The reinforcement of this hedge will provide for a soft boundary to the road frontage. Where domestic boundaries front Ashby Road a 1.8m high brick boundary wall is proposed behind the existing/replacement hedge which provides for an appropriate boundary treatment in order to screen any domestic activities from the street scene and follow through the sympathetic conservation style treatment of the site.

Along the eastern boundary of the site a 5m planting buffer to the cliff-face is proposed, in order to provide for both a biodiversity benefit from the scheme (as outlined in the landscape and ecological management plan) protect residents from the hazard with the boundary to this area proposed in a close boarded fence to the domestic side and stock fencing to the cliff edge.

Access

Vehicular access to the site is proposed at three points from Ashby Road where the local speed limit is 30mph. Plots 2 and 3 and 4 and 5 would share access points, with an individual access proposed for plot 1. Each access is provided with suitable visibility splays (2.4m x 43m), access geometry and turning facilities. In terms of parking provision, the two four bedroom dwellings provide for a minimum of 5 spaces per dwelling with each of the other dwellings (2 x 3 bed and 1 x 2 bed) provided with space for a minimum of 2 vehicles which is considered appropriate for the size of dwellings proposed; the submitted plans also demonstrates that turning can be achieved within the site to ensure vehicles enter and exit in a forward gear.

In the interests of pedestrian safety, and to ensure residents can easily and safety access the services of the village a 2m wide pedestrian footway is to be provided along the site frontage to Ashby Road, which would also prevent the current informal parking arrangement taking place on the existing grass verge. This informal arrangement is such that could be prohibited by the landowner or Highway Authority without notification to residents whether development came forward or not and as such the loss of this informal parking area should not impact on the determination of this application.

Other matters

In terms of residential amenity, the only directly adjoining neighbouring property is a bungalow known as Quarry Hill to which the principal room windows are located on the east and south-west elevations and as such would not be significantly impinged upon by the proposed dwellings. The proposed dwellings would be located at the closest point (plots 1 and 3) 19 metres away from the properties on the opposite side of Ashby Road. However this is with Ashby Road, hedgerow, verge and parked cars in-between, whereby the guidelines state that normal distances can be relaxed. All other plots would be beyond the 21 metre minimum distance between windows as detailed in the Housing Design and Layout SPG and as such it is considered that the

proposed development would not be likely to significantly impact on the amenity of any of the dwellings in close proximity to the site.

Concerns have been raised regarding the sheer drop of the quarry to the rear of the site, this forms the edge to the site and the application includes the provision of suitable safeguards and boundary treatments to enclose and subdivide the site, thus ensuring adequate safety for future occupiers. The properties would have sufficient amenity space, some of which would be overshadowed by the trees within Lambert Quarry; however this is not considered to cause harm to the amenity of future occupiers due to the level of space provided and the relatively open character of the site.

Conclusion

The principle of developing the site for residential purposes has been established through the granting of the 2015 outline permission, and the layout, scale and appearance of the proposed development is considered to sit comfortably within its setting, enhancing the character and appearance of the area. The landscaping proposed would help to integrate the site within the wider environment. The development provides for suitable access and parking, and would provide a suitable living environment for the proposed residents, whilst not impacting on the reasonable amenities of nearby residents.

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

Recommendation

GRANT approval of reserved matters subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with drawing numbers; 3157 05 Rev T; 3157 11 Rev E; 3157 12 Rev B; 3157 13 Rev E; 3157 14 Rev C; 3157 15 Rev F; 3157 21 Rev A; 3157 22 Re A; 3157 24 Rev D; 3157 802; Landscape Plan if revised*; and the fcpr Landscape & Ecological management Plan (Ref 7694 / JJM/ KJB dated 18 April 2017); unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

2. Large scale drawings to a minimum Scale of 1:10 of external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.

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

3. Notwithstanding any details submitted, precise details of the type, size and position of the proposed rooflight(s) shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflight(s) shall be fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

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

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

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

6. The premises, the subject of the application, shall not be occupied until a 2m wide footway along Ashby Road fronting the application site between the north east boundary of the site and the access to plots 4 and 5 as detailed on drawing number 3157 05 Rev T has been provided.

The premises, the subject of the application, shall not be occupied until these works have been completed in accordance with the approved details. For the avoidance of doubt the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this condition.

Reason: As recommended by the Highway Authority In the interests of highway safety.

7. Gutters and downpipes shall have a black finish.

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

8. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme first submitted to and approved in writing by the Local Planning Authority.

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

Informatives:

1. This approval relates only to the matters contained in the application and the associated amended drawings. It remains necessary to comply with all conditions attached to the outline planning permission. The Outline permission (9/2015/0291) includes conditions most notably relating to materials, contaminated land, boundary treatments, drainage, bin storage, and highway safety. The applicant is advised to note that drawing number 3157 05 Rev T is sufficient for the purposes of discharging the requirements

of conditions 10 and 12 of the outline permission 9/2017/0291.

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

3. The applicant is advised to note the following recommendation of the Highway Authority;

1. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works.

Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from Mr Kevin Barton in the Economy, Transport and Communities Department at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

2. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.

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

4. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

09/05/2017

Item **1.4**

Ref. No. **9/2017/0155/FH**

Applicant:
Mr Gadsby
37 Repton Road
Hartshorne
Swadlincote
DE11 7AF

Agent:
Darryn Buttrill
Bi Design Architecture Ltd
79 High Street
Repton
Derby
DE65 6GF

Proposal: **DEMOLITION OF REAR FLAT ROOFED EXTENSION AND THE
ERECTION OF REAR EXTENSIONS AND ALTERATIONS AT 27
MAIN STREET NEWTON SOLNEY BURTON ON TRENT**

Ward: **REPTON**

Valid Date **13/02/2017**

Reason for committee determination

The item is presented to Committee at the request of Councillor Stanton as local concern has been expressed about a particular issue.

Site Description

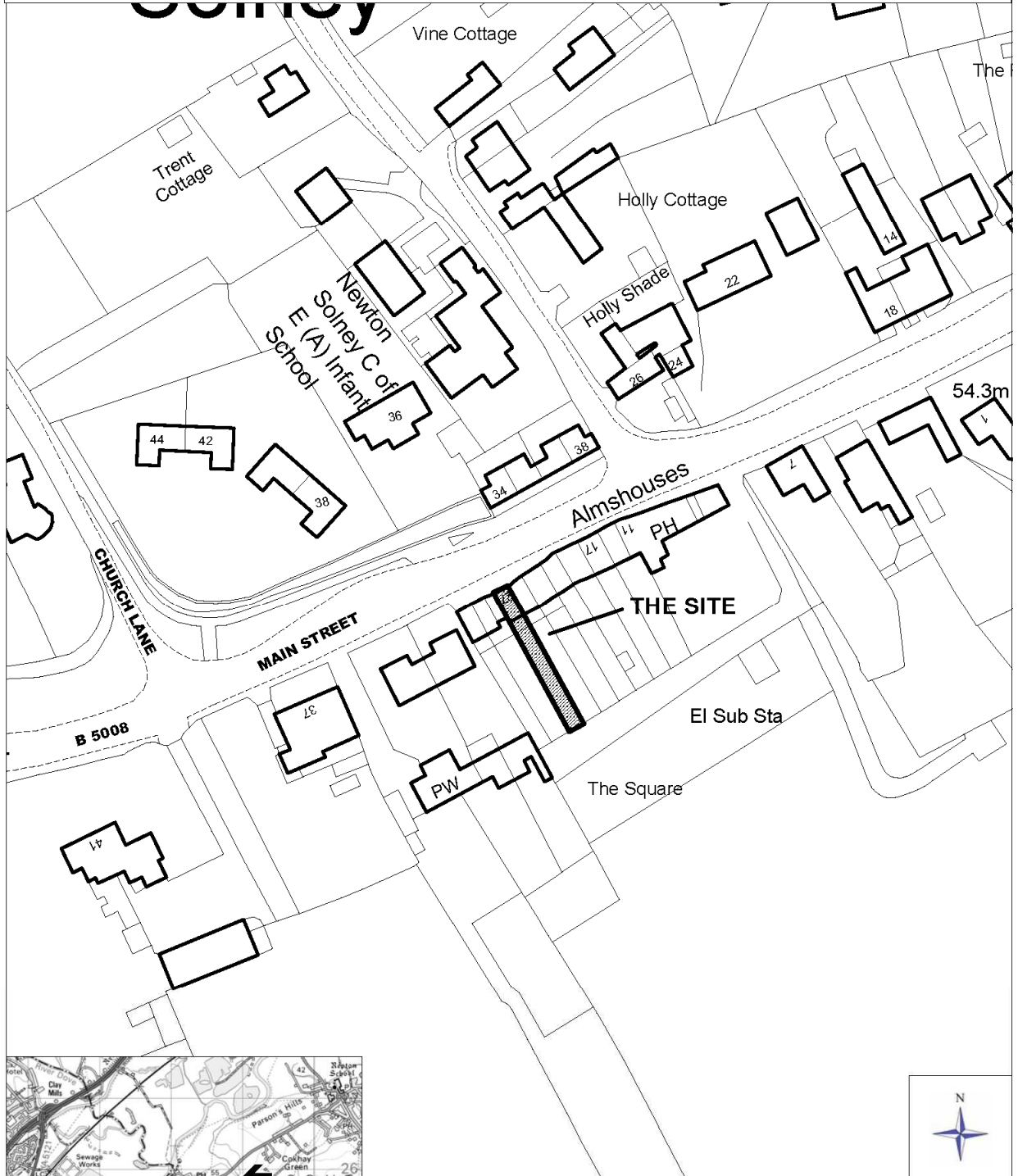
The application property is a 19th Century 2-storey former workers cottage in a long terraced row. The building is of white painted brickwork and tile construction with an existing single storey flat roofed extension to the rear in render. The first floor bathroom extension to the rear is a 1970s addition.

