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Our Ref

Your Ref

Date: 7 November 2022

Dear Councillor,

Planning Committee

A Meeting of the **Planning Committee** will be held at **Council Chamber**, Civic offices, Civic Way, Swadlincote on **Tuesday, 15 November 2022 at 18:00**. You are requested to attend.

Yours faithfully,

Chief Executive

To:- **Labour Group**

Councillor Tilley (Chair), Councillor Shepherd (Vice-Chair) and
Councillors, Gee, L Mulgrew, Pearson and Southerd.

Conservative Group

Councillors Bridgen, Brown, Dawson, Haines, Redfern and Smith.

Non-Grouped

Councillor Wheelton



AGENDA

Open to Public and Press

- 1 Apologies and to note any Substitutes appointed for the Meeting.
- 2 To receive the Open Minutes of the following Meetings:

07 December 2021	4 - 7
11 January 2022	8 - 14
08 February 2022	15 - 20
08 March 2022	21 - 24
- 3 To note any declarations of interest arising from any items on the Agenda
- 4 To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 5 REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY) 25 - 169
- 6 SECTION 106 VARIATION - HENSHALL DRIVE, CHELLASTON 170 -
171

Exclusion of the Public and Press:

- 7 The Chairman may therefore move:-

That in accordance with Section 100 (A)(4) of the Local Government Act 1972 (as amended) the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraph of Part I of the Schedule 12A of the Act indicated in the header to each report on the Agenda.
- 8 To receive the Exempt Minutes of the following Meetings:

11 January 2022
- 9 To receive any Exempt questions by Members of the Council pursuant to Council procedure Rule No. 11.

PLANNING COMMITTEE

7th December 2021

PRESENT:-

Labour Group

Councillor Tilley (Chair), Councillor Shepherd (Vice-Chair) and Councillors Gee, Pearson and Southerd.

Conservative Group

Councillors Bridgen, Brown, Lemmon, Redfern (substitute for Councillor Muller) and Watson.

Independent Group

Councillors Angliss and Dawson.

Non-Grouped

Councillor Wheelton.

PL/85 **APOLOGIES**

The Committee was informed that apologies had been received from Councillor Muller.

PL/86 **TO RECEIVE THE OPEN MINUTES OF THE FOLLOWING MEETINGS**

The Open Minutes Meetings held on 2nd March 2021, 30th March 2021, 27th April and 11th May 2021 were taken as read, approved as a true record and signed by the Chair.

PL/87 **DECLARATIONS OF INTEREST**

The Committee was informed that no Declarations of Interest had been received.

PL/88 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

The Committee was informed that no questions from Members of the Council had been received.

MATTERS DELEGATED TO COMMITTEE

PL/89 **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

The Strategic Director (Service Delivery) submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update Members as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/90 **PROPOSED ENGINEERING OPERATION TO FORM AN EXTENSION TO THE EXISTING KEYSTONE STORAGE YARD AND CREATION OF CAR PARKING FOR EXISTING STAFF, INCLUDING BUNDING FENCING AND LANDSCAPING ON LAND OFF RYDER CLOSE, CASTLE GRESLEY, SWADLINCOTE, DE11 9EU**

The report was presented to the Committee by the Planning Delivery Team Leader and it was noted that the application had been approved by the Committee in September 2021 subject to agreement of the Wildlife Trust. The Planning Delivery Team Leader informed the Committee that the Wildlife Trust had agreed matters of vitality and that applicant was content with the recommendations as land owned by the developer would be used for the replacement pond and replacement habitat offsite that addressed the mitigations.

Members were please in regard to the agreed mitigations and requested that a watching brief be undertaken.

The Planning Delivery Team Leader informed the Committee that the Great Crested Newt and Open Mosaics Habitat mitigations offered would be subject to conditions and covered by legislation that they have to adhere to.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).

PL/91 **THE ERECTION OF 3 NO. DETACHED DWELLINGS, EXTENSIONS AND ALTERATIONS TO THE EXISTING BUNGALOW AND THE ERECTION OF A DETACHED DOUBLE GARAGE AT 53 CAULDWELL ROAD, LINTON, SWADLINCOTE, DE12 6RX**

The Planning Delivery Team Leader presented the report to Members noting the modification to the existing access. The proposed extension, alterations and erection of a double garage were outlined by Planning Delivery Team Leader. The Committee was informed that one objection had been received from a resident and concerns had been raised by ramblers in relation to the public footpath which would be dealt with as a separate matter by the County Highways Authority. It was further noted that the proposal was supported by the Local Plan

and was sympathetic to other buildings in the area with no overbearing impact but would mean some loss of privacy to the rear garden of a neighbouring property from an oblique position.

An Objector and the Applicant's Agent attended the Meeting and addressed Members on this application.

The Planning Delivery Team Leader read out a statement on behalf of Councillor Pegg raising concerns on behalf of residents.

The Planning Delivery Team Leader clarified that obscure glazing had not been considered necessary for the two bedroom windows facing the rear garden.

Members discussed the merits of a site visit in relation to determining the application.

RESOLVED:

That consideration of the application by the Committee be deferred to allow Members to visit the site.

PL/92

PROPOSED CHANGE OF USE OF THE SITE TO A MIXED USE WEDDING CEREMONY/ FUNCTION VENUE WITH OVERNIGHT TOURISM AND LEISURE. THE ERECTION OF NEW SINGLE STOREY RAISED BUILDINGS, THE CONVERSION OF EXISTING BUILDINGS TO PROVIDE ACCOMMODATION AND FACILITIES, THE CREATION OF A CAMPING AREA WITH CAR PARKING, ACCESS AND ASSOCIATED WORKS AT 1 TOWER FARM, SWARKESTONE ROAD, WESTON ON TRENT, DERBY DE72 2BU

The Head of Planning and Strategic Housing presented the report to the Committee and noted that the application had been deferred from the Planning Committee in June meeting to allow for the opportunity temporary builds or easily removed buildings prior to permanent builds to be considered. The Committee was informed that the applicants could not agree to the proposals and was asked to consider the options available.

The Head of Planning and Strategic housing read out a summary statement on behalf of Applicants.

Members thanked officers for the work undertaken to try address concerns raised at the June Committee and discussed the importance of supporting economic growth and tourism in the area and considered the robust business plan that had been submitted.

RESOLVED:

That planning permission be approved contrary to the recommendation within the report of the Strategic Director (Service Delivery), subject to delegated authority for the Head of Planning and Strategic Housing and in

consultation with the Chair of Planning Committee to attach conditions in line with the Committee's resolution.

PL/93 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

RESOLVED:-

That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.

PL/94 The Exempt Minutes of the Meeting held on 2nd March 2021, were taken as read, approved as a true record and signed by the Chairman.

PL/95 **EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.**

The Committee was informed that no questions had been received.

The meeting terminated at 19:00 hours.

COUNCILLOR N TILLEY

CHAIR

PLANNING COMMITTEE

11th January 2022

PRESENT:-

Labour Group

Councillor Tilley (Chair), Councillor Shepherd (Vice-Chair) and Councillors Dunn (substitute for Councillor Southerd), Pearson and Taylor (substitute for Councillor Gee).

Conservative Group

Councillors Bridgen, Brown, Lemmon, Patten (substitute for Councillor Muller) and Watson.

Independent Group

Councillors Angliss and Dawson.

Non-Grouped

Councillor Wheelton.

PL/96 **APOLOGIES**

The Committee was informed that apologies had been received from Councillor Southerd and Councillor Gee, (Labour Group) and Councillor Muller (Conservative Group)

PL/97 **DECLARATIONS OF INTEREST**

The Committee was informed that Councillor Lemmon declared a personal interest in agenda item PL/100.

PL/98 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

The Committee was informed that no questions from Members of the Council had been received.

MATTERS DELEGATED TO COMMITTEE

PL/99 **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

The Strategic Director (Service Delivery) submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update Members as necessary. Consideration was then given thereto and decisions were reached as indicated.

Councillor Lemmon left the Council Chamber

PL/100 **APPROVAL OF RESERVED MATTERS (ACCESS, LAYOUT, SCALE, APPEARANCE AND LANDSCAPING) PURSUANT TO OUTLINE PERMISSION REF. DMPA/2020/0985 (THE VARIATION OF CONDITION NO. 9 (RELATING TO SKYLARK HABITAT COMPENSATION) OF PERMISSION REF. 9/2017/1191 (RELATING TO OUTLINE PERMISSION (ALL MATTERS RESERVED FOR FUTURE APPROVAL) FOR RESIDENTIAL DEVELOPMENT OF UP TO 50 DWELLINGS WITH OPEN SPACE, DRAINAGE AND ASSOCIATED WORKS) ON ETWALL COMMON, LAND AT SK 2730 1591, EAST OF EGGINTON ROAD AND NORTH OF JACKSONS LANE, ETWALL COMMON, DERBY**

The report was presented by the Planning Delivery Team Leader who informed the Committee of an amendment to Condition 1 to include an updated site plan that had been received. The Committee was informed that the Lead Local Flood Agency requested additional information which had been submitted by the applicant and noise mitigation measures proposed were over and above what was required.

Councillor Brown raised concerns regarding drainage and access to both the allotments and Jackson Lane.

The Planning Delivery Team Leader confirmed that additional drainage information had been requested which was being considered by the local flood agency and that the footpaths within the site were as required by the Local Plan but the applicant did not have control of footpaths outside of the site.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery), subject to an amendment to Condition1 to include the updated 'Site Plan Rev U'.

Councillor Lemmon returned to the Council Chamber.

PL/101 **THE INSTALLATION OF UP TO 10MWP OF SOLAR PHOTOVOLTAIC PANELS AND ASSOCIATED WORKS, INCLUDING SUBSTATIONS, INVERTERS, ACCESS TRACKS, SECURITY FENCING AND CAMERAS AT LAND AT SK1930 5342, HAWTHORN FARM, SCROPTON ROAD, SCROPTON, DE65 5PR**

It was reported that Members of the Committee had visited the site earlier in the day.

The Head of Planning and Strategic Housing presented the report to the Committee noting the amendment to Condition 13 and summarised communications received in relation to water drainage, flood concerns, CCTV, the use of brownfield sites, noise and the loss of agricultural land.

The Head of Planning and Strategic Housing clarified that the agricultural land was deemed as of poor quality and that information had been circulated to Members in relation to the noise levels and that were acceptable to the Environmental Health Officer. It was further noted that benefits of renewable energy outweighed any minor harm to land, that there would be no impact on nearby heritage buildings and that the solar glare reflection would be less than 9% compared to window reflection of 19%.

As the Local Ward Member, Councillor Lemmon addressed the Committee in support of renewable energy but did not believe that the location was appropriate and enquired how Scropton would benefit from the energy produced on site.

Members raised concerns regarding flood risks, noise, light pollution and the independency of assessments carried out

The Head of Planning and Strategic informed the Committee that there would be an energy connection to local business and clarified that flood risks, light pollution and noise had been addressed by the applicant and would very little impact. It was also confirmed that the Lead Local Flood Agency assessment had been checked by the County Council and that South Derbyshire District Council's Environmental Officer was content.

Members discussed issues regarding the soil quality when returned to agricultural land, the type of development, the impact on the area and the appearance and scale of the application.

The Head of Planning and Strategic Housing reiterated the technical expertise involved in the consultation of the application the minimal impact on the land and the additional work to be contained in Condition 13 in relation to the return to agricultural land.

Councillor Pearson addressed the Committee confirming that use of concrete to cover the whole site was untrue and sought clarity regarding renewable energy and the Local Plan.

The Head of Planning and Strategic Housing confirmed that the Local Plan did support renewable energy and read out the Council's Renewable Energy Policy in relation to the use of Solar Panels.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery) subject to delegated authority being granted to the Chair of the Committee and the Head of Planning and Strategic Housing to agree the wording for the amendment

Condition 13 for additional works and returning existing agricultural land drainage after a 30 year period.