The property is located within the local service village and conservation area of Newton Solney on the main thoroughfare through the village. The property has been identified as a building that contributes positively to the special architectural or historic character of the conservation area in the 2011 Adopted Newton Solney Conservation Area Character Statement.

Proposal

The application seeks planning permission for the erection of a 2-storey extension with an attached single storey flat roofed extension to the rear of the property. The proposal includes the demolition of the existing rear single storey flat roofed extension.

9/2017/0155 - 27 MAIN STREET, NEWTON SOLNEY, DE15 0SJ



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Following advice from the Council's Conservation and Heritage consultant amended plans were received on 3rd April 2017 showing a break in the roof ridge at the point of the building line of the existing single storey rear extension.

Applicant's supporting information

The Agent has submitted a Design and Access Statement that covers the following:

- The existing dwelling, which consists of a ground floor living room and kitchen with low ceilings and a single double bedroom and a bathroom at first floor level, is in a poor condition and is in need of renovation and extension to meet modern day living standards. There are no changes proposed to the front of the property and the traditional vernacular street scene will remain unaltered.
- Newton Solney is a small, predominantly residential, village which is a desirable place to live due to its size and aesthetic appeal.
- The development will provide an opportunity for the employment of local tradesmen and the utilisation of local suppliers and manufacturers in its construction.
- The proposed rear extensions will replace the existing flat roof extension and existing areas with low ceilings to create a much higher quality dwelling. The proposed works will provide vital additional living space and a second bedroom.

Design Principles

- The existing gross area of the site is approximately 106 square metres with the existing building being approx. 37sq.m. The new extension will create an additional 18sq.m of building footprint.
- The existing living room will remain unchanged and the existing kitchen will be removed to allow for a new downstairs WC, dining area, kitchen and sitting area in an open plan layout.
- The existing bathroom and bedroom will be altered to allow access to the new rear bedroom. Level access will be created for easier use of the bathroom.
- The proposed extensions have been designed to be subordinate to the existing roof ridge and to not impact on the front street scene. The existing ridge and eaves heights are approximately 5.93m and 3.51m respectively. The new 2-storey extension's ridge and eaves heights are 5.82m and 3.97m from finished floor level.
- The new walls will be constructed in red facing brick and roof tiles will match the existing. It is worth noting that this type of extending work has been carried out on a number of neighbouring properties.
- Aside from where the new extensions are being constructed, the landscaping layout will remain as existing.

The site is within a short distance of the A50 and A38, which are major commuter roads. Newton Solney itself has good facilities and a wider range of services are

located in nearby Burton on Trent as well as Swadlincote and Derby, both a short distance away.

Planning History

There is no planning history for the site.

Responses to Consultations

Newton Solney Parish Council has commented that the extension is out of proportion, overbearing and there is a possible loss of light.

Responses to Publicity

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

- a) The proposed extension is not in-keeping with the rest of the cottages in this row and the proposed two storey extension exceeds the build line of any other property on the row. There will then be an additional single storey extension which will also be further beyond that line.
- b) Objector has concerns that the proposed extension encroaches on the existing path, which whilst being part of No. 29's property gives shared access to the rear of the row of cottages along it and through the entry (also part of No. 29 land registry deeds).
- c) If the proposed plans are approved as they stand will this then set a precedent if someone in the future wished to do the same at No. 29, which would then impact hugely on the objector's privacy and light as it would be far beyond the current 'build line' along the row.
- d) The extension is overbearing and out of proportion to the size of the property (the smallest 1 bedroom cottage in the row). In its current guise it would protrude beyond any other 2-storey extension in the row, not be in-keeping, is a particularly unsightly build and would set a precedent for further overbearing for other properties. The total additional gain would be approx. 2.5 metres from the original rear wall.
- e) There is an entry between 27 and 29 and a path that runs all the way up to access the rear of the properties. Whilst this is part of the land registry deeds for No 29 it benefits all of the neighbours in the row with shared access, has done for the last 14 years and the objector believes was in shared use long before that. The planned extension appears to encroach on the path taking some of it away.
- f) The objector has concerns as to what permissible access would be required onto their property to do the works. Also what requirements would be necessary for future maintenance of walls, roof and guttering between the two properties (No's 25 and 27) - how will the new build be tied in to the objector's cottage? What measures are being put in place to prevent any problems and/or structural damage in the 'gap' between the two buildings should the application be successful?
- g) Is any indemnity insurance being purchased by the owner of No. 27 to guarantee all party walls are not compromised?

- h) The drains run along the back of the properties, down the entry and enter the mains on the frontage. Will these be adequately protected from damage and debris whilst foundations are being dug? Will they be in the way, depending on the depth of the foundations required?
- i) The plans make no consideration of the loss of light or overbearing of the objector's habitable ground floor i.e. there is no 45 degree line demarcation on the existing or proposed plans from the middle of the objector's kitchen window which will be hugely compromised and affected by loss of light caused by a 2-storey extension. This appears to have been considered from No. 29 and is shown on the existing plan but has been omitted from the proposed plans so again is unclear as to whether or not will cause any detrimental effect. In the objector's opinion, overlaying the two plans, the proposed build does encroach into this space also.
- j) Affordable housing and opportunities for first time buyers seems to be a hot topic recently, with increasing costs of properties contributing to the housing shortage, particularly in rural villages such as Newton Solney. It is nonsensical to elevate this property further out of the reach of first time buyers when replacement 1 bedroom or affordable dwellings will need to be built elsewhere, most likely Greenfield sites. A 2-storey extension would be more in-keeping if it was restricted to the existing build-line of other properties in the row i.e. built up not out from the existing flat roof, with the addition of any single story extension to again not be permitted beyond anything else that is already in situ at this level along the row.
- k) The extension is out of proportion and overbearing. There is a possible loss of light.
- l) The rear garden path is in the objector's ownership and on their Title Deeds. The proposed plan clearly encroaches onto this path and it would be necessary to re-route it onto the objector's garden, which is strongly objected to. There is right of way only for the adjoining properties on either side.
- m) The objector's property extends over the entry from the front to join the bedroom walls of 27. The objectors would need an insurance to cover any structural damage caused during any demolition and reconstruction.
- n) The proposed extension is too long and extends beyond the existing building line.
- o) The objector questions the size with regard to permitted development percentages as No. 27 is the smallest house in the street. This development exceeds the size permitted in relation to the size of the garden.
- p) The drainage under these properties is very shallow and footings excavation would need to take this into account with detailed surveys taken beforehand.
- q) The 45 degree angle from the centre of our kitchen window is drawn on the existing plan but not on the proposed development because this angle is severely breached by the new extension, this is not acceptable.
- r) The objectors have no objection to the building of an extension to number 27 that is in keeping with the size of the original property and in keeping with the conservation area. It is felt that the proposed development is too big and does not take into consideration existing rights of way, deprivation of light to 25 and 29 and the nature of existing drainage.