PL/102 **THE ERECTION OF 3 NO. DETACHED DWELLINGS, EXTENSIONS AND ALTERATIONS TO THE EXISTING BUNGALOW AND THE ERECTION OF A DETACHED DOUBLE GARAGE AT 53 CAULDWELL ROAD, LINTON, SWADLINCOTE, DE12 6RX**

It was reported that Members of the Committee had visited the site earlier in the day.

The Planning Delivery Team Leader outlined that application noting the position and alignment of the footpath was within the settlement boundary and that the development would be in adherence to policy and was not considered to be overbearing and that obscured glass could be used for the window overlooking the neighbouring garden and sought approval for the recommendations within the report.

The Planning Delivery Team Leader read out a summary of concerns raised by the Objector at the previous Committee

Members requested that a condition be added regarding the window on the north face elevation of the property.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery) subject to an additional condition requiring the first floor window on the north face elevation be fixed shut and obscure glazing used.

PL/103 **OUTLINE APPLICATION (MATTERS OF ACCESS TO BE CONSIDERED NOW WITH MATTERS OF LAYOUT, SCALE, APPEARANCE AND LANDSCAPING RESERVED FOR LATER CONSIDERATION) FOR THE ERECTION OF THREE DWELLINGS AT 38, HALL LANE, WILLINGTON, DERBY,**

It was reported that Members of the Committee had visited the site earlier in the day.

The Planning Delivery Team Leader presented the report to the Committee and outlined the application noting the access to be considered and that the proposed development was surrounded by other developments. It was further noted that no objections had been received from Statutory Consultees whilst a number of objections had been received regarding the loss of open space. Members were asked to consider and approve the recommendations within the report including a slight amendment to condition 8.

An Objector and the Applicant's Agent attended the meeting and addressed the Committee regarding the application.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery), subject to an amendment to Condition 8.

PL/104 **THE ERECTION OF A REPLACEMENT PORCH AT 79 MAIN STREET, KINGS NEWTON, DERBY, DE73 8BX**

The Planning Delivery Team Leader informed the Committee that this application would be deferred to a future Committee meeting.

PL/105 **THE CREATION OF THREE PUBLIC PARKING SPACES FROM LAND UTILISED AS AMENITY OPEN SPACE AT LAND BETWEEN NO 37 LINTON ROAD AND BASS'S CRESCENT, CASTLE GRESLEY, SWADLINCOTE, DE11 9HW**

The Head of Planning and Strategic Housing outlined the report and informed the Committee that the application was before Members as the land was owned by the Council and that no objections had been received

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).

PL/106 **CHANGE OF USE FROM DWELLINGHOUSE (USE CLASS C3) TO CARE HOME (USE CLASS C2) AT 4 PADSTOW CLOSE, STENSON FIELDS, DERBY, DE24 3LH**

It was reported that Members of the Committee had visited the site earlier in the day.

The Head of Planning and Strategic Housing delivered the report to the Committee outlining the change of use to a children's care home and noting that there would be not material or physical change to the property. It was confirmed that a condition would limit the number of children residing in the property and the number of staff which was expected to address the concerns raised by the Crime Officers.

An objector attended the meeting and addressed the Committee regarding the application.

Following concerns raised by the Objector the Head of Planning and Strategic Housing clarified that the highways concern was a judgement of Committee and that it was incumbent on the applicant to demonstrate ownership and that the Council was not aware that information supplied was incorrect.

As the Local Ward Member Councillor Singh attended the meeting and addressed the Committee in objection to the application raising concerns regarding the increase in traffic, parking, the comments made by Design Out Crime Officer and the number of objections submitted.

Members raised concerns regarding the lack of both a business plan and risk assessment, the impact on neighbourhood amenity, parking and access and the police objections.

RESOLVED:

That planning permission be refused contrary to the recommendations in the report of the Strategic Director (Service Delivery), due to inadequate parking, staffing, location and absence of significant documents such as a business case and risk assessment.

Abstention: Councillor Tilley

PL/107 **SECTION 106 VARIATION**

The Planning Delivery Team Leader presented the report and sought of approval of the recommendations.

RESOLVED:

- 1.1 That the Committee approves the request to amend the Section 106 Agreement (S106) by means of a further Deed of Variation (DoV) to include reference to the recently approved planning application for a one form entry (FE) school and amendments to the site area.***
- 1.2 That the Committee delegate authority to the Head of Planning and Strategic Housing to agree the finer detail and wording of the Deed of Variation.***

PL/108 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

RESOLVED:

That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.

EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.

The Committee was informed that no questions had been received.

**THE FELLING OF A TREE COVERED BY TPO NO. 432 AT 59 JUBILEE
CLOSE, MELBOURNE, DERBY, DE73 8GR**

RESOLVED:

The Committee did not approve the recommendations within the report.

The meeting terminated at 20:30 hours.

COUNCILLOR N TILLEY

CHAIR

PLANNING COMMITTEE

8th February 2022

PRESENT:-

Labour Group

Councillor Tilley (Chair), Councillor Shepherd (Vice-Chair) and Councillors Pearson, Richards, (substitute for Councillor Gee) and Southerd

Conservative Group

Councillors, Brown, Lemmon, Muller Redfern, (Substitute for Councillor Bridgen) and Watson.

Independent Group

Councillors Dawson and MacPherson

Non-Grouped

Councillor Wheelton.

PL/111 **APOLOGIES**

The Committee was informed that apologies had been received from Councillor Bridgen (Conservative Group) and Councillor Gee, (Labour Group).

PL/112 **TO RECEIVE THE OPEN MINUTES OF THE FOLLOWING MEETING**

The Open Minutes of the following Meetings 1st June 2021 and 22nd June 2021 were reviewed, considered as a true record and signed by the Chair. It was noted that in the 22nd June Minutes at item PL/06 Councillor Southerd's name was incorrect.

PL/113 **DECLARATIONS OF INTEREST**

The Committee was informed that a Declarations of Personal Interest had been received from Councillor Wheelton in relation to item PL/120 by virtue of representations made in relation to the A444.

PL/114 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

The Committee was informed that no questions from Members of the Council had been received.

MATTERS DELEGATED TO COMMITTEE**PL/115 REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

The Strategic Director (Service Delivery) submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update Members as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/116 THE ERECTION OF 3 NO. DETACHED DWELLINGS, EXTENSIONS AND ALTERATIONS TO THE EXISTING BUNGALOW AND THE ERECTION OF A DETACHED DOUBLE GARAGE AT 53 CAULDWELL ROAD, LINTON, SWADLINCOTE, DE12 6RX

The report was presented by the Planning Delivery Team Leader who informed the Committee of an amendment to Condition 15 in relation to a fixed shut window and read out a statement on behalf of Councillor Pegg's in objection to the application.

RESOLVED:

That planning permission be approved as per the recommendations, in the report of the Strategic Director (Service Delivery). subject to an amendment to condition 15 remove the necessity for a fixed closed window.

PL/117 DEMOLITION OF EXISTING INDUSTRIAL AND OFFICE BUILDINGS (INCLUDING RELEVANT DEMOLITION CONSENT) AND THE ERECTION OF 9 DWELLINGS, GARAGING AND ASSOCIATED DEVELOPMENT, THE PROVISION OF A GRP SUBSTATION, PEDESTRIAN ACCESS TO THE ADJACENT PUBLIC FOOTPATH AND ALTERATIONS TO THE ADJACENT BOUNDARY WALL AT SEYMOUR HOUSE AND KENDRICK MILLS, CHAPEL STREET, MELBOURNE, DERBY, DE73 8EH

It was reported that Members of the Committee had visited the site earlier in the day.

The Head of Planning and Strategic Housing presenting the report informing the Committee that no objections had been received from the Highways Authority but that concerns has been raised by the Development Officer regarding the need for the industrial unites in the area. The Parish Council raised concern regarding compliance with the Neighbourhood Plan.

The Head of Planning and Strategic Housing summarised the report in support of the application that was considered to be of acceptable design within the boundary treatment and would enhance the conservation area with no adverse effects on trees and biodiversity.

The Applicant's Planning Consultant attended the meeting and addressed the Committee regarding the application.

As the Local Ward Members Councillor Fitzpatrick and Councillor Hewlett addressed the Committee regarding the location of the substation and raised objections on the grounds of density, overdevelopment the proposal of family homes with very small gardens.

Members raised concerns regarding overdevelopment of the site, carparking, turning circles for larger vehicles such as ambulances and refuse collection vehicles, the unadopted road and the repair and maintenance of the retaining walls and footpaths.

The Head of Planning and Strategic Housing clarified that County Highways Authority was content with the turning circle and parking and that bins would be stored close to the entrance of the site. It was further confirmed that conditions could be amended to include the upkeep of the retaining walls and roads and that footpaths were made good.

Members discussed the merits of deferring the application to allow the Head of Planning and Strategic Housing to approach the applicant to consider a reduction in the number of properties proposed.

RESOLVED:

That planning permission be deferred to allow for the applicant to consider a reduction in the number of properties.

PL/118 **VARIOUS WORKS INCLUDING THE DEMOLITION OF AN OUTBUILDING PERMITTED UNDER A PREVIOUS APPROVAL 9/2012/0703/L, THE REDUCTION IN HEIGHT OF A BOUNDARY WALL AND THE INSTALLATION OF A FREE STANDING ELECTRICAL DISTRIBUTION BOX SUPPLYING 4 ELECTRICAL VEHICLE CHARGING POINTS SECURED TO THE BOUNDARY AT 1.2M ABOVE GROUND LEVEL AND CCTV CAMERA PROVISION LEISURE CENTRE, HIGH STREET, MELBOURNE, DERBY, DE73 8GF**

It was reported that Members of the Committee had visited the site earlier in the day.

The Head of Planning and Strategic Housing presented the report to the Committee and summarised the application.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).

PL/119 **LISTED BUILDING CONSENT FOR VARIOUS WORKS INCLUDING THE DEMOLITION OF AN OUTBUILDING PERMITTED UNDER A PREVIOUS APPROVAL 9/2012/0703/L, THE REDUCTION IN HEIGHT OF A BOUNDARY WALL AND THE INSTALLATION OF A FREE STANDING ELECTRICAL DISTRIBUTION BOX SUPPLYING 4 ELECTRICAL VEHICLE CHARGING POINTS SECURED TO THE BOUNDARY AT 1.2M ABOVE GROUND LEVEL AND CCTV CAMERA PROVISION LEISURE CENTRE, HIGH STREET, MELBOURNE, DERBY, DE73 8GF**

It was reported that Members of the Committee had visited the site earlier in the day.

The proposal for a number of amendments was presented to the Committee and summarised by the Head of Planning and Strategic Housing. It was noted that the CCTV installation under the eaves and the Electrical Vehicle Charging Points would be consistent with heritage and the proposed reduction for the height of the call would be consistent with conservation and Conservation Officer had no concerns.

The Committee was informed of objections received in relation to the timeframe for demolition of the outbuilding that had been approved and was asked to consider the application on its own merits

An Objector attended the meeting and addressed the Committee regarding the application.

Members took onboard the comments made by the Objector but were content with what had been proposed.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).

PL/120 **DEMOLITION OF EXISTING BUILDINGS AND CLEARANCE OF SITE (EXCEPT FOR EXISTING OFFICES AND SUBSTATION), ERECTION OF A PALLET DISTRIBUTION CENTRE (USE CLASS B8), WITH ASSOCIATED OFFICES AND WELFARE AREAS, FORKLIFT WASH AND STORAGE AREAS, GATEHOUSES, PARKING, LANDSCAPING AND OTHER ASSOCIATED WORKS. TETRON PARK, FORMER BISON PRECAST SITE, WILLIAM NADIN WAY, SWADLINCOTE, DE11 0BB**

It was reported that Members of the Committee had visited the site earlier in the day.

The report was presented by the Head of Planning to the Committee and referred to the suite of updated information shared with Members prior to the meeting. It was noted that an additional report in relation to lighting and noise concerns would be subject to conditions. The Committee was informed that a Public Right of Way had previously been subject to a diversion order and that County Highways Authority had no objections subject to conditions including cycle and walking routes and bus service that would be subject to conditions and Section 106 Agreement. The Head of Planning and Strategic

Housing confirmed that five objections had been received regarding road, the noise impact for residents and light pollution and increased fumes from heavy goods vehicle.

The Committee was also informed that the 30% shortfall of National Forest Tree Planting would be met by payment to allow planting elsewhere and the Local Lead Flood Agency had sought clarity regarding SUDS and the off-site attenuation.

Members welcomed the proposal as an improvement to the concrete plant an increase of employment in the area and additional bus service but advised that audible reversing must not impact on residents.

Members raised concerns regarding the increase to the number of heavy goods vehicles and flood water drainage.

The Head of Planning and Strategic Housing confirmed that comments received from the Local Lead Flood Agency would be subject to negotiations with the applicant and conditions would be developed in conjunction with the Local Lead Flood Authority and reiterated that the County Highways Authority were content with the application subject to the conditions previously mentioned.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).

PL/121 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

RESOLVED:-

That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.

PL/ 122 **EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.**

The Committee was informed that no questions had been received.

The meeting terminated at 19:25 hours.

COUNCILLOR N TILLEY

CHAIR

PLANNING COMMITTEE

8th March 2022

PRESENT:

Labour Group

Councillor Tilley (Chair), Councillor Shepherd (Vice-Chair) and Councillors Gee, Pearson and Southerd

Conservative Group

Councillors, Bridgen, Haines, (Substitute for Councillor Brown) Lemmon, Muller, and Watson.

Independent Group

Councillors Dawson and MacPherson

Non-Grouped

Councillor Wheelton.

PL/123 **APOLOGIES**

The Committee was informed that apologies had been received from Councillor Brown (Conservative Group).

PL/124 **DECLARATIONS OF INTEREST**

The Committee was informed that no Declarations of Interest had been received. /

PL/125 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

The Committee was informed that no questions from Members of the Council had been received.

MATTERS DELEGATED TO COMMITTEE

PL/126 **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

The Strategic Director (Service Delivery) submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting

to update Members as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/127 **THE ERECTION OF A FOUR BEDROOMED DWELLING. PREVIOUSLY APPROVED DWELLING (DMPA/2020/0478) RELATES AT SPRING VIEW, SPRINGHILL, HARTSHORNE, SWADLINCOTE, DE11 7AH**

It was reported that Members of the Committee had visited the site earlier in the day.

The report was presented by the Head of Planning and Strategic Housing and advised the Committee that both parking and the proposed dwelling were within the settlement limit but the garden was outside of the confines but it was seen as an acceptable proposal. It was noted that the dwelling had previous approval and sought further approval for an extension. The Head of Planning and Strategic Housing informed the Committee that no objections had been received from the statutory consultees but had some conditions had been requested. It was further advised that the Parish Council had raised objection regarding the residential gardens and increased size of the development. They were informed that it was proposed to use native planting, that there was a distance of 20 meters between the ground floor window of the extension the neighbouring cottage to the east, it was also noted that the proposal included an Electrical Vehicle Charging Point.

An Objector attended the meeting and addressed the Committee regarding the application, they raised privacy issues; that planning officers were ignoring countryside location and impact on listed building.

Councillor Taylor attended the meeting and addressed the Committee as local Member and raised concern regarding the garden that was outside of the settlement boundary.

Further to issues raised by the Objector and Councillor Taylor, the Head of Planning and Strategic Housing reiterated that whilst the dwelling itself was on the limit and the garden was outside, officers found that it to be acceptable and drew attention to Condition 12 regarding permitted development.

Members raised queries regarding the heritage aspect and the view of the Conservation Officer and concerns raised by the Parish Council in relation to a nearby paddock.

The Head of Planning and Strategic Housing confirmed that the Conservation Officer concluded that the build would have no impact on the listed building to the west of the site. The Committee was given the details of of the condition in relation to the garden and was informed that the domestic use of the land by the applicant would not be in conflict with the paddock area.

Members agreed that the proposed application would be an improvement to the site with a sympathetic design and that the boundary issue had been settled via the previous approval.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).

PL/128 PARK WITH CYCLING FACILITIES ON LAND TO THE NORTH OF WILLIAM NADIN WAY, SWADLINCOTE

The report was presented by the Planning Delivery Team Leader who outlined the proposal for the country park and informed the Committee of an amendment to condition 2 and of two additional conditions in relation the submission of the soft landscaping scheme and Great Crested Newts and the submission of a copy of the relevant District Level License prior to the commencement of works. It was further noted that no objections had been submitted, that there were no flood risk concerns and the anti-social behaviour concern raised by the police was nothing greater than with normal open public spaces.

Members supported the scheme but sought clarity regarding the Great Crested Newts and the connection of the proposed cycle routes.

The Head of Planning and Strategic Housing confirmed that it was an offence to bring harm to Great Crested Newts and the proposal would ensure that no harm would come to those on site and would be an improved environment.

The Planning Delivery Team Leader confirmed that the cycle paths would be connected to external cycle routes and that Sport England had been involved with the application.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery), subject to an amendment to Condition 2 in relation to additional tree plans and two new conditions regarding great crested newts and soft landscaping.

PL/129 THE FELLING OF A SYCAMORE TREE COVERED BY SOUTH DERBYSHIRE DISTRICT COUNCIL TREE PRESERVATION ORDER NO. 130 AT 61 BRETBY HOLLOW, NEWHALL, SWADLINCOTE, DE11 0UE

It was reported that Members of the Committee had visited the site earlier in the day.

The report regarding the was presented to the Committee by the Head of Planning and Strategic Housing who summarised an independent report submitted with the application and referred to the additional photos of other trees that had been felled. The Committee was informed that the Tree officer had been consulted and there was no change to their previous report and concluded that the tree should not be removed unless it was causing harm to the applicant's home. The Head of Planning and Strategic Housing

advised the Committee that it should balance the applicants concerns with the Tree Officers Report.

The Applicant attended the meeting and addressed the Committee regarding the application.

Members discussed the merits of the application taking into account the Tree Officers report and recommendation.

RESOLVED:

That permission be refused as per the recommendations in the report of the Strategic Director (Service Delivery).

PL/130 **PLANNING AND OTHER APPEALS**

The Committee noted the planning appeal decisions in relation to the following applications:

<u>DMPA/2021/0342</u>	Melbourne	Melbourne	Dismissed	Delegated
<u>DMPA/2020/0372</u>	Repton	Repton	Dismissed	Delegated

PL/131 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

RESOLVED:-

That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.

PL/ 132 **EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.**

The Committee was informed that no questions had been received.

The meeting terminated at hours. 19:00hrs

COUNCILLOR N TILLEY

CHAIR

Report of the Strategic Director (Service Delivery)

Section 1: Planning Applications

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

1. Planning Applications

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

Reference	Item	Place	Ward	Page
DMPA/2021/1392	1.1	Overseal	Seales	28
DMPA/2020/0992	1.2	Church Gresley	Church Gresley	43
DMPA/2022/0818	1.3	Hartshorne	Woodville	62
DMPA/2022/0819	1.4	Hartshorne	Woodville	69
DMPA/2022/0837	1.5	Hartshorne	Woodville	76
DMPA/2022/0974	1.6	Midway	Midway	83
DMPA/2022/1241	1.7	Egginton	Etwall	88
DMPA/2022/0715	1.8	Linton	Linton	94
DMPA/2022/0719	1.9	Etwall	Etwall	98

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

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

Glossary of terms

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

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

Item No. 1.1

Ref. No. [DMPA/2021/1392](#)

Valid date: 21/01/2022

Applicant: Shaun Calladine

Agent: S G Design Studio Limited

Proposal: Change of use of land to provide 7no. caravans for holiday let accommodation including the formation of a lake, associated parking and landscaping at The Conifers, Park Road, Overseal, Swadlincote, DE12 6JS

Ward: Seales

Reason for committee determination

Overseal Parish Council have objected to the proposal.

Site Description

The site is a rectangular parcel of land, south of Park Road, Overseal, and to the east of the adjacent gypsy caravan site, The Conifers. The site is comprised of rough grassland, that slopes gently down to the east. It is almost completely surrounded by mature trees, especially on the southern boundary, which is a substantial area of National Forest tree planting (Swainspark Wood). The site is not very visible in the local landscape due to the mature trees and hedges. The site does not currently appear to be used, although remains of small-scale building materials are scattered around the site.

The proposal

The proposal is for the change of use to tourism, to provide seven lodges for holiday let accommodation including the formation of a lake.

Applicant's supporting information

The application is supported by the following documents:
Design and Access Statement
Business Case
Ecological Appraisal
Drainage calculations, foul drainage and soakaway details
Flood Risk Assessment

Relevant planning history

9/2018/1297 - Change of use of land to provide holiday let accommodation (caravans) including the formation of a lake, associated parking and landscaping at The Conifers, Park Road, Overseal - withdrawn 05/06/2019

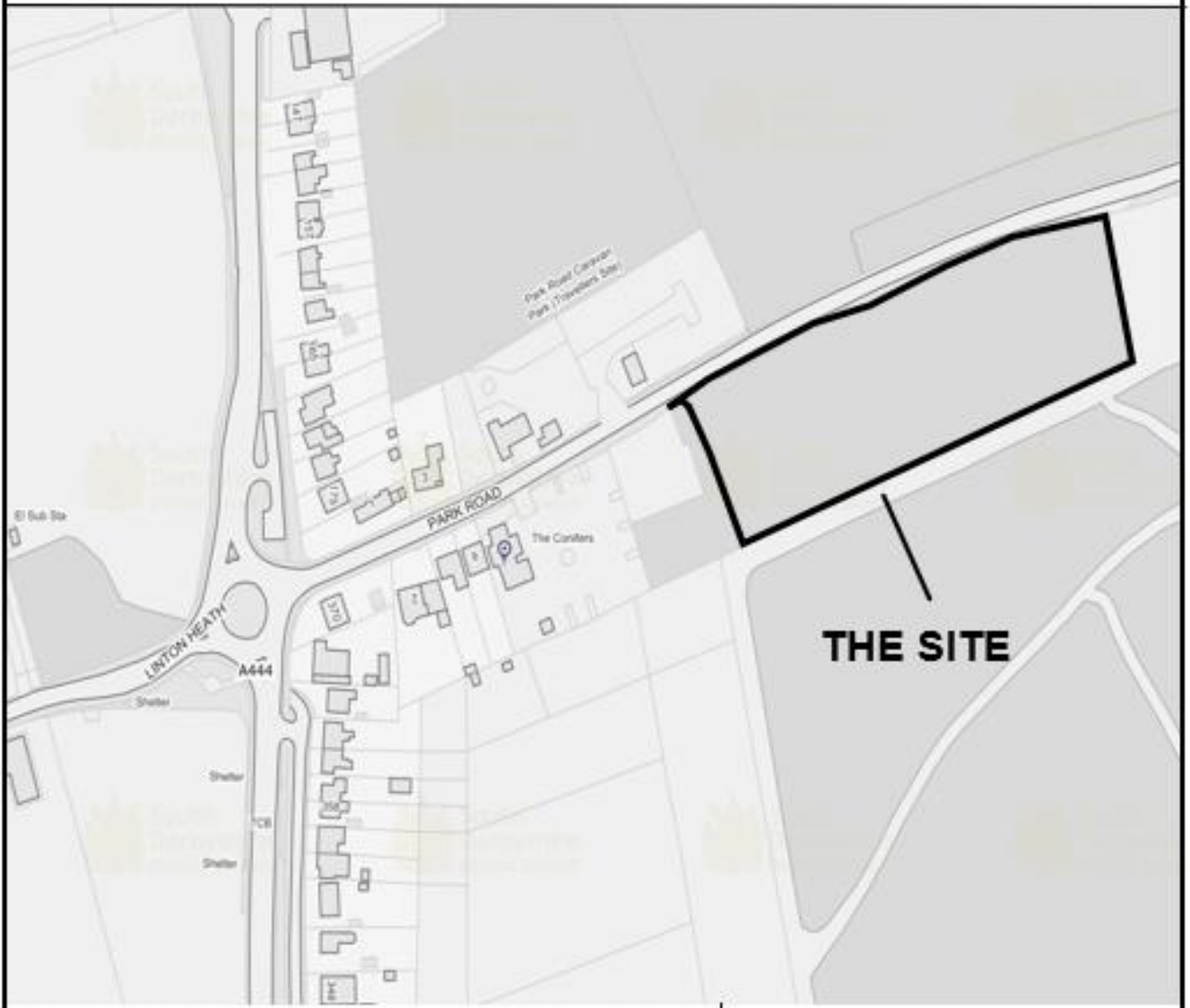
DMPA/2019/1246 - Change of use of land to provide holiday let accommodation (caravans) including the formation of a lake, associated parking and landscaping at The Conifers, Park Road, Overseal - withdrawn 15/07/2020