- s) The entry and garden path belong to No. 29 as shown on Title Deeds, not to No. 27 as seems to be the case from planning drawings. And there is a Right of Way over this for the three properties. Due to an unresolved boundary dispute with the previous owner the boundary has already been encroached and it is felt that the proposed extension is going to further encroach this boundary.
- t) The 45 degree line is not shown on proposed drawings and from calculations it seems as if the new building would further encroach the path.
- u) The windows at path level in one storey part of extension are too close to the path and as Title Deeds state no fence is to be erected on shared access I think they are dangerous.
- v) The drains are also very shallow and run underneath all the properties and meet in the entry and the down to the mains in the road. Would they be protected during works and building?
- w) The extension is far too large and not in keeping with the other properties as it comes much further forward than their building lines. It also blocks a lot of light from No.29 and No.25. A much smaller extension would be more acceptable and more pleasing to look at.
- x) I have photographs, survey and Title Deeds if you need to look at them regarding boundary.
- y) This is one of the smaller houses on the row and an increase as requested would seem totally out of character with the remainder.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: Policy S2 (Presumption In Favour of Sustainable Development), Policy SD1 (Amenity & Environmental Quality), Policy BNE2 (Heritage Assets – A(i) Conservation Areas)
- 1998 Local Plan (saved policies): Housing Policy 13 (Residential extensions), Environment Policy 12 (Conservation Areas)

Emerging Development Plan Policies

The relevant policies are:

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

National Guidance

- National Planning Policy Framework (NPPF) paragraphs 6-10 (Achieving sustainable development), paragraphs 11-14 (The presumption in favour of sustainable development), paragraph 17 (Core principles), paragraphs 56, 57, 58 and 61 (Requiring good design), Chapter 12 (Conserving and enhancing the historic environment), paragraphs 186 and 187 (Decision-taking), paragraphs 196 and 197 (Determining applications) and paragraphs 203-206 (Planning conditions and obligations) and Annex 1 (Implementation)

- National Planning Practice Guidance (NPPG) – ID:21b-006 and ID:21b-014 (determining an application), ID:26 (good design), ID:18a-001 and ID:18a-018 (historic environment)

Local Guidance

- Extending your Home Supplementary Planning Guidance (SPG) – May 2004
- Newton Solney Conservation Area Character Statement (CACS) – Adopted 2011

Planning Considerations

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

- The impact of the proposal on the character of the existing house and the character and appearance of the conservation area; and
- The impact of the proposal on the amenities of the neighbouring properties.

Planning Assessment

The impact of the proposal on the character of the existing house and character and appearance of the conservation area

The proposed extensions, as amended, would be to the rear of the existing building and as such there would be no impact on the existing street scene or the publically visible character and appearance of the conservation area.

The rear of this row of properties has a mix of styles especially where new 2-storey extensions have been built and as a result there is no uniform character. The rears of the properties are accessed via an un-adopted private dirt track and there are no public footpaths within the vicinity (the nearest one is approximately 200m to the south of the site). As such, the proposed extensions, as amended, would not be readily visible from the public realm and would not have an adverse impact on the character and appearance of the conservation area.

The amended proposal would be acceptable in visual terms and would be in keeping with the other 2-storey gabled form of extensions already permitted along the back of this row. As such there would be no harm to the general character of the area or the heritage asset (conservation area) in line with the requirements of Saved Housing Policy 13 and Environmental Policy 12 of the 1998 Adopted Local Plan and emerging Policies H27 and BNE10 of the Submission Local Plan Part 2.

The impact of the proposal on the amenities of the neighbouring properties

Existing floor levels between the application property and the neighbour to the west (29) are relatively flat with the neighbour to the east side (25) being at a slightly lower level. The original rear garden levels along the whole row would appear to have been at ground floor window cill level which can still be seen at the rear of 29 Main Street and a number of the properties in this row, including the application site, have

excavated the garden levels immediately to the rear of the buildings to be in line with internal floor levels of the buildings.

Previous rear additions along this row have been kept to a uniform building line which coincides with the single storey rear ranges. Although the proposal, as amended, would extend beyond this line, the slightly lowered 2-storey element would still conform to the Council's SPG with regard to overshadowing i.e. the proposed extension would not breach the 45 degree line drawn from the centre of the nearest ground floor 'primary' windows of both of the adjoining neighbours, and as such it would be difficult to sustain an argument that the proposal, in its amended form, would overbear on these neighbours.

The Council's SPG advises that single storey extensions should be decided on their own merit with regard to preserving privacy between neighbours. The southwest facing window in the proposed single storey garden room would look directly onto the neighbour's garden as its cill height would be at the existing path level. There are no boundary treatments between the gardens of No's 27 and 29 and it would therefore be expedient to condition that this window be obscure glazed and non-opening in order to preserve privacy and to not obstruct the existing shared pathway.

The proposal, as amended, would therefore be in conformity with the requirements of the Council's SPG (Extending your Home), Saved Housing Policy 13 of the 1998 Adopted Local Plan and emerging Policy H27 of the Submission Local Plan Part 2 with regard to preventing overshadowing and preserving privacy between the application property and the adjoining neighbours.

Other issues raised through public consultation

Issues raised with regard to permissible access, rights of way and neighbour disputes are civil matters between the affected parties and would not be planning considerations. The Party Walls etc. Act 1996 provides a framework for preventing and resolving disputes in relation to party walls, boundary walls and excavations near neighbouring buildings.

The Agent has submitted a H.M. Land Registry title plan for 27 Main Street which shows the land ownership line running straight up the garden in line with the width of the property and which excludes the covered entry and path. The amended plan shows the width of the extension as being the same as the width of the existing house and as such the proposed development would be contained within the red ownership line submitted on 3rd April 2017.

Drainage issues would be dealt with under separate legislation. Approved Document H - Drainage and Waste Disposal (2015 edition) gives detailed advice on how to comply with Building Regulations.

Condition A.1(b) of Class A of Part 1 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 states that planning permission is required if, as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the

ground area of the original dwellinghouse). This is a trigger point for the need to apply for planning permission rather than a restriction on the amount of garden area that can be built on.

The amended proposal would conform to Policy SD1 of the 2016 Adopted Local Plan Part 1 in that it would not lead to adverse impacts on the environment or amenity of existing and future occupiers within and around the proposed development.

The proposal would conform to the requirements of the NPPF and the NPPG and with Policy S2 of the 2016 Local Plan Part 1 in that planning applications received by the Council that accord with the policies in the Local Plan Part 1 (and where relevant, with policies in neighbourhood plans) will be dealt with positively and without delay unless material considerations indicate otherwise.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with drawing numbers 04 and 05, received on 3rd April 2017; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

3. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless prior to their incorporation into the development hereby approved, alternative details have been first submitted to and approved in writing by the Local Planning Authority.

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

4. 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 single storey garden room extension in the southwest facing elevation shall have no opening light(s) below 1.7 metres from the finished floor level of the room it serves, shall be glazed in obscure glass before the

extension is occupied, and shall be permanently maintained thereafter as such.

Reason: To avoid overlooking of adjoining property (29 Main Street) in the interest of protecting privacy.

Informatives:

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

09/05/2017

Item 1.5

Ref. No. 9/2017/0369/B

Applicant:
Marcus Radcliffe
The Walnuts
Ingleby Road
Stanton-By-Bridge
Derby
DE73 7HU

Agent:
Marcus Radcliffe
The Walnuts
Ingleby Road
Stanton-By-Bridge
Derby
DE73 7HU

Proposal: THE VARIATION OF CONDITION 4 OF PLANNING PERMISSION REF: 9/2013/0759 TO USE THE FLOOD LIGHTS THROUGH THE NIGHT BEYOND 9.30PM FOR ONE EVENT A YEAR AT MELBOURNE SPORTS PAVILION COCKSHUT LANE MELBOURNE DERBY

Ward: MELBOURNE

Valid Date 06/04/2017

Reason for committee determination

This item is reported to the Committee as the proposal would be carried out on land that belongs to the Council.

Site Description

The site is an all-weather pitch located more or less centrally within the Melbourne Sports Park complex at Cockshut Lane.