Responses to consultations and publicity

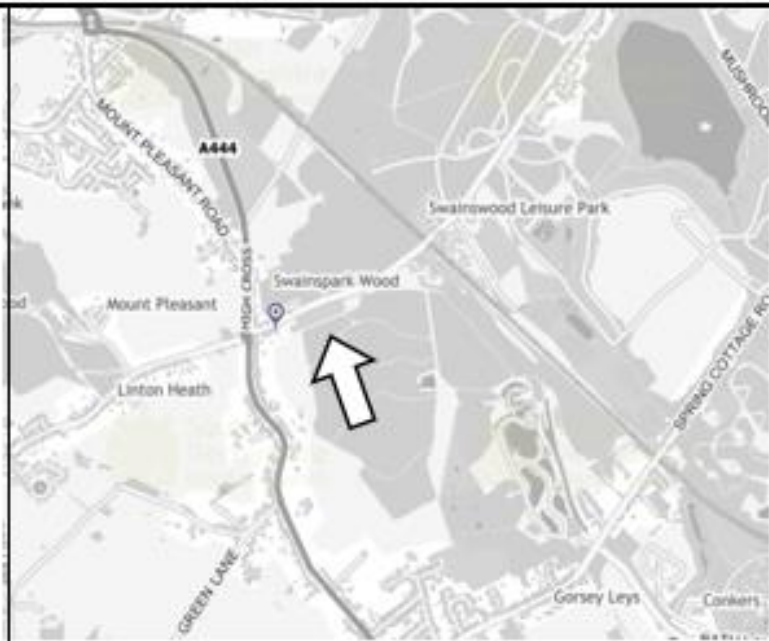
County Highway Authority

The proposal does not appear to differ significantly in highway terms from applications

DMPA/2021/1392 The Conifers, Park Road, Overseal, Swadlincote, DE12 6JS



THE SITE



MAPS ARE NOT TO SCALE

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South Derbyshire District Council. LA 100019461.2020

9/2018/1297 & DMPA/2019/1246 other than the number of caravans/cabins proposed. The Highway Authority commented on both applications and the Highway Authority's previous comments equally apply to the above application.

The proposal is for the change of use of a grassed field into holiday let accommodation for ten holiday let units each with one parking space and an additional 10 spaces provided near the entrance to the site.

The Highway Authority would wish to see a footway provided to the east of the proposed access point to link up with the exiting footway outside 6 Park Road, whilst I would like to see this detailed on a plan I am happy for it to be conditioned as follows if there is insufficient time to obtain amended drawings. The footway will require a Section 278 agreement with the Highway Authority for its construction.

There are no highway objections to the proposal subject to conditions being included on any consent granted.

Derbyshire Wildlife Trust

The following comments are aimed at providing accurate and up to date information on the nature conservation issues associated with the proposed development. The application seeking permission for the change of use of land to provide a holiday caravan park is accompanied by an Ecological Appraisal prepared by Arc Ecology dated August 2018 and a Reptile and Terrestrial Amphibian Surveys dated October 2018. Unfortunately, this ecological information is now out of date. As planning decisions need to be based on up to date environmental information we advise that an updated Ecological Appraisal is required with a specific focus on reptiles.

Following an updated Ecological Appraisal...

In our previous consultation response, we advised that an up to date ecological assessment was required. We have now had the opportunity to review an Update Ecological Appraisal prepared by Arc Ecology dated May 2022. The update appraisal is based upon a walkover site survey carried out on 13th May 2022 which was carried out in order to identify any significant habitat changes since the previous surveys carried out in 2018. As such, the appraisal takes the form of a preliminary assessment which concludes that there have been no significant habitat changes.

On the basis of the submitted information, we are satisfied that the proposed development will have no impact on REDACTED. The update appraisal concludes that the site is still suitable for reptiles and that common lizard and grass snake, recorded during previous surveys, are highly likely to remain present on the site. Appropriate mitigation and compensation for reptiles are therefore required. We advise that this should include the retention and appropriate management of suitable lizard habitat, particularly at the western end of the site, as part of the landscaping together with a capture/exclusion exercise. This should all be included within a detailed Reptile Mitigation Strategy to be secured by a pre-commencement planning condition.

National Forest Company

Tourism accommodation within the National Forest

The NFC has launched a Sustainable Tourism Accommodation Design Guide (available on our website [Tourism businesses | National Forest](#)). This guide sets out rationale for encouraging new and retrofitted tourist accommodation development that helps create a distinctive National Forest character and sense of place, and makes a case for investing in the National Forest as a sustainable tourism destination by showing how tourist accommodation can contribute to a zero carbon future.

It is not apparent from the information provided that the applicant is aware of the Sustainable

Tourism Accommodation Design Guide, and we would encourage consideration of this document by both yourself and the applicant. Amendments to the proposal could be made which reflect the Sustainable Tourism Accommodation Guide and result in a high quality and distinctive development within the National Forest.

National Forest planting

The area of the application is specified on the application forms as 1.05 hectares and within the Design and Access Statement (DAS) as 1.2 hectares. Despite this discrepancy, the application documents acknowledge that this development is expected to deliver 20% National Forest planting.

The DAS states that the proposal will provide significantly more than 20% and specifies that 3900m² of landscape planting is shown on the submitted plans. However, it is not evident from the site plan drawing no. 221-52-02 Rev A (and it does not appear that a specific landscaping plan has been provided) that this amount of National Forest planting is proposed. Additionally, there are inaccuracies / omissions relating to landscaping on this plan (see below for further detail). Despite this, it does appear that there is sufficient space on site to accommodate National Forest planting and that appropriate amendments could be made. Accordingly, while it would be preferable for a plan showing National Forest planting to be provided prior to determination, in this case a condition requiring a detailed landscaping plan which qualifies and quantifies 20% on site National Forest planting (i.e. precise location, species mix, density of planting, method of protection) is likely to be acceptable. A further condition should require details on how the landscaping will be maintained to ensure successful establishment. If the application in its current form is approved, the NFC ask that the decision makes it clear that the current landscaping details are not acceptable.

The NFC advises that National Forest planting could include appropriate tree planting along the northern and western boundaries and that there is an area to the west of the site which could accommodate woodland planting. Additionally, we would encourage amendments to the pond design to ensure this feature has biodiversity value. The following summary of the National Forest Guide for Developers & Planners may be useful to the applicant in preparing a detailed landscaping plan Planners Guide 2018.pdf (nationalforest.org).

With regard to the inaccuracies / omissions relating to landscaping on the proposed site plan (drawing no. 221-52-02 Rev A), the site plan shows existing trees and hedges to be retained and removed, and proposed trees and hedges. However, it is not clear from this plan where the retained and proposed hedgerows are. The site plan proposes 4no. standard trees, yet the two acer campestre trees appear to be outside of the applicant's ownership (outside of the blue line). The site plan indicates 4no. trees without coding close to the red line boundary to the east of the entrance. Further along this boundary the same tree symbol is used but again these appear to be outside of the applicant's ownership (outside the red line). The site plan includes a table with tree species but this table is incomplete.

We will defer to the Council's Tree Officer to consider the acceptability of the submitted Tree Report.

Following the receipt of amended plans...

Tourism accommodation within the National Forest

As previously advised, the NFC has launched a Sustainable Tourism Accommodation Design Guide (available on our website [Developing a sustainable destination | National Forest](#)) which sets out rationale for encouraging new and retrofitted tourist accommodation development that

helps create a distinctive National Forest character and sense of place, and makes a case for investing in the National Forest as a sustainable tourism destination by showing how tourist accommodation can contribute to a zero carbon future. The Design Guide details seven design principles to develop exemplary sustainable tourism accommodation in the National Forest. These principles (discussed in more depth within the Design Guide) are developing in harmony with the Forest character, designing for health and wellbeing, supporting the Forest community and economy, building ethically and sustainably, promoting carbon emission free holidays, integrating with nature and managing water wisely.

It is disappointing that the Sustainable Tourism Accommodation Design Guide does not appear to have been considered.

National Forest planting

The applicant has confirmed that the site area is 1.04 hectares, resulting in a requirement for 0.21 hectares of National Forest planting. The applicant has provided an amended site plan (Rev C) which includes a pink shaded plan to demonstrate that a compliant area of National Forest planting can be provided. While the NFC considers that there is sufficient space on site to accommodate National Forest planting, the landscaping on the site plan (Rev C) in its current form is not considered acceptable.

The accuracy of the plans was raised in our previous response. Adding to these accuracy concerns, the amended site plan (Rev C) shows more trees than the earlier site plan (Rev A) but there is no increase in numbers on the planting schedule table and there continues to be information missing from the table (the coding).

Turning to the tree species proposed, we do not consider these to be appropriate and ask the agent to refer to the table below, which details an appropriate woodland mix (including species, species mix, size, density). The NFC recommends that rather than show individual trees on the landscaping plan (which are unlikely to be accurately located), that it is more appropriate to show areas of woodland planting on the landscaping plan.

Woodland Species Mix

Species	Common name	Percentage
Quercus robur	Oak	20
Betula pendula	Silver birch	15
Tilia cordata	Small-leaved lime	10
Sorbus aucuparia	Rowan	10
Acer campestre	Field maple	10
Prunus avium	Wild cherry	10
Crataegus monogyna	Hawthorn	10
Cornus sanguinea	Dogwood	5
Corylus avellana	Hazel	5
Ilex aquifolium	Holly	5

All to be planted as 1+1 transplants, 40/60cm size with stake or cane and 0.75m tube or spiral protection.

Planted at 2m centres in groups of 3-5.

All to be spot sprayed 1m around each plant.

To conclude, the NFC consider that the current site plan should not be approved for the above reasons (inaccuracies and inappropriate species, species mix and density). However, we

consider that a compliant amount of on-site National Forest planting can occur, and in this case, the NFC considers that the specific details of the National Forest planting could be secured by a condition (having regard to the woodland species mix table above). The NFC would again encourage the pond to be designed to achieve biodiversity enhancements.

Natural England

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of the River Mease Special Area of Conservation
- damage or destroy the interest features for which the River Mease Site of Special Scientific Interest has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required:

As part of the Habitats Regulations Assessment (HRA), the Local Planning Authority (LPA) should ensure that there will be no harmful discharges of foul or surface water from the application site into the River Mease or its tributaries.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Following the receipt of a Habitats Regulation Assessment...

Your assessment concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. On the basis of the information provided, Natural England concurs with this view.

Environmental Health

I have considered this application in relation to the potential air quality, noise, odour, land contamination and environmental lighting. I have also read the relevant technical reports submitted in support of the application.

In my opinion, the key potential environmental impacts of the development are;

1. The potential exposure of existing receptors / new receptors associated with the development to existing sources of land contamination;

I am satisfied that the impacts of the proposed development will be acceptable in planning policy terms provided that the following conditions be attached;

Recommendations

Our records show that 50m to the north of the proposed development is land with a potentially former contaminative use (namely 'general quarrying' and 'unknown filled ground'). The proposed development therefore has the potential to result in mobilisation of contaminants and in particular a risk to the proposed body of water. An assessment is required to determine the risk and adopt appropriate mitigation.

I am satisfied that the impacts of the proposed development will be acceptable in planning policy terms provided that conditions be attached.

Lead Local Flood Authority

LLFA initially objected due to a lack of information.

Following the receipt of further information...

Derbyshire County Council as the Lead Local Flood Authority (LLFA) has reviewed the information submitted for this application, which was received on 24th January 2022. The LLFA has no objection in principle to the proposals provided they are brought forward as per the submitted documents.