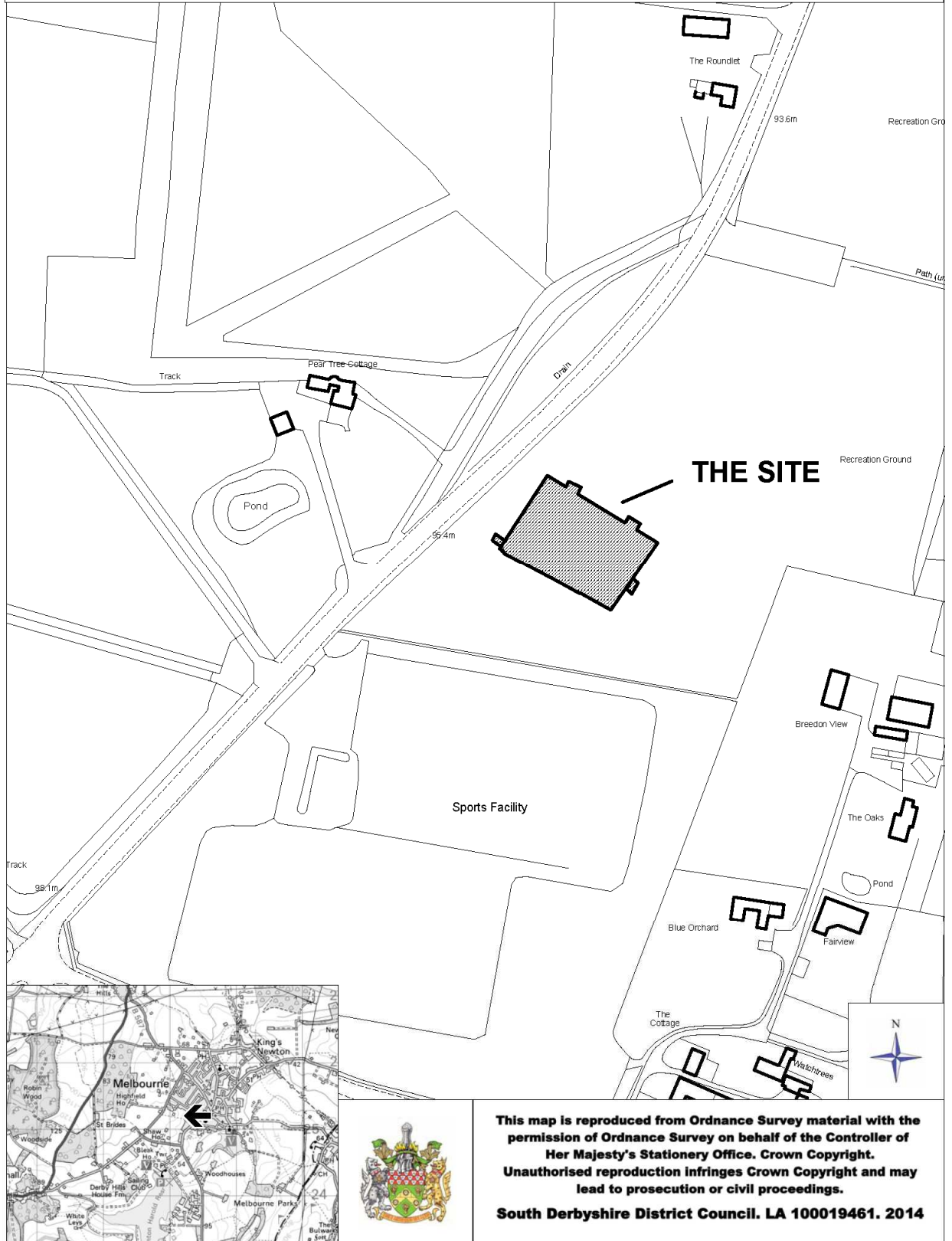
Proposal

The application proposes to vary a planning condition that presently requires floodlights to be turned off at 9.30pm, to permit overnight operation of the lights once a year.

Applicants' supporting information

Permission to use the floodlights overnight would enable the applicant's son to undertake a charity football match, using the all-weather pitch. This year the match would take place on 27th-28th May.

9/2017/0369 - SPORTS PAVILLION, COCKSHUT LANE, MELBOURNE, DE73 8DG



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Planning History

Committee granted planning permission 9/2016/0238 at its meeting on 21 March 2017. That permission relates to conditional control affecting floodlighting and hours of use for the entire playing fields. It also allows use of the playing fields beyond normal hours once a year.

However the all-weather pitch also has its own separate planning permission and Condition 4 controls the floodlights specific to that pitch. This is the part of the site that the applicant wishes to use, hence the current application.

Responses to Consultations

The Environmental Health Manager raised no objection to the previous proposal.

Responses to Publicity

Melbourne Civic Society has no objection. Any responses received within publicity period will be assessed and reported verbally.

Development Plan Policies

The relevant policies are:

- South Derbyshire Local Plan Part 1 2016: S2 (Presumption in Favour of Sustainable Development), INF6 (Community Facilities) and INF9 (Open Space, Sport and Recreation).

National Guidance

- National Planning Policy Framework (NPPF): Paragraphs 6-10 (Achieving sustainable development), paragraphs 11-14 (The presumption in favour of sustainable development), paragraph 17 (Core principles) and Chapter 8 (Promoting Healthy Communities).
- National Planning Policy Guidance (NPPG): ID53.

Planning Considerations

The main issue central to the determination of this application is:

- Impact on the living conditions of near neighbours.

Planning Assessment

To all intents and purposes the main issue has already been considered through the grant of planning permission 9/2016/0238, enabling use of the whole Melbourne Sports Park site overnight. However the specific permission for the all-weather pitch, and its floodlights, necessitates a further consent.

While there is potential for limited disturbance to the locality by way of noise and light, this is unlikely to reach an unacceptable level. This minimal impact is balanced by the social benefits of facilitating a worthwhile charity activity. As such there is no conflict with the relevant Local Plan policies or the objectives of sustainable development.

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

Recommendation

GRANT permission subject to the following conditions:

1. Subject to Conditions 2 & 3 below the floodlights shall be retained and maintained in accordance with the submitted Lighting Impact Statement, until such time as they may be removed from the site.

Reason: In the interests of the appearance of the area and to protect residential amenity and highway safety.

2. All external light sources shall be shielded from highway traffic.

Reason: To prevent danger to road users.

3. With the exception of one occasion in any calendar year the floodlighting shall be turned off no later than 9:30pm and shall not be turned on again until the following afternoon.

Reason: To preserve amenity.

Informatives:

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

09/05/2017

Item 2.1

Ref. No. 9/2017/0170/OX

Applicant:
Executors Of Peter Jackson Dec.
C/O The Estate Office
Staunton Harold
Melbourne Road
Ashby De La Zouch

Agent:
Mr Andrew Large
Andrew Large Surveyors
The Estate Office
Staunton Harold Hall
Melbourne Road
Ashby De La Zouch
LE65 1RT

Proposal: OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS AND LAYOUT TO BE RESERVED) FOR THE DEMOLITION OF EXISTING BUILDINGS AND THE ERECTION OF 6 DWELLINGS AT LAND TO THE REAR OF 230 STATION ROAD MELBOURNE DERBY

Ward: MELBOURNE

Valid Date 24/02/2017

Reason for committee determination

The item is presented to Committee at the request of Councillor Hewlett as local concern has been expressed about a particular issue and that the committee should debate the issues of the case which are finely balanced.

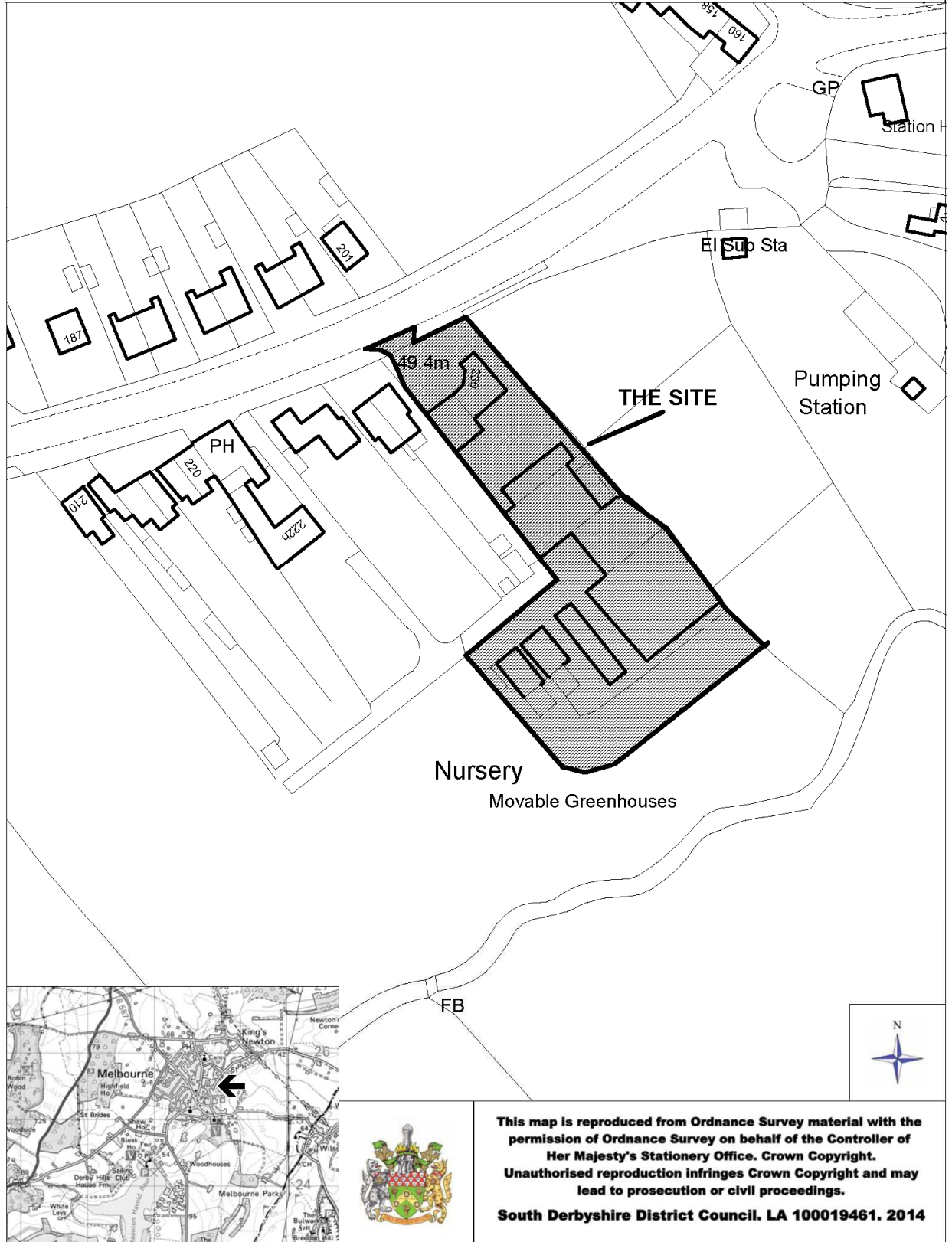
Site Description

The application site extends to approximately 0.37 hectares, located to the north east of Melbourne to the south of Station Road. The site was formerly a nursery commercially growing flowers and vegetables. There is an extensive range of greenhouses and more substantial portal framed agricultural buildings within the application site.