Coal Authority

I have reviewed the proposals and confirm that the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. The Coal Authority records indicate that the site is likely to have been subject to historic unrecorded underground coal mining at shallow depth with could be attributed to the thick coal seam conjectured to outcrop at or close to the surface across the northern part of the site. The application is accompanied by a Coal Mining Risk Assessment (P8582 - CMRA-1 dated 14th August 2018) prepared for a proposed holiday let at the site by GRM Development Solutions Ltd.

It is noted that the Coal Authority were consulted on previous planning applications for this site: 9/2018/1297 and DMPA/2019/1246 (Change of Use of land to provide holiday let accommodation (caravans) including the formation of a lake, associated parking and landscaping) which were accompanied by the same Coal Mining Risk Assessment. The Coal Authority raised no objection to the proposal subject to the imposition of a planning condition to secure the intrusive ground investigations as recommended by the report author: GRM Development Solutions Ltd.

In light of the above, as the proposed development is predominantly the same as the previous applications and no site investigations would appear to have taken place at the site, our previous comments are predominantly unchanged: Based on this review of available information, the report author concurs with our information but also highlights based on BGS geological mapping, opencast workings from which coal has been removed is within the site boundary (based on grid co-ordinates mentioned within the geological memoirs).

In light of the above, the report author considers that there is a high risk to this proposal but only as a result of the potential for the opencast workings / highwall running approximately east west across the site. Based on the nature of the development the report author does not consider that any surface instability related to past coal workings will have a significantly detrimental impact on the proposed development. Section 5.0 concludes that ground investigations will be required in order to assess ground conditions and make mitigation and foundation recommendations.

The intrusive site investigations should be designed and undertaken by competent persons to ensure that these are appropriate to assess the ground conditions on the site to establish the coal-mining legacy present and the risks it may pose to the development and inform any mitigation measures that may be necessary.

The applicant should note that Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb coal property. Please note that any comments that the Coal Authority may have made in a Planning context are without prejudice to the outcomes of a Permit application.

Mine Gas

It should be noted that wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. These risks should always be considered by the LPA. The Planning & Development team at the Coal Authority, in its role of statutory consultee in the planning process, only comments on gas issues if our data indicates that gas emissions have been recorded on the site. However, the absence of such a comment should not be interpreted to imply that there are no gas risks present. Whether or not specific

emissions have been noted by the Coal Authority, local planning authorities should seek their own technical advice on the gas hazards that may exist, and appropriate measures to be implemented, from technically competent personnel.

Sustainable Drainage

Where SuDs are proposed as part of the development scheme consideration will need to be given to the implications of this in relation to the stability and public safety risks posed by coal mining legacy. The developer should seek their own advice from a technically competent person to ensure that a proper assessment has been made of the potential interaction between hydrology, the proposed drainage system and ground stability, including the implications this may have for any mine workings which may be present beneath the site.

Overseal Parish Council

Councillors object to this application on the basis that it is a creeping development as the site started with a single caravan.

Concerns were raised regarding safety as the highway nearest to this premises is used at speed. The application is inaccurate as it states there is a Doctors Surgery in Overseal when in fact, there is not.

Councillors request inclusion of a clause, if permission is granted, that the caravans should be for holiday use only and not permanent residences.

No comments from members of the public have been received.

Relevant policy, guidance and/or legislation

The relevant policies are:

2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF8 (The National Forest) and INF10 (Tourism Development).

2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development) BNE5 (Development in Rural Areas) and BNE7 (Trees, Woodland and Hedgerows).

The relevant National Guidance is:

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

The relevant Local Guidance is:

Design Guide Supplementary Planning Document (SPD)

Planning considerations

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

- Principle of development;
- Landscape and trees;
- Design and amenity;
- Highway safety;
- Coal mining legacy;

- Drainage;
- Potential impact on protected species.

Planning assessment

Principle of development

The application for tourist accommodation falls to be considered by Policy INF10 (Tourism Development) of the adopted Local Plan Part 1. Part A states that '*Tourism development, including overnight accommodation and visitor attractions, will be permitted:*

i) Within or adjoining the urban area or the Key Service Villages or;

ii) In other appropriate locations where identified needs are not met by existing facilities'

The site is not within or adjoining a key service village as defined by the Settlement Boundaries and Development Policy (STD5) in the Local Plan Part 2, however it is noted the site is adjacent to the ribbon development along the Burton Road, which connects the settlements of Overseal and Castle Gresley/Mount Pleasant. Although there are a three caravan/lodge parks close by on Park Road, two of them are gypsy and traveler caravan sites near to the application site (adjacent and opposite), and Swainswood Park Road Caravan Park received a Certificate of Lawfulness in 2017 that the static caravans are now permanent residential dwellings. The applicants have stated within their submitted Business Case, that the loss of these units as holiday lodges has added to the demand for in the area. Other local sites are named as Forest Holidays at Bath Yard, Moira and Ashby Woulds Lodges, Spring Cottage Road, which are both within 3km in North West Leicestershire District. The Colliery Lane, Linton is the closest holiday lodge park, which is approximately 1km away and has approval for a total of 18 holiday lodges. The submitted Business Case also makes reference to the site being within the National Forest and the increased demand for holiday accommodation that this generates. The supportive text of Policy INF10 states that the Heart of the National Forest area is a particular focus for tourism development, and with this site being within the Heart of the National Forest area (the area between Swadlincote, Ashby de la Zouch and Measham), it is accepted that the demand for holiday accommodation in this area is likely to be greater. Policy INF8 (National Forest) Part F states '*the District Council will seek to support efforts to concentrate tourism and leisure activities and economic opportunities based on the woodland and environmental economy in this area*'. Although other holiday lodge accommodation does exist near to the application site, it is considered that given the location within the Heart of the National Forest, and the loss of holiday lodge accommodation at Swainswood Park, that there is sufficient identified need for the proposal in this location.

Part B of Policy INF10 states '*The District Council will seek to maximise opportunities to deliver new, or improve existing sustainable access arrangements including public transport provision, walking and cycling provision where appropriate*'. As there are bus routes that operate along Burton Road to both Burton and Swadlincote, as well as cycle routes (including cycle route 63) nearby and a metalled footpath along Park Road, it is considered that existing sustainable access arrangements exist in this location.

Part C of Policy INF10 states '*In all cases the District Council will expect new tourism development to be*

i) Provided through the conversion or re-use of existing buildings or;

ii) Accommodation of a reversible and temporary nature, or;

iii) Sustainable and well designed new buildings, where identified needs are not met by existing facilities, subject to all the other relevant policies in the Local Plan.'

I consider that the proposal comprises accommodation of a reversible and temporary nature and would therefore satisfy this policy requirement.

The objection from the Parish Council is due to the expansion of this type of development 'as the site started with a single caravan'. Whilst the site subject to this application does not benefit from planning permission for caravan related uses, it is acknowledged that the adjacent site and the site across the road to the north have long since benefitted from planning permission for both a gypsy caravan and traveller site. This proposal for holiday lodges, differs from the adjacent sites however, in that the tourism policy applies here, and as stated above, this location is particularly appropriate for this type of development in the heart of the National Forest. The proposed units are timber lodges and not caravans, which will create a different feel that is more in-keeping with the local landscape. It is not considered that this comment is sufficient reason to refuse permission.

Part D of Policy INF10 is considered below, however based on the matters covered above, it is considered that the principle of holiday lodge accommodation in this location is acceptable. It is important however, that the lodges are used for holiday lets only, as residential development on this site would not be in accordance with current planning policy. This can be controlled by a use-restriction on any permission granted.

Landscape and trees

The site is situated outside of the village of Overseal in an area surrounded by National Forest planting, and older woodland, close to Swainspark Wood and Albert Village Lake. The site is relatively contained due to the topography and tree screening, and therefore this proposal is not expected to be prominent, except for glimpses along Park Road.

Part D of Policy INF10 states, 'New tourism development that is likely to give rise to undue impacts on the local landscape, natural environment or cultural heritage assets will be refused'. No objections have been received from the Council's Tree Officer; however, the National Forest have commented that although the planting requirements have been shown on the amended site plan, there are omissions in the detail relating to the number of trees to be planted and the species mix proposed. They therefore have requested that specific details of National Forest planting be secured by a planning condition, having regard to the woodland mix as set out in their comments.

Provided that the appropriate National Forest planting is secured, it is not considered that the seven lodges proposed in this location would lead to undue impact on the local landscape, and therefore the proposal is in accordance with Part D of Policy INF10 (Tourism Development), as well as Policies BNE4 (Landscape Character and Local Distinctiveness) and INF8 (The National Forest).

Design and amenity

The lodges proposed are single storey with timber cladding, and dark grey tile roofs. There is a small amount of decking to the front of elevations and wooden steps to one side elevation. The lodges are three-bed and relatively simplistic in design. It is considered that they are typical of their kind, and do not present any design features which would generate harm to the local landscape. The closest neighbours to the site are located at the adjacent caravan park The Conifers, however, it is acknowledged that there is sufficient distance and landscaping between the sites to enable the sites to operate independently of each other, and it is not anticipated that the use of the holiday lodges would detrimentally impact the amenity of the residents of the caravan park.

Highway safety

The County Highway Authority have commented that they would wish to see a footway provided to the east of the proposed access point to link up with 6 Park Road, and they suggest that this can be secured through a planning condition. The County Highway Authority have no objections to the proposal providing the footway is provided, and that matters relating to the construction phase are also secured through conditions.

Coal mining legacy

The application site falls within the defined Development High Risk Area, and therefore the Coal Authority have been consulted on the application. The assessment provided by the applicant has concluded that ground investigations will be required in order to assess ground conditions and make mitigation and foundation recommendations. The Coal Authority therefore recommends that pre-commencement conditions be attached to any permission to ensure that the site investigations take place, and that any remediation works and/or mitigation measures are implemented to ensure the site is safe and stable for the development proposed.

Drainage

Due to the pond being created as part of the proposals, the applicant has been able to provide a Sustainable Urban Drainage System on site. The applicant submitted an amended site plan showing details relating to drainage and the Lead Local Flood Authority have confirmed they do not object to the proposals.

Potential impact on protected species

No objections have been raised from Derbyshire Wildlife Trust, provided that conditions to enable appropriate mitigation and compensation for reptiles are imposed on any permission.

The site falls within the River Mease (SAC) catchment area and therefore consideration as to whether the proposal will lead to an impact on the integrity of the SAC must be given through a Habitat Regulation Assessment. In line with current Natural England Standing Advice, foul drainage and surface water drainage need to be considered for this proposal. In the absence of a Developer Contribution Scheme at present to mitigate the effects of increase foul drainage, foul flows are unable to connect to the mains sewer but must instead use an appropriate bespoke mitigation solution, designed into the application. This proposal includes the use of a package treatment plant, as well as a Sustainable Urban Drainage System. A Habitats Regulation Assessment has been undertaken for both foul and surface water drainage, and Natural England have confirmed their agreement with it. Subject to appropriate planning conditions, the proposed mitigation will ensure that the proposal will not have any impact on the integrity of the River Mease SAC and is therefore in accordance with Policy BNE3 (Biodiversity) of the Local Plan Part 1.

Conclusion

Considering all the matters set out above, it is concluded that the proposal is in accordance with national and local planning policy and should be granted permission subject to conditions.

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

Recommendation

Approve subject to conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings ref. Site Plan 'Is-221-52-02 Rev D', Lodges Plans and Elevations '221-52-06' and Extract of Access Site Plan '221-52-03' unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. No development, including preparatory works, shall commence until a scheme to avoid harm to reptiles, particularly common lizard and grass snake, along with a timetable for the provision of protective and enhancement measures has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

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

4. The development hereby permitted shall not begin until a scheme to deal with contamination of land & ground gas has been submitted to and approved in writing by the local planning authority. The scheme shall include all of the following measures, unless the local planning authority dispenses with any such requirement specifically in writing:
 1. A Phase I site investigation report carried out by a competent person to include a desk study, site walkover, the production of a site conceptual model and a human health and environmental risk assessment, undertaken in accordance with BS 10175: 2011 Investigation of Potentially Contaminated Sites – Code of Practice.
 2. A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice. The report shall include a detailed quantitative human health and environmental risk assessment.
 3. A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.
 4. If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be submitted to and approved in writing by the local planning authority.
 5. A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to first occupation of the development. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To protect the health of future occupiers of the site from any possible effects of contaminated land, in accordance with local planning policy SD4.