The site includes the existing dwelling at 230 Station Road, and is bound to the north by Station Road, to the north-west by the existing Station Road ribbon housing and their gardens, agricultural fields lie to the east and west, with the Carr Brook to the south of the site.

For the purposes of decision making the site is considered to be greenfield (being in agricultural use) and located within the countryside.

9/2017/0170 - 230 STATION ROAD, MELBOURNE, DE73 8BQ



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Proposal

The application seeks outline planning permission for the residential development of the site for 6 dwellings, with all matters save for access and layout reserved for future approval. Vehicular access to the site is proposed from Station Road, and would require the demolition of the existing detached double garage of No 230.

The layout submitted details the provision of 6 new dwellings; a pair of semi-detached dwellings fronting the access road to the side of 230 and 228 Station Road, with detached double garages serving 230 Station Road and plot 2. Plots 3 – 6 form a small courtyard centred around a paved area akin to a farm yard arrangement.

Applicant's supporting information

The Design and Access Statement sets the physical, social and economic context of the site. The benefits of the development are outlined in the context of the NPPF, PPG and the local plan. The statement highlights the support that the proposal would give to the services of Melbourne in close proximity, the developments contribution to housing supply, and the previously developed nature of the site. The 'Fall Back' position in relation to two elements has been raised in relation to Class Q and Class R, firstly that two of the more substantial buildings on the site could be converted in to new dwellings under Class Q, and that up to 500 sq.m of the existing buildings could be converted to commercial (likely B8) use.

A letter has been submitted from a local commercial agent which considers the site inappropriate for commercial use, for 8 reasons set out in the letter. These relate to the residential nature of the area, the unsuitable access, the availability of alternative industrial units, and the costs of re-development of the site.

The applicant has referred to a number of Appeal Decisions, which relate to the re-development of garden centre or nursery sites. Officer Comment: These decisions relate to various sites or various situations, none of which are considered to resonate directly with the current scheme and as such have been given little weight in the determination of this application.

The Preliminary Ecological Assessment and Daytime Bat Survey considers the proposal would not impact on any nearby SSSI sites due to their proximity to the site. The habitats present within the site are considered to be well represented locally, have low species diversity or can be suitably replaced within the new development. Inspections of the buildings revealed that bats are not currently roosting within the buildings. The on-site habitats are not considered suitable to support great crested newts, reptiles or white clawed crayfish.

The Noise Assessment notes that the main source of noise affecting the site is aircraft over-flights as the site lies close to the flight path for East Midlands Airport. The assessment found that with suitable design specifications such as roof insulation, appropriate roof tiles, thick insulated ceilings and suitably specified double glazing, internal noise levels suitable for the protection of residential amenity would be achieved.

Planning History

None relevant to the current application.

Responses to Consultations

The Highway Authority has no objections in principle but note that no information has been submitted in respect of waste collection. This is subject to conditions relating to construction access, a CMP (including wheel washing facilities), completion of the site access and parking areas, and details of bin storage and collection.

The Environment Agency has no comments on the proposal.

The Pollution Control Officer has no objections in principle but recommends the inclusion of planning conditions relating to the construction phase of the development.

The Contaminated Land Officer has no objection or comments on the proposed development.

East Midlands Airport has no objection to the proposed development subject to conditions relating to external lighting, the use of cranes, and heights of buildings.

Severn Trent Water has no objection to the proposed development subject to a condition requiring the submission of a drainage scheme.

Derbyshire Wildlife Trust considers that the surveys undertaken are adequate in order for the application to be determined. The mitigation measures outlined in the submitted report are supported, with the addition of bird and bat roosting opportunities provided within the dwellings. Conditions are recommended relating to the timing of works, the safeguarding of hedgehogs, a lighting strategy, and an ecological enhancement plan.

Responses to Publicity

Melbourne Parish Council has no objection to the proposal.

Melbourne Civic Society raises a number of concerns, relating to the following and recommend refusal of the application;

- a) The site is outside the settlement boundary, and is a further encroachment in to open countryside, which appears to be within the flood plain of the Carr Brook;
- b) This is an urban scheme, with large paved areas and small gardens, which is not in keeping with a rural edge site and has all the aspects of 'town cramming';
- c) If this location is classed as brownfield then virtually any redundant polytunnel could create brownfield in its wake.
- d) This could open up further land for re-development to the rear of other properties in the area.

Fifteen letters of comment / support have been received which raise the following points;

- a) This rundown area would benefit from new housing to get rid of old derelict buildings and gives Melbourne more housing without encroaching on green belt land;
- b) The site is within walking distance of local amenities and will improve the outlook for local residences;
- c) The replacement of unsightly buildings with quality homes would improve the landscape which must weigh heavily in favour of this scheme, and it is strongly supported;
- d) More pleasing to the eye than a few dilapidated sheds;
- e) The application satisfies the policy requirements of BNE5 having no undue effect on the surrounding landscape, only a positive impact;
- f) More schemes like this should come forward rather than on open fields;
- g) The Council's housing supply figures are under threat with over optimistic build out rates being successfully challenged at appeal, with or without housing supply targets being met the scheme would improve rather than spoil the landscape.

Six letters of objection have been received, raising the following points;

- a) The site lies in the open countryside, and is not justified as the proposal does not fall within one of the exceptions to normal policy. The proposal is contrary to policies H1, EV1, H6, H8, H25, BNE5 and the NPPF.
- b) The dwellings would negatively affect the character and setting of the area through intrusive design, orientation and scale. The area is currently characterised by linear development and the proposal would result in negligible public benefits. The proposal is therefore contrary to policies BNE1 and BNE10, and the emerging Melbourne Parish Council Neighbourhood Plan policies HP1 and OS4 i.e. only limited infill should be allowed, with no new homes built in the fields around Melbourne and Kings Newton and not on agricultural land;
- c) Some concern about the legal ownership of part of the land;
- d) Impact on the residential amenity of 228 and 230 Station Road as a result of the access drive;
- e) Ability of the owners of 224 to access their garage, and manoeuvre safely to the rear garden;
- f) Concern that adequate visibility splays cannot be provided due to on-street parking;
- g) Previous refusal of permission for the conversion of a garage at 226 Station Road;
- h) Limited weight of the fall back for the conversion of the buildings to residential use;
- i) The proposal does not meet the special circumstances that would justify development in the countryside;
- j) The courtyard style character is at odds with the character of the area;
- k) Overlooking and overbearing impact on existing dwellings;
- l) Concern about drainage in the area and a request that Severn Trent Water are consulted;

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport).
- 1998 Local Plan (saved policies): H5 (Village Development), H8 (Housing Development in the Countryside), EV1 (Development in the Countryside), EV9 (Protection of Trees and Woodland), and EV11 (Sites and Features of Natural History Interest).

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: SDT1 (Settlement Boundaries and Development); BNE5 (Development in the Countryside); and BNE7 (Trees, Woodland and Hedgerows).

National Guidance

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)

Paras 11-14 (The presumption in favour of sustainable development)

Para 17 (Core principles)

Section 4 (Promoting sustainable transport)

Section 6 (Delivering a wide choice of quality homes)

Section 7 (Requiring good design)

Section 11 (Conserving and enhancing the natural environment)

Paras 186 & 187 (Decision-taking)

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

Para 196 & 197 (Determining applications)

Paras 203-206 (Planning conditions and obligations)

Annex 1 (Implementation)

National Planning Practice Guidance, in particular:

ID26 (Design)

ID8 (Natural environment)

ID30 (Noise)

Local Guidance

- Housing Design and Layout Supplementary Planning Guidance (SPG)

Planning Assessment

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

- The principle of development;
- Landscape and visual impacts;
- The site layout; and
- Highway safety:

Planning Assessment

The principle of the development

As members will be aware planning applications must be determined in accordance with the development plan unless there are material considerations that indicate otherwise. Following the adoption of the Local Plan Part 1 (LP1) the Council is in a position to be able to demonstrate a 5 year housing supply, currently standing at 5.33 years for the period 2017 – 2021 as accepted in recent appeal decisions. Therefore the housing policies making up the development plan are up to date for the purposes of decision making and carry full weight. As such, new residential development should be directed to the most sustainable sites within the District (i.e. those allocated within the Local Plan or sites within the defined settlement boundaries).