5. Before any other operations are commenced a new vehicular and pedestrian access shall be created to Park Road in accordance with the application drawing number 221-52-03, laid out, constructed and provided with 2.4m 120m 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: To ensure safe and suitable access for all users, in the interests of highway safety, recognising that even initial preparatory works could bring about unacceptable impacts.

6. Throughout the construction phase space will be made available within the site curtilage for the storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives.

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

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

Reason: To ensure safe and suitable conditions are maintained on the public highway, in the interests of highway safety.

8. Prior to the site being taken into use a footway shall be provide from the proposed site access in an easterly direction to join the existing footway at 6 Park Road in accordance with the first scheme submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. Once approved the footway shall be constructed in accordance with the approved drawings.

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

9. No development, including preparatory works, shall commence until protective fences have been erected around all trees and hedgerows shown to be retained on approved Tree Protection Plans with references 'MVA_AM_TPP_Access_Rev1' and 'MVE_AM_TPP_Rev1'. Such fencing shall conform to best practice as set out in British Standard 5837:2012 (or equivalent document which may update or supersede that Standard) and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The fences shall be retained in situ during the course of ground and construction works, with the protected areas kept clear of any building materials, plant, debris and trenching, and with existing ground levels maintained; and there shall be no entry to those areas except for approved arboricultural or landscape works.

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

10. All facing materials used in the development shall reflect the details shown on approved plan ref '221-52-06 Plans and Elevations of Lodges', unless, prior to their incorporation into the development hereby approved, alternative details are first submitted to and

approved in writing by the Local Planning Authority pursuant to an application made in that regard, whereafter the approved alternative details shall be incorporated into the development.

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

11. Prior to the development being brought into use the package treatment plant and drainage details hereby approved shall be installed and commissioned to receive flows from the respective lodges. The drainage scheme shall be implemented in accordance with approved plans 'IS-221-52-02 Rev D Site Plan', '200505-SDA-S-XX-DR-C-0001-SO Rev P2 Drainage Layout Sheet 1' and '200505-SDA-S-XX-DR-C-0002-SO Rev P2 Drainage Layout Sheet 2'. The package treatment plant and drainage scheme shall thereafter be maintained in working order throughout the lifetime of the development.

Reason: In the interests minimising the likelihood of flooding incidents and damage to the environment, property or life.

11. Notwithstanding the approved plans, prior to the development being brought into use, a revised scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority which shows compliant on-site National Forest Planting using the woodland species mix table as set out by the National Forest Company. The scheme should evidence compliance with British Standard (BS) 3936: 'Part 1 - Specification for trees and shrubs', BS3969 - 'Recommendations for turf for general purposes' and BS4428 - 'Code of practice for general landscape operations (excluding hard surfaces)'. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first use of a holiday lodge or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interest of the visual setting of the development and the surrounding area, and to ensure compliance with policies relating to the National Forest.

12. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) Order 2015, or any Order(s) revoking and re-enacting either or both Order(s), with or without modification, the building(s) hereby permitted shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order, without the prior grant of planning permission by the Local Planning Authority pursuant to an application made in that regard, and:
 - (i) the building(s) shall not be occupied as a person's sole, or main place of residence;
 - (ii) the accommodation shall not be occupied by a person or group of persons for a continuous period of more than 28 days and it shall not be re-occupied by the same person(s) within 3 months following the end of that period; and
 - (iii) the site operator shall maintain an up-to-date register of the names of all occupiers of the building(s), and of their main home addresses, and shall make that information available at all reasonable times to the Local Planning Authority.

Reason: The provision of conventional residential dwellings in this location would be contrary to the Development Plan and the objectives of sustainable development, and to enable to the effective monitoring of the use of the site.

13. 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 units hereby permitted shall not be enlarged or extended, and no buildings shall be erected on the site without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

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

Informatives:

- a. 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 K Barton in Development Control 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.
- b. 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 & Environment 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, e-mail highways.hub@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.
- c. 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.
- d. 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.

Item No. 1.2

Ref. No. [DMPA/2020/0992](#)

Valid date: 21/09/2020

Applicant: R Carter

Agent: Gino Lombardo Associates Ltd

Proposal: **The erection of 14 dwellings with access from Penkridge Road with parking and associated works on Land rear of 30 & 32 Common Side and north of Penkridge Road, Church Gresley, Swadlincote**

Ward: Church Gresley

Reason for committee determination

The applicant is currently unwilling to sign a Section 106 Agreement due to the particulars of the education contribution as requested by the Local Education Authority, Derbyshire County Council.

Site Description

The site lies at the end of and to the north of Penkridge Road cul-de-sac, and to the south of Common Side, Church Gresley. The site is bounded by residential properties to the east, a public footpath and mature woodland/common land to the north, and an existing scrapyards business to the west. Although the site is adjacent to the Thorpe Downs estate, the site did not form part of this development. The site is currently vacant, rough ground, however there are mature trees to the south-west of the site adjacent to the proposed access, and along the eastern boundary. The southern part of the site slopes upwards from Penkridge Road but is then relatively level. The site is not particularly prominent in the streetscene of Penkridge Road, although the northern section of the site is adjacent to the public footpath that passes between Common Side and Robin Hood Place.

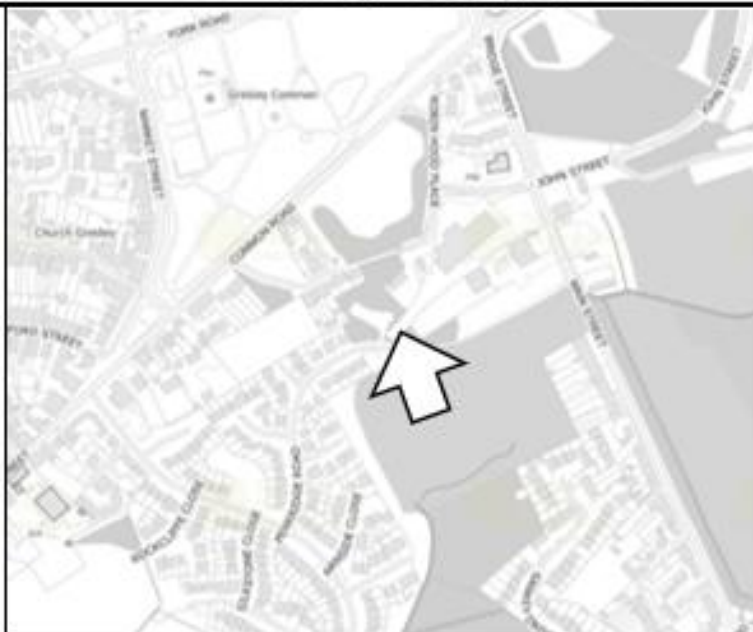
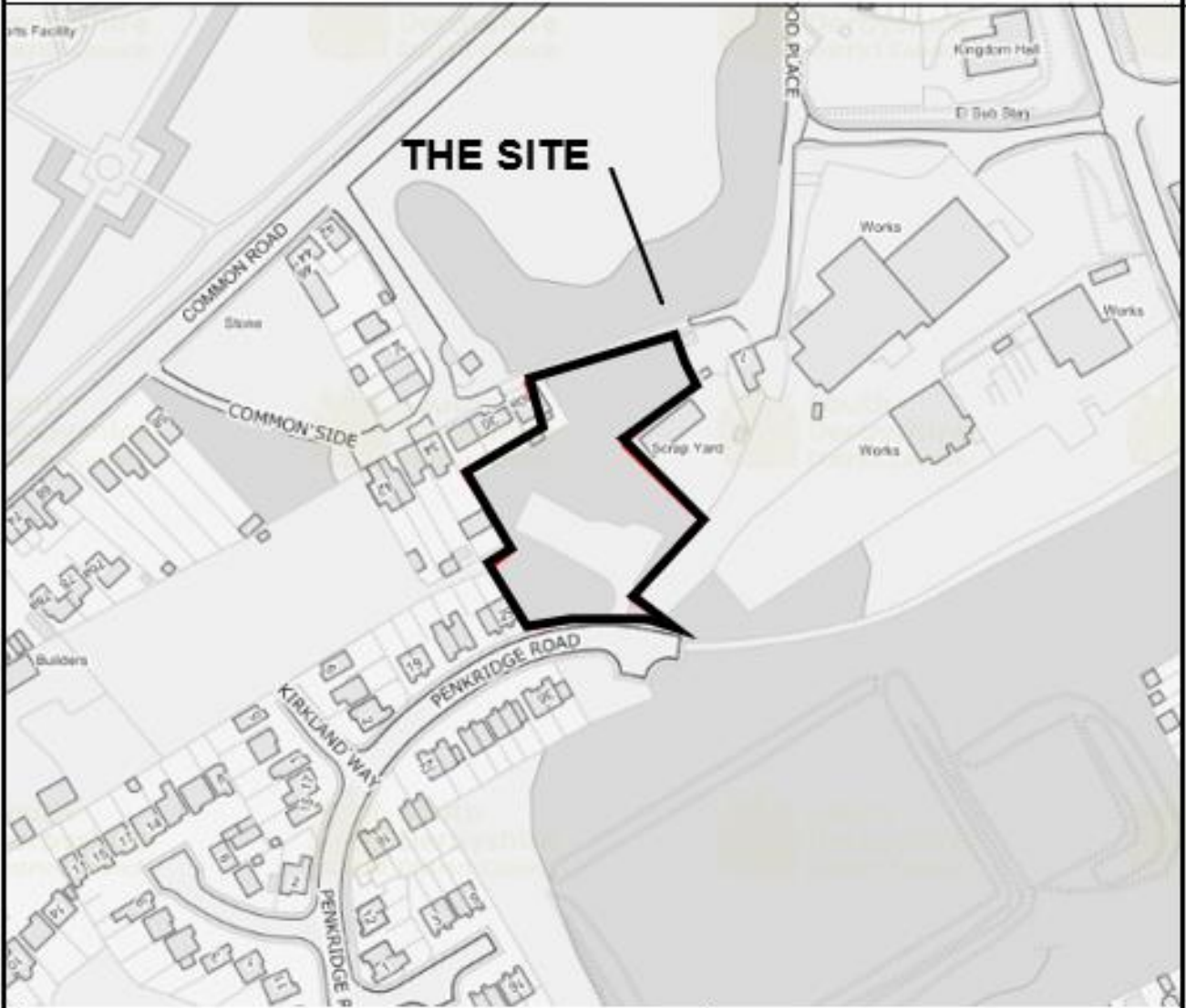
The proposal

The proposal is for the erection of 14 dwellings, in the form of both 3-bed semi-detached dwellings, and 2-bed terraced dwellings, with associated works to create an access driveway and parking.

Applicant's supporting information

The application has been supported by:
Design and Access Statement
Biodiversity Management Plan
Construction Environment Management Plan
Working Method Plan
Ecological Appraisal
Badger Report
Coal Mining Desk Study
Arboricultural Report
Geo-Environmental Summary Report
Surface Water and Soakaway Details

DMPA/2020/0992 Land rear of 30 & 32 Common Side and north of Penkrudge Road, Church Gresley, Swadlincote



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South Derbyshire District Council. LA 100019461.2020

Relevant planning history

9/0494/087 – Reserved Matters application for 200 dwellings in accordance with Condition 2 of 9/1090/0715 on Land South of Church St – Approved 10/06/1994

9/2015/1127 – Outline application (all matters except for access to be reserved) for the residential development of 14 dwellings and construction of new access road – Approved 13/06/2017

Responses to consultations and publicity

Strategic Housing commented that the proposal of [14] three bedroom properties does not meet the property type split suggested and they would welcome more of a mix when it comes to property sizes, especially when the homes proposed are very small. These wouldn't even meet 85% of NDSS standards for some and certainly would not be able to achieve the M4(") building regulations we should be seeking to achieve, as a result, without changes I'm not sure that these homes will be fit for the future.

Environmental Health commented with specific regard to noise mitigation provision. They referred back to application 9/2015/1127 which included a 3.5 metre acoustic barrier, and stated that if they wish to deviate from this by using a 2.5 metre acoustic barrier instead, they would need to submit an updated noise impact assessment.

The previous scheme relied upon keeping windows closed to provide a suitable internal noise environment, and it is assumed that similar will apply here. Such arrangements should only be permitted where it can be demonstrated that acoustic design considerations have been made to ensure, wherever possible, internal target levels can be achieved with open windows.

Further information should be submitted to this effect.

Information with regards to the proposed glazing specification, and details of the ventilation arrangements for summer cooling should be submitted and agreed with the LPA.

Application reference 9/2015/1127 includes a condition regarding Japanese knotweed, and I would advise that this is continued over to the current permission if granted.

Conditions relating to potential contamination of land have also been suggested.

There have been no objections raised by the Environment Agency. The site lies fully within flood zone 1 and therefore they have no fluvial flood risk concerns associated with the site. There are also no other environmental constraints associated with the site and therefore we have no further comment to make.

The National Forest Company stated that the site is below the threshold of 0.5ha which would require dedicated woodland planting to be provided. Following amendments, they commented that the amount of proposed hardstanding has been reduced and additional tree planting introduced. The additional planting at the entrance to the site and along the east side is welcome. There are a couple of matters to note:

- The provision of a communal area of green infrastructure between plots 8 and 9 is welcome but it would need to be clarified who is responsible for the long term management of these areas
- Details of the size and species of trees and shrubs would be useful at this stage – otherwise a landscaping scheme should be conditioned.
- The specimen tree planting within the private gardens and between the parking bays would be welcome but there needs to be sufficient space for establishment to reduce the potential for pruning/felling at a later date
- The location of the proposal in the National Forest has not been referenced in terms of the design or use of materials

Force Designing Out Crime Officer had no objection following the receipt of an amended site plan which showed a separation of plots 9-14 with the public footpath, and a reduction in height of some of the proposed fencing.

The Coal Authority raised no objections to the proposal providing conditions are imposed that require on-site investigations and any subsequent remediation or mitigation measures that may be required following this, as well as a declaration made that the site is, or has been made, safe and stable.

The County Highway Authority stated that the proposed road as shown is not designed to adoptable standards and will therefore not be adopted by the local highway authority. The proposed road is to be private access road to be managed and maintained by the developer/applicant. There are no highways objections for the application, subject to conditions in the interest of highway safety.

Severn Trent Water raised no objection but requested conditions and informatives in relation to the disposal of surface water and foul sewerage.

The Lead Local Flood Authority, initially objected to the application, but removed this objection upon the receipt of amended plans and additional information. They stated that the applicant has now provided documentation showing their right to discharge and connect foul and surface water from the proposed development into the existing sewers on Penkridge Road. The LLFA has no objection for this connection at restricted rate (Greenfield run off rate) subject to the failure of infiltration tests and further connectivity investigation downstream of the existing sewers on Penkridge Road which can be carried out at detailed design stage.

Derbyshire Wildlife Trust commented on the application and the submitted Preliminary Ecological Appraisal. We concur with the views of the National Forest Company that there appears to be an excessive amount of hardstanding in the proposed parking areas where meaningful tree planting and soft landscaping could take place. It is understood that the proposed layout will require the removal of one group of trees (G3), a single tree T2 and a tree within the group G5. No up to date assessment of these trees for their potential to support roosting bats appears to have been completed. Such information is lacking and needs to be provided prior to the determination of the application. We note the presence of nearby records for great crested newt. However, in its current state, we are satisfied that there is little likelihood of great crested newt being present on the site and, as such, we consider that carrying out the development in accordance with precautionary method of works in respect of reptiles is a reasonable approach. We therefore recommend a planning condition.

Derbyshire County Council raised no objections to the proposal, but a local County Councillor noted that residents in this part of Church Gresley have enjoyed living in an area of relative tranquility, so all efforts should be made in the design of the development and during its construction to mitigate associated disruption, including the impact of numerous additional traffic movements. The Biodiversity Management Plan, including the wildlife corridor, the biodiversity enhancement measures and retention of mature trees, is welcome in this area of Church Gresley, a settlement which is of course within the South Derbyshire section of the National Forest. Derbyshire County Council set out that financial contributions would be required via Section 106 planning obligations.

Education

The County Council has a statutory duty to make education provision available for each young

person and elects where possible to provide a school place for each child at their normal area school. This duty applies across all schools and includes Academies. The number of places at the normal area school is assessed through a system provided by the Department of Education which produces a net capacity. The number on roll at a school reflects the number of pupils attending the school, and the difference between the net capacity and the number on roll is the number of places available or not available to accommodate future requests for places. Pupil numbers are calculated looking at the five year projection of numbers on roll based on birth rates. This projection does NOT include the impact of any new housing with planning permission or allocated in local plans. The pupil yield from approved planning applications in the normal area of the school is then added. The number of pupils that the development is expected to generate is calculated using the formula that for every 100 dwellings there will be 24 primary, 20 secondary and 8 post16 pupils. This formula is based on a statistical assessment of birth rate and housing occupancy data in Derbyshire using information from the 2011 census. In calculating the pupil yields one-person households have been omitted. This reflects the fact that one bedroom dwellings are omitted from the assessments of need contained in consultation responses. The pupil yield employed in the SEND assessment reflects the proportion of Derbyshire pupils being educated within Special Schools as well as Enhanced Resources within mainstream schools. The requirement for financial contributions towards education provision is therefore based on the normal area school's net capacity, projected pupil numbers on roll over the next five years and the impact of all major residential development with extant planning permissions within the normal area of a school to assess the effect that committed development coming forward will have on school capacity. The level of contribution required is fair and reasonable in scale and kind and is determined using multipliers provided by the Department for Education based on their analysis of building costs per pupil adjusted to reflect regional variations in costs. These multipliers are revised annually in line with building cost inflation using the Building Cost Information Service All in Tender Price Index.

Primary Level

The proposed development falls within and directly relates to the normal area of Church Gresley Infant & Nursery School and Pennine Way Junior Academy. The proposed development of 14 dwellings would generate the need to provide for an additional 1 infant and 2 junior pupils. Infant: Church Gresley Infant & Nursery School has a net capacity for 270 pupils, with 270 pupils currently on roll. The number of pupils on roll is projected to decrease during the next five years to 189. An evaluation of recently approved major residential developments within the normal area of Church Gresley Infant & Nursery School shows new development totalling 36 dwellings, amounting to an additional 4 infant pupils. Junior: Pennine Way Junior Academy has a net capacity for 358 pupils, with 369 pupils currently on roll. The number of pupils on roll is projected to decrease during the next five years to 341. An evaluation of recently approved major residential developments within the normal area of Pennine Way Junior Academy shows new development totalling 36 dwellings, amounting to an additional 5 junior pupils. Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area infant and junior schools would have sufficient capacity to accommodate the 1 infant and 2 junior pupils arising from the proposed development.

Secondary Level

The proposed development falls within and directly relates to the normal area of The Pingle Academy. The proposed development of 14 dwellings would generate the need to provide for an additional 4 secondary phase (with post16) pupils. The Pingle Academy has a net capacity for 1,376 pupils with 1,286 pupils currently on roll. The number of pupils on roll is projected to increase to 1,505 during the next five years. An evaluation of recently approved major

residential developments within the normal area of The Pingle Academy shows new development totalling 460 dwellings, amounting to an additional 129 secondary phase (with post16) pupils. Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area secondary school would not have sufficient capacity to accommodate the 4 secondary phase (with post16) pupils arising from the proposed development. Mitigation The above analysis indicates that there would be a need to mitigate the impact of the proposed development on school places in order to make the development acceptable in planning terms as the normal area secondary school would not have sufficient capacity to accommodate all of the additional pupils generated by the proposed development.

The County Council therefore requests financial contributions as follows:

- £106,027.64 towards additional education facilities at The Pingle Academy

The above is based on current demographics which can change over time and therefore the County Council would wish to be consulted on any amendments to a planning application or further applications for this site. Should it emerge that there are viability issues associated with the proposals in the above planning application and the District Council is in agreement with the applicant's financial appraisal, there may be some flexibility in the payment triggers. The full contribution, however, would still be required to fully mitigate the impact that the proposed development would have on the normal area primary school and secondary schools. The County Council requests that its officers are also party to any further negotiations on developer contributions. If there is insufficient capacity to accommodate the increase in pupils forecast to be generated by this proposed development and the development itself cannot enable the necessary provision, the County Council wishes to highlight that the proposed development may not provide for a sustainable form of development.

Broadband

It is not expected that the County Council will require fibre-based broadband to be provided to make a development acceptable in planning terms, however developers should look to provide for NGA broadband infrastructure services as an integral part of the development scheme at the outset. An advisory note is recommended.

Monitoring Fees

In line with the revised Community Infrastructure Levy Regulations 2010 (as amended) Regulation 122 2(a), the County Council will seek a monitoring fee towards the monitoring and reporting of S106 contributions. The fee will be based on the cumulative number of triggers to be monitored for County Council obligations x £70 (based on 2 hours officer time Grade 12).

Landscape Officer requested a landscape planting plan to include a plant schedule and planting specification, including a native species hedgerow with trees to the boundary to the south and southwest boundary, and hedgerow planting to the frontages of properties 9 to 14 inclusive.

Cultural Services stated that Section 106 Contributions towards improvements to facilities, grounds and infrastructure at Maurice Lea Park close to development site would be appropriate.

There were no further comments on this application or representations from members of the public.

Relevant policy, guidance and/or legislation

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), BNE3 (Biodiversity), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport) and INF9 (Open Space, Sport and Recreation).

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

The relevant National Guidance is:

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

The relevant Local Guidance is:

South Derbyshire Design Guide SPD

Planning considerations

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

- Principle of development;
- Highways and access;
- Housing mix;
- Design and amenity;
- Environment and biodiversity.

Planning assessment

Principle of development

The site is located within the settlement boundary of the urban area of Swadlincote as defined in policy H1 and SDT1 of the Local Plan, and therefore the development of the site for residential units would be in line with these policies, providing that the proposal does not conflict with further policies at the national and local level.

Due to the number of dwellings proposed, the granting of planning permission would be subject to planning obligations secured through a Section 106 Agreement for contributions towards open space and education in the local area. Regulation 122(2) of the CIL Regulations 2010 states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

Given the type of development, which will generate additional population to the area, it is considered reasonable to request contributions towards open space and education in line with local evidence and guidance.

Open space

'Section 106 Agreements: A guide for Developers' sets out that provision for off-site open

space contribution will be sought at £373 per person. Based on the number of bedrooms proposed to be generated through this scheme this will equate to 39 persons, thus giving a requirement of £14,547 off-site open space contribution. It has been identified that this contribution would go towards improvements to facilities, grounds and infrastructure at Maurice Lea Park, Church Gresley.

- The financial contribution would be £14,547 towards improvements to facilities, grounds and infrastructure at Maurice Lea Park, Church Gresley.

Education

Following consultation with the County Council, and series of written correspondence between the applicant and the County Council, it is considered that the evidence is sound and that contributions for Secondary Level education as set out by the County Council will be sought. It is understood that it would be helpful to the applicant for the trigger points to be pushed back in the timeline of development to enable the viability of the site. It is suggested that 50% of the contribution is due at 50% occupation, and the remaining 50% of the contribution is due at the final occupation.

- The financial contribution would be £106,027.64 towards additional education facilities at the Pingle Academy.

Monitoring

South Derbyshire District Council - A monitoring fee of £1,000, payable upon commencement of development, will also be required in line with Regulation 122 (A) of the Community Infrastructure Levy Regulations 2010 (as amended).

Derbyshire County Council - In line with the revised Community Infrastructure Levy Regulations 2010 (as amended) Regulation 122 2(a), the County Council will seek a monitoring fee towards the monitoring and reporting of S106 contributions. The fee will be based on the cumulative number of triggers to be monitored for County Council obligations x £70 (based on 2 hours officer time Grade 12).