Policy H1 of the LP1 sets the settlement hierarchy and identifies Melbourne as a Key Service Village (KSV) (the nearest settlement to the application site) where development outside the settlement boundary is not supported unless development is adjacent to the settlement boundary and constitutes an exception or cross subsidy site (i.e. an affordable dwelling led scheme of not greater than 25 dwellings) as assessed against policy H21. The application site is well outside the settlement boundary (both existing and proposed in the emerging Local Plan Part 2 (LP2)), and the proposal is not an exception or cross subsidy site and is therefore not supported in principle by policy H1. This approach is reflective of saved policy H5 of the 1998 Local Plan (LP98) which seeks to restrict new housing development to existing village confines.

Policy EV1 of the LP98 states that outside settlement boundaries new development will not be permitted unless it is essential to a rural based activity or unavoidable in the countryside, and the character of the countryside is to be safeguarded and protected. The proposed development does not meet the criteria for being considered favourably under policy EV1 because the proposal is considered to be avoidable on the basis that the housing policies in the LP1 and LP98 are now considered up to date by virtue of sufficient housing land having been allocated in order to secure the necessary housing delivery to meet the needs of the District.

The applicant has raised the prospect of the 'fall-back' position in relation to Parts Q and R of the GPDO for the conversion of two of the more substantial buildings in to dwellings, and up to 500sq.m. of the buildings converted in to commercial use (likely

to be B8). The weight to be given to these fall-back position needs to be considered as to whether the conversion of buildings on the site to dwellings and/or commercial use would have lesser impact than that which is proposed within the application and what the realistic possibilities of the fall-back positions being implemented are. The scale of the development in residential terms exceeds two dwellings that could potentially be provided under Class Q albeit of a more planned nature, and as such the fact that there is a hypothetical fall back that could allow two dwellings on the site would not justify an in principle acceptance of the site's wholesale redevelopment for 6 residential units. In terms of the commercial use of the site, following the advice provided by the applicant's commercial agent (detailed above) it is unlikely that the commercial re-development of the site would be attractive to the market or viable. The above coupled with the fact that a number of the buildings on site would need to be demolished to facilitate the provision of an access road in to the site leads to the conclusion that the fall-back position in this case, whilst a material consideration, is one which should be given relatively limited weight, especially as no scheme for either proposal has been submitted or considered.

The site, having previously been in use as a nursery, falls within the definition of agriculture. Therefore even though the site is occupied by a number of glass houses and other buildings it falls to be considered as greenfield, outside the development boundary. In conclusion the application site is located outside the defined settlement boundary for Melbourne, with no special circumstances that would warrant policy support for the proposal in principle and as such the proposal would not be acceptable development in the countryside.

Landscape and visual impacts

There are a number of policies which are relevant to this assessment. Indeed the objectives of the LP1 and the LP98 are clear that new developments need to protect and enhance the countryside and the quality of the landscape, and preserve the identity, character and environmental quality of South Derbyshire's villages and rural settlements. Policy S1 of the LP1 highlights that "it is essential that the District's heritage assets, landscape and rural character are protected, conserved and enhanced". Policy BNE1 seeks, amongst other objectives, to ensure that new developments create places with locally inspired character that responds to their context and have regard to valued landscapes, townscape, and heritage characteristics. With new developments expected to be visually attractive, appropriate, which respect important landscape, townscape and historic views and vistas. Landscape character and local distinctiveness considerations are further set out in policy BNE4. This policy seeks to protect the character, local distinctiveness and quality of the District's landscape through careful design and the sensitive implementation of new development.

Aside from the principle of development, policy EV1 states that new development in the countryside would need to safeguard and protect the character of the countryside, landscape quality, wildlife and historic features. The policy goes on to state that where development is permitted it should be designed and located so as to create as little impact as practicable on the countryside. Emerging policy BNE5 reflects these aims.

In order to understand whether the site has value in its current form this value needs to be understood. The site is currently occupied by a variety of redundant agricultural buildings, which appear to have been unused for a number of years and are in a poor state of repair. The buildings directly to the south-east of 230 Station Road are primarily lightweight glass houses of modest height, with a number of portal framed agricultural style buildings to the south-west of the site. In their current state of repair these buildings are not attractive features of the landscape, but agricultural buildings such as these are not uncommon features within the countryside.

The site is generally visually contained to the north by the existing linear development along Station Road with views of the site being primarily restricted to those from Station Road, and Melbourne FP11 to the west of the site. The site's restricted visibility is aided by the topography of the area, with the site being set at a lower level than Station Road itself. As such whilst the existing buildings on the site are not attractive per se they are not such prominent features within the landscape to be considered as being harmful, although their removal would result in a degree of visual improvement to the site which weighs slightly in favour of the proposed development.

The application seeks approval of the proposed layout as part of this outline submission. The layout proposes the formation of a small cul-de-sac, with a pair of semi-detached dwellings fronting the access road to the side of 230 and 228 Station Road, with a terrace of 3 dwellings forming a small courtyard centred around a paved area akin to a farm yard arrangement.

The re-development of the site provides for an overall reduced building footprint, which draws the built form away from the north-eastern edge of the site where an area of private amenity space is proposed. However to the south-east of the site the bulk of the proposed development extends well beyond the footprint of the existing glasshouses and buildings with associated amenity spaces extending further to the south-east and south-west expanding the site beyond its current built envelope.

The site layout by virtue of its depth, and backland nature extends well beyond the existing grain of development in the area. Along Station Road in the immediate vicinity the area is characterised by inter-war ribbon residential development, which is primarily single plots which give a built form tight to the road. The proposal would provide a cul-de-sac which would extend well beyond the existing built form such that it would harm the character of the area both in terms of the grain of development and also extending and altering the character of the visual envelope of site, from its current agricultural nature to a permanent and domestic built form extending well beyond the established linear pattern of development of this part of Station Road.

Whilst the submitted statement includes mention of the provision of landscape buffers to the east and west of the site this does not appear to have been transposed to the layout plan submitted, and in any event the addition of buffer areas is not considered to mitigate the harm that would be caused through the introduction of new permanent built development in this location as discussed above.

Highway safety

Vehicular access to the site is proposed from Station Road in-between Nos 230 and 228 and would involve the demolition of the existing detached garage serving 230 Station Road. The existing access would be realigned and widened to provide sufficient width for vehicles to pass. The application demonstrates that 2.4m x 43m vehicular visibility splays can be achieved from the site entrance in both directions. In terms of parking provision, each of the dwellings providing for parking for a minimum of 2 cars, which is considered to be of a sufficient level for the development proposed, although how the car parking areas would be allocated is unclear from the submitted plans.

Given the above and the lack of objection from the Highway Authority the proposals subject to the imposition of suitable conditions are considered to comply with policy INF2 and the requirements of the NPPF and as such are acceptable in highway safety terms.

Other Issues

Biodiversity; Policy BNE3 states that planning proposals that could have a direct or indirect effect on sites with ecological or geological importance, and where mitigation measures cannot sufficiently offset the significant harm resulting, should be refused. Policy EV11 seeks to afford similar protection of biodiversity interests, whilst paragraph 109 requires impacts on biodiversity to be minimised and net gains provided. Paragraph 118 aims to conserve and enhance biodiversity. No evidence of the sites continued use by protected species was evident on site, with surveys indicating that bats only use the site for foraging and commuting. A sensitive lighting strategy which prevents light spill on to the adjacent hedgerows is recommended to conserve these interests. It is noted that no objection has been raised by Derbyshire Wildlife Trust and hence the impact on biodiversity is considered to be appropriate in principle.

Residential amenity; From the submitted layout it appears that the proposal would comply with the separation standards set out in the SPG due to the orientation of the existing and proposed dwellings and the distance of existing habitable windows to the site boundaries. However, as no specific details in terms of the house designs are known at this stage, a further assessment of potential overshadowing, overbearing, overlooking and loss of privacy would need to be undertaken at the reserved matters stage during consideration of the appearance and scale of the development. However the impact on the amenity of existing residential properties on Station Road, is not likely to be significant

Conclusion

Matters of highway safety, biodiversity, and impacts on residential amenity are considered to be acceptable, subject to conditions where necessary and a detailed assessment of the remaining reserved matters. It is not in doubt that the proposed development would have some economic, social benefits through occupiers of new dwellings supporting businesses and community facilities in Melbourne; there would be some economic benefits through the construction phase of the development; and the demolition of the existing rather dilapidated buildings on the site would have some, albeit limited, environmental benefits.

However, the application site is located outside the defined settlement boundary for Melbourne, with no special circumstances that would warrant policy support for the development of the site and in principle. The proposed development is considered to be detrimental to the character and appearance of the area by virtue of expanding the existing built envelope of the site, introducing new permanent development on a greenfield site the grain of which would be at odds with the prevailing character of the area.

The proposal is, therefore not considered to be sustainable in overall terms, not least by its failure to conform to the development plan, and the limited benefits of the development are outweighed by the adverse environmental impact of the proposal.

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

Recommendation

REFUSE permission for the following reasons:

1. The site is located outside the settlement confines for Melbourne and does not benefit from an allocation in the Local Plan Part 1 or emerging Local Plan Part 2. With the proposal not benefitting from any other policy presumption in favour, and the Council being able to demonstrate a 5 year supply of housing land; no justification exists in order to merit a departure from the plan-led approach to sustainable delivery of objectively assessed housing needs within the District. The proposed development would therefore represent an unwarranted incursion into the countryside, and does not represent sustainable development in principle. In addition, the application proposes a cul-de-sac form of backland development which would extend well beyond the existing built form of Station Road and the existing built form of the site. As such the proposal would harm the character of the area both in terms of the grain of development and also visually from Station Road and the countryside beyond the site through introducing permanent built development on this greenfield site. The proposed development is therefore in conflict with Policies H1, S1, BNE1 and BNE4 of the South Derbyshire 2016 Local Plan Part 1, Policies H5 and EV1 of the South Derbyshire 1998 Local Plan (saved policies), Policies SDT1 and BNE5 of the Draft (submission) South Derbyshire Local Plan Part 2, and the provisions of the NPPF.

Informatives:

1. Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections. However despite such efforts, the planning objections relate to matters of principle that cannot be overcome. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Item **2.2**

Ref. No. **CD9/2017/0003/CD**

Applicant:
Mr Jeremy Goacher
Derbyshire County Council
County Hall
Smedley Street
Matlock
DE4 3AG

Agent:
Mr Ben Neves
Derbyshire County Council
Corporate Property
Chatsworth Hall
Chesterfield Road
Matlock
DE4 3FW

Proposal: **DEMOLITION OF EXISTING CHILDRENS HOME AND ERECTION OF NEW-BUILD CHILDRENS HOME, LOCATED ON THE OLD FOOTPRINT ALONG WITH RETENTION OF EXISTING OUTBUILDING ON THE CORNER OF THE SITE AND RE-LANDSCAPING OF GARDENS (COUNTY REF: CD9/0317/107) AT LINDEN HOUSE CHURCH STREET SWADLINCOTE**

Ward: **SWADLINCOTE**

Valid Date **29/03/2017**

Reason for committee determination

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

Background

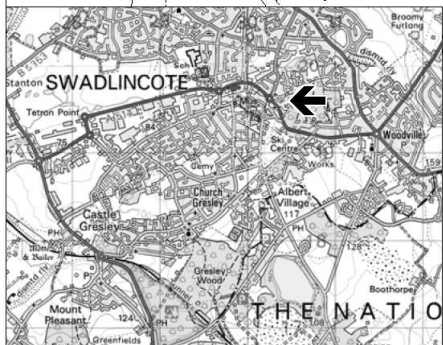
This item is a consultation from the County Council as the County Planning Authority seeking the views of the District Council on the proposal.

Site Description

The site is the Linden House Family Centre, a five children-bedroom, two staff-bedroom children's home which is owned and managed by the County Council. The site is located within the Swadlincote Conservation Area which encompasses the Emmanuel Church and graveyard across the road – a grade II listed building and the buildings to either side – the Angel Inn public house and number 34 Church Street (occupied by a building society and accountants firm).

The existing premises comprise a large domestic plot, set back from the road behind a row of mature limes. There is a single storey outbuilding on the north-eastern corner of the site which backs onto the pavement and neighbouring public house. To

CD9/2017/0003 - LINDEN HOUSE, CHURCH STREET, SWADLINCOTE, DE11 8LF



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the front there is a forecourt which provides car parking for 5 to 6 vehicles. Flanking either side of the home is a timber, close boarded and concrete post 2.0m high fence. There is also a very large mature ash tree in the centre of the rear garden. To the rear of the property is a large garden area, enclosed by mature deciduous trees, beyond which is a small area of informal open space and local authority housing on Drayton Street.

The house is a three storey building with a pitched, hipped roof with a central valley gutter. The roof is tiled with Staffordshire blue plain clay tiles. The original brick walls have been painted white. The original building appears to have a number of extensions added over the years.

Proposal

It is proposed to demolish Linden House and provide a new build children's home in its place. The footprint would not be too dissimilar whilst external patio space would be provided on a terrace. The existing outbuilding to the front would be retained along with all but one existing tree – that removed being a small, isolated lime in the middle of the forecourt. 6 parking spaces would be retained. 4 young adults bedrooms would be provided along with 2 staff bedrooms, as is currently the case.

Applicant's supporting information

A Design and Access Statement (DAS) sets out that it was initially intended to provide a refurbishment scheme to upgrade the property in line with recommendations and criticisms by Ofsted inspectors. The inspectors advised that the home was in need of renovation and should appear as domestic and as close to a typical private home as possible. An Asbestos Survey identified a substantial amount of asbestos in the building, whilst existing services were found to be in need of upgrading/replacement. The structural engineer advised there were significant structural stability issues, settlement cracks in the front, side and rear elevations would need to be addressed and possibly underpinned. The resultant scheme would have meant the building would need to be completely renovated, stripping the building and the roof back to the shell, at substantial cost. Accordingly a scheme to demolish and redevelop the premises was developed. The proposed design has been conceived to be a cost effective solution, with the user requirements, robust specification and the nature of procurement meaning the construction costs are higher than standard typical dwellings. The scheme has been value engineered to reduce the floor area to the essentials. The proposals have been informally considered by the County planning officer who highlighted a number of concerns regarding the proposals in view of the historic context of the Conservation Area, including concerns regarding the demolition of the existing home and the outbuilding, lack of detailing compared to the existing ornate detail, and the need to justify demolition over the option of retention. It is considered that the proposals preserve the historic character of the setting, with the building use being a continuation of the existing usage; the footprint of the new building being the same as the existing, and located within the same position within the site; the massing is similar to the existing; the proposed materials are to replicate the appearance of the existing with pale rendered walls, and traditional tile roofing; and window and door openings being designed to traditional proportions. It is concluded that the scheme is a carefully

considered design which preserves the existing setting and street scene, complies with planning policies and should receive permission.

A Historic Impact Statement (HIS) identifies Linden House and outbuilding on the first OS mapping in its present footprint. The Statement identifies a variety of building periods and materials within the Conservation Area, the majority of buildings appear to have been built around the mid to late nineteenth century. The prominent building material in the locality is red brick with stonework detailing around openings, and slate or tile roofs. A small number of buildings are rendered or are finished with painted brickwork. The cost of the works for a refurbishment scheme is substantial and far exceeds 75% of the proposed new build cost – a guide to indicate when refurbishment is not viable and new build should be considered. In addition it was highlighted that the existing internal plans, despite modifications, were still not ‘fit for purpose’. There are a number of features of the property which cause operational issues, such as the narrow ground floor corridor which is not wide enough to allow two people to pass; an open fire escape route from the first floor; and basement and third floor accommodation which cannot be used; insufficient space in the kitchen area to accommodate all the occupants; and no separate washing facilities for staff on the first floor. A relocation of the home to new premises has been considered, but alternative sites have been rejected due to additional cost to modify those for use as a Children’s Home or their location being inappropriate. It is concluded that it is unavoidable to demolish the existing building. The Statement considers the Swadlincote Conservation Area character statement, identifying it as falling within Area 4, but considers that in terms of harm the proposed scheme would preserve the appearance of a ‘substantial detached house’, ‘set within large gardens’. The house would be located on a similar footprint to the original house, and maintain a similar frontage, set-back the same distance from the road at the front. The existing outbuilding would be retained. The proposed new building also replicates the style, appearance and details on the neighbouring building on Church Street whilst the composition of the proposed front elevation replicates that existing. All these factors are considered to mitigate the harm caused by the loss of the heritage asset.