It is considered that the principle of development is acceptable, providing the off-site contributions for both open space and education, are sought through a Section 106 Agreement.

The matter of the education contribution is the reason that the application has been brought to Planning Committee, as the applicant has been unwilling to sign the Section 106 Agreement due a disagreement relating to the wording of the spend criteria and the calculation used to set out the pupil places required. Further justification in respect of the education contribution has been set out by Derbyshire County Council within the Explanatory Note dated 21st October 2022, which is attached as an appendix to this report. The Explanatory Note seeks to set out why contributions towards the Pingle School are sought, and why the Schools Funding Agreement cannot be used as an indicator as the school is an academy, and the County Council have no part in this. It is considered that without the education contribution, the development cannot be deemed acceptable in planning terms due to it being contrary to Policy INF1 'Infrastructure and Developer Contributions' and the 'Section 106 Agreements: A Guide for Developers' document which refers to Local Education Authority advice.

Highways and access

Policy INF2 of the Local Plan stipulates that appropriate provision shall be made for safe and convenient access into and within development for pedestrians and private car users. The access is proposed from Penkrudge Road, and the County Highway Authority have no

objections subject to conditions. It is noted that the proposed road is not designed to adoptable standards and therefore it will be a private road to be managed and maintained by the developer/applicant. It is therefore considered that the proposal is in accordance with Policy INF2.

Housing mix

Policy H20 of the Local Plan states that the Council “will seek to provide a balance of housing that includes a mix of dwelling type, tenure, size and density. The overall mix of housing will take account of the Strategic Housing Market Assessment (SHMA) and Local Housing Needs Study.”

Initial comments from Strategic Housing were that the initial proposal of 14 no. 3 bedroom homes, would lead to very small homes and a lack of housing mix as suggested by the SHMA. The most recent SHMA (January 2020) states that the majority of new market provision should be for 3 bedroom homes, but that a mix will be appropriate following the guidance in table 36. The applicant subsequently amended plans to provide three no. 2 bedroom dwellings and 11 no. 3 bedroom dwellings which is felt to better address a housing mix. It is therefore considered that the proposal complies with the principles of Policy H20.

Design and amenity

Policy SD1 of the Local Plan stipulates that the development should not lead to adverse impacts on the environment or the amenity of existing and future occupiers within or around proposed development.

The proposed development seeks to create fourteen dwellings on the site which would be two storey in height. The density is relatively high at 36 dwellings per hectare, however in an existing urban area, and following the guidance as set out in NPPG ‘Effective use of land’ which advises higher density developments in sustainable locations, it is considered to be acceptable. This also accords with Policy H20 part B and C which state, “B - the density of any site will be considered individually as there is no evidence to support a set density across all sites. C - any housing development would be expected to make the most efficient use of the land whilst taking into account what is appropriate for the surrounding local built and natural environment”.

Whilst frontage parking is normally discouraged, due to the constraints of the existing trees, and the secluded nature of the development, it is considered that the parking arrangements are acceptable, to enable a higher density development and a viable scheme.

Concerns have been raised by Environmental Health in relation to the scrap yard works adjacent to the site. A 3.5 metre acoustic fence was requested in line with previous application; however, the applicant has demonstrated that the proposed fence at 2.5 metres will still achieve the same sound barrier as it is located 1 metre higher up the bank on the eastern boundary of the site. Environmental Health also requested that further information be submitted to demonstrate that other strategies and layouts have been explored to mitigate noise, before a strategy to accept noise levels acceptable with closed windows only is adopted. Due to the principle of 14 dwellings being accepted on the site through the previous permission in 2017 (9/2015/1127) it is acknowledged that the proposed layout has already in principle been accepted. To ensure that the closed windows ventilation strategy is incorporated successfully into the scheme, a condition has been drafted by Environmental Health.

Initial comments were received from the National Forest Company and Derbyshire Wildlife Trust in relation to excessive areas of hardstanding proposed in the initial design of the

scheme. The Amended Site Plan (March 2021 Rev g) shows reduced areas of car parking and hardstanding, and a greater area of landscaping and retained trees. It is considered that these amendments address the concerns raised by these statutory consultees, as confirmed by the updated comments from the National Forest Company.

The proposed dwellings themselves are of simple design and arranged as semi detached dwellings or terraces of three dwellings. They are simple and uniform in their design, and should link together well as a small, secluded development. The dwellings will not become prominent features in the streetscene of Penkridge Road as they will largely be obscured from view by the existing tree buffer. The dwellings facing the track and public footpath of Common Side will be more visible, and the 1.2metre metal fencing at the front of these properties is welcome to demarcate the boundary in this location. It is not anticipated that the dwellings would detrimentally impact upon the public footpath, but rather provide more natural surveillance through this link footpath between Common Side and Robin Hood Place.

Details relating to design materials will be requested by condition to ensure regard to the guidance as set out in the South Derbyshire Design SPD.

It is considered that the proposal accords with the principles of policies SD1 and BNE1 of the Local Plan.

Environment and biodiversity

There are a number of existing trees, constituting small areas of woodland within the site on the southern and eastern boundary covered by Tree Protection Orders (445 and 468). The submitted plans show that these trees are to be retained and tree protection measures put in place which is welcome in terms of amenity and biodiversity.

Initial consultation with Derbyshire Wildlife Trust highlighted their objection on the basis that the removal of trees which could provide a suitable habitat for bats would not be acceptable. However, following the receipt of an amended site plan showing increased areas of landscaping, it was confirmed that these trees would not be removed. It is therefore considered that this addresses the concerns initially raised by DWT. Some minor tree pruning and reduction works have been agreed with the approval of the Council's Tree Officer and these are also now shown on the amended site plan, along with the root protection areas.

Conclusion

The proposed development would fully accord with the principles of policies H1, SDT1 and BNE1 of the Local Plan, and of the Local Plan as a whole, provided that any permission is subject to a Section 106 Agreement and relevant conditions as set out above. It is therefore recommended that the application is approved subject to planning conditions and a Section 106 Agreement, and should the Section 106 Agreement not be signed within 6 months of this committee, that the application be refused.

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

Recommendation

It is recommended that the application be approved subject to conditions and a Section 106 Agreement in line with the terms set out by Derbyshire County Council. In the event of a Section 106 Agreement not being signed within 6 months, delegated approval is sought for the application to be refused. The applicant may appeal against non-determination at any point, and if that were to occur then the recommendation would be for refusal due to the lack of a signed Section 106 Agreement.

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings ref. 'Proposed Site Plan (amended and with tree protection) 18505PR/X/1000j', 'Floor Plans (amended) 18508/PR/A/02a', 'Elevations and Floor Plans 18508/PR/A/01' and 'Elevations 18508/PR/A/03' unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. No development, including preparatory works, shall commence until protective fences have been erected around all trees and hedgerows shown to be retained on the approved plans. Such fencing shall conform to best practice as set out in British Standard 5837:2012 (or equivalent document which may update or supersede that Standard) and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The fences shall be retained in situ during the course of ground and construction works, with the protected areas kept clear of any building materials, plant, debris and trenching, and with existing ground levels maintained; and there shall be no entry to those areas except for approved arboricultural or landscape works.

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

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

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

5. No development, including preparatory works, shall commence until an Invasive Non-Native Species Protocol (INNSP) has been submitted to and approved in writing by the

Local Planning Authority. The INNISP shall detail the timing and method of containment, control and removal of Japanese Knotweed on the site. The measures identified in the INNISP shall be carried out strictly in accordance with the approved scheme.

Reason: In order to contain and remove an invasive, non-native species from the site in the long term interest of the natural environment, noting that initial preparatory works could have unacceptable impacts.

6. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Planning Practice Guidance and section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse is available as an alternative other sustainable methods should also be explored. If these are found unsuitable, satisfactory evidence will need to be submitted, before a discharge to the public sewerage system is considered.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

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

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

8. (Part b) Prior to occupation of the development (or parts thereof) an independent verification report which meets the requirements given in Box 2 of Section 3.1 of the Guidance shall be submitted to and approved in writing by the Local Planning Authority. With the prior written agreement of the Local Planning Authority pursuant to part (a) of this condition, this may be carried out on a plot-by-plot basis.

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.

9. A new vehicular access shall be created to Penkridge Road in accordance with application drawing No 18505/PR/X/1000g and provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access, for a distance of 33 metres in each direction measured to 1m out from the nearside carriageway edge. The land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than

1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

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

10. The access, the subject of condition 9 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: To ensure safe and suitable access for all users, in the interests of highway safety, recognising that even initial preparatory works could bring about unacceptable impacts.

11. If required by the conceptual site model, no development shall commence until monitoring at the site for the presence of ground gas and a subsequent risk assessment which meets the requirements given in Box 4, Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated' has been completed in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority

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

12. Prior to the occupation of a dwelling a landscape management plan (LMP) shall be submitted to and approved in writing by the Local Planning Authority. The LMP shall include long-term design objectives, management responsibilities (including contact details and means of informing the Local Planning Authority of any change to those details) and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens. Where relevant, the maintenance schedules shall include means to annually review the condition of any hard surfaces, and replace/upgrade those surfaces, equipment and furniture on a rolling programme. The landscape management plan shall be carried out as approved.

Reason: In the interest of the visual setting of the development and the surrounding area over the lifetime of the development.

13. Prior to the first occupation of the dwelling(s) hereby approved, a scheme of sound insulation shall be submitted to and approved in writing the Local Planning Authority. The scheme shall be designed following the completion of a sound survey undertaken by a competent person. The scheme shall take account of the need to provide adequate ventilation, which will be by mechanical means where an open window would not achieve the following criteria. The scheme shall be designed to achieve the following criteria with the ventilation operating:

Bedrooms 30 dB LA_{eq} (15 Minutes) (2300 hrs – 0700 hrs)
Living/Bedrooms 35 dB LA_{eq} (15 Minutes) (0700 hrs – 2300 hrs)
All Other Habitable Rooms 40 dB LA_{eq} (15 Minutes) (0700 hrs – 2300 hrs)

All Habitable Rooms 45 dB LA_{max} to occur no more than 6 times per night (2300 hrs – 0700 hrs)

Any outdoor amenity areas 55 dB LA_{eq} (1 hour) (0700 hrs – 2300 hrs)

The approved scheme shall be implemented in full and retained thereafter.

Reason: In the interests of protecting the amenity of the prospective occupiers.

14. Prior to the occupation of a dwelling a scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme should evidence compliance with British Standard (BS) 3936: 'Part 1 - Specification for trees and shrubs', BS3969 - 'Recommendations for turf for general purposes' and BS4428 - 'Code of practice for general landscape operations (excluding hard surfaces)'. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of a [[[dwelling/unit]]] or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interest of the visual setting of the development and the surrounding area.

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

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

16. Prior to the construction of the access road/driveway, parking area, footpath or footway details of surfacing materials shall be submitted to and approved in writing by the Local Planning Authority. The roads/driveways/parking areas/footpaths/footways shall be constructed in accordance with the approved details and thereafter maintained using such materials.

Reason: In the interest of the visual setting of the development and the surrounding area, and to ensure longevity of the unadopted access road.

17. Prior to their incorporation in to the buildings hereby approved, details of the external appearance of eaves, verges, cills and headers shall be submitted to and approved in writing by the Local Planning Authority. The details shall include drawings to a minimum scale of 1:10. The eaves, verges, cills and headers shall be constructed in accordance with the approved drawings.

Reason: In the visual interest of the building(s) and local distinctiveness.

18. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity

Reason: To ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.

19. Before any other operations are commenced (excluding demolition/ site clearance), 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 to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

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

20. The proposed access drive to Penkridge Road shall be no steeper than 1:14 for the first 10m from the nearside highway boundary and measures shall be implemented to prevent the flow of surface water onto the adjacent highway. Once provided any such facilities shall be maintained in perpetuity free from any impediment to their designated use.

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

21. The dwellings, 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 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 interest of highway safety.

22. There shall be no gates or other barriers within 5m of the nearside highway boundary and any gates shall open inwards only.

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

23. Throughout