A Preliminary Ecological Appraisal notes a habitat survey undertaken in 2013 identified potential bat roosts in the existing roof structures. Further surveys in summer 2016 confirmed that there were no bats emerging from the either building and bat activity in the site was generally low. No statutory or non-statutory designated nature conservation sites occur within the site, with the closest site approximately 260m away. Notable habitats recorded on the site include a young orchard and mature broad-leaved trees. However, with the exception of three lime trees at the front of the property, these habitats would not be affected by the proposed works. The site provides potential habitat for common amphibians and birds. The Appraisal advises that ecological impacts of the proposed works are likely to be minimal on the basis that recommendations are followed.

The Coal Authority Report notes multiple records of past underground coal mining, some directly beneath the property, whilst there are probably unrecorded shallow workings. A mine entry is also nearby.

The Tree Survey Report indicates the location and typical characteristic of each tree, and also records the landscape value of the tree and if any remedial action is

required. The root protection areas are defined from this Survey which indicates where development needs to be restricted.

Planning History

None relevant.

Responses to Consultations

The County Council is responsible for carrying out consultation in respect of this application and interpreting consultation responses. As a consequence consultation has not been undertaken with the Coal Authority, County Highway Authority, County Flood Risk Team or Derbyshire Wildlife Trust.

Responses to Publicity

Again the County Council is responsible for carrying out consultation in respect of this application and interpreting consultation responses.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport) and INF8 (The National Forest)
- 1998 Local Plan (saved policies): Environment Policies 9, 10, 11 and 12 (EV9, EV10, EV11 and EV12).

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2:

National Guidance

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

Local Guidance

- Swadlincote Conservation Area Character Statement (CACS)
- Housing Design and Layout SPG

Planning Considerations

The purpose of this report is to assist the Planning Committee to provide South Derbyshire District Council's comments on this planning application. The final decision rests with the County Council which is empowered to determine the application itself. The views of this Committee will assist it in reaching a decision without binding the County Planning Authority to following this Council's comments.

Planning Assessment

With the principle of residential development acceptable given its position within the settlement confines for Swadlincote, attention is given the heritage impacts and other observations relevant to the development.

Heritage and design

Linden House is a large detached mid-Victorian building, established in its present form by 1871, with a separate detached range of single storey outbuildings. The building has an asymmetrical main elevation to Church Street, with a prominent projecting entrance bay with decorative arched doorcase and carved panel. The details adopted are typical of Gothic Revival architecture with some Early English details. There is a lower attached service range, but this is much plainer, although it contains the same lintel and eaves details. Built in brick, with stone and moulded brick dressings and shouldered arch lintels, the whole house has been painted which has contributed to the poor condition of some of the brickwork. It is likely that, as originally designed, the building was quite decorative but this has been lost by over-painting. The main house has blue, plain clay tiled hipped roofs. Sash windows have all been replaced in uPVC. Whilst over-painting has affected the ability to appreciate the importance of this building, it nevertheless retains a high proportion of its original details, and there have been no modern extensions.

The outbuilding forms an important, linear feature as seen in approaching the site along Church Street. They are typical of the locality, similar to other outlying parts of the Conservation Area. The house is set back from the Church Street frontage, in its own large private garden, and this corresponds with its higher status than the majority of houses in the vicinity. The mature trees, including limes which were probably planted in the 19th century as indicated by its previous name, add considerably to its positive character. The relationship of house, outbuildings and trees form a mature group which contributes positively to the character of the Conservation Area. It is for the above reasons that the building is singled out in the CACS as a building with increased 'importance' with the Area – one which contributes positively to the special architectural or historic character of it.

Whilst the building is not pivotal to the significance of the Conservation Area, the Area was extended across Civic Way to pick up the group of buildings along Church Street close to Emmanuel Church – including this property. This was a deliberate and conscious decision to include the buildings, and the loss of these buildings (individually or collectively), which are particular to the mid-19th century development of Swadlincote, would cause harm to its significance. Whilst the applicant's justification for the complete demolition and rebuilding of the property is noted, the

primary aim here is to preserve and enhance the Conservation Area. Demolition rarely achieves the former, and it would certainly not do so here, such that the harm brought must be outweighed by very real, public benefits, in line with the NPPF.

There are a number of potential options for mitigation which appear not to have been explored, including the option to demolish part of the house complex (lower wing) and provide a large extension in its place. Indeed the justification for complete demolition and replacement is less than convincing, and appears to be rooted in Ofsted reporting that the building does not achieve the facilities a modern complex might. This is perhaps not surprising given the age and nature of the premises, but equally it is not an insurmountable hurdle and many such residential and assisted care homes operate from historical properties without struggling to achieve necessary standards.

The case has not been made that the building is beyond repair or refurbishment, but rather that it is the services which require replacement and modest repairs which are required; and it appears to be convenience or expediency which is driving the decision to replace the building. The financial side of matters is also a clear driver here, but once again the applicant must recognise that the 'bottling up' of improvements and refurbishment over the years does not justify the 'fresh canvas' approach because the costs are now larger than might be comfortable to sustain. Whilst a purpose-built home would be more economical to run, it is not a good reason to demolish a positive building in the conservation area. There are many ways of retrofitting historic buildings to upgrade them and make them more energy efficient without resorting to demolition. Such demolition would set a poor example and precedent for others, even though the building lies outside the Townscape Heritage Initiative area, and could all too often be repeated where the building concerned is a little 'tired'. The fact that the premises continues to operate, and is allowed to by Ofsted, indicates the building is not in such a woeful condition to warrant starting again. Ultimately, none of the foregoing arguments deliver public benefits which outweigh the harm – the resulting proposal actually achieving a slightly lesser offering in operational terms by the loss of residential capacity.

The design of the proposed dwelling is similar in scale to the existing house. However, it adopts very few details compared with the ornate details of the existing house; it has a very large and deep single pitched roof, which is disproportionate to most of those in the Conservation Area (currently the impact is reduced by double-hipped roofs with a valley gutter); and the architectural language of the proposed house is that of much smaller domestic buildings. The effect is likely to be that of an unsympathetic and over-scaled addition to the Conservation Area because of the lack of attention to detail, and certainly not one which preserves or enhances its character. Whilst there are of course budgetary constraints, the loss of a building which makes a positive contribution to the character of a Conservation Area, should not be replaced with a building of inferior quality and character.

Overall, the impact of the demolition of the house is so great and the replacement design is so average, that it is not considered to be justified. The level of harm and impact in the Conservation Area is high, taking into account both the loss of a positive building and the replacement with a building which does not preserve or enhance character. The public benefit would need to be very high or demonstrably

higher than the significance of the building to outweigh the harm. It is not considered that the benefits which flow from the proposal outweigh the harm brought about, contrary to Development Plan policies and the provisions of the NPPF. It is recommended that an objection be lodged on these grounds, and that careful attention paid to their own conservation advice of whom it is not clear that their officers have been consulted.

Land stability

The findings of the Coal Authority Report are noted to reveal significant potential for below ground mining legacy which may affect the structural integrity of any redevelopment. Normally a Coal Mining Risk Assessment would take these findings and consider them further against the actual proposal, but it appears this has not been carried out. However it is noted that, at the time of writing, the Coal Authority has lodged an objection and it is thus recommended that these be resolved in order to satisfy policy SD4 and paragraphs 120-121 of the NPPF.

Summary

It is not considered that biodiversity, ecological or highway matters, or neighbouring amenities, would be offended by the proposal, with conditions able to resolve the residual effects here. However the principle of demolition and replacement of Linden House is unjustified. The applicant has failed to demonstrate that this is the only feasible option and, that where this is the case, the public benefits outweigh the level of harm brought about to the significance of the heritage asset. The issues in respect of coal mining legacy should also be resolved prior to the determination of the application.

Recommendation

That Derbyshire County Planning Authority be advised that South Derbyshire District Council **OBJECTS** to the grant of planning permission for the following reason:

1. The proposal would result in a high level of harm to and impact on the significance of the Conservation Area, taking into account both the loss of a building which contributes positively to its special architectural and historic character, and its replacement with a building which does not preserve or enhance the character of the area. Whilst the reasons behind the proposal are recognised they fail to justify the level of harm brought about and equally the public benefits which arise are not considered to outweigh this harm. Consequently, the proposal fails to comply with policy BNE2 of the Local Plan Part 1, saved policies EV12 and EV13 of the Local Plan 1998, emerging policy BNE10 of the Local Plan Part 2 and policies within the NPPF.

Informatives:

1.
 - a. The County Planning Authority is strongly advised to take specialist conservation advice in reaching a decision on this application, with it not being clear to the District Council at this time that such dialogue/consultation has taken place.
 - b. Without prejudice to the above objection, if the County Planning

Authority is minded to grant permission, it is recommended that conditions in respect of the following matters are attached:

- i) Use of traditional materials, including plain clay tiles and timber joinery;
- ii) Ensuring appropriate detailing of verges, eaves, cills and lintels;
- iii) Appropriate tree protection measures are installed prior to construction works commencing, with any new hard surfaces within root protection areas constructed on geo-textile load bearing systems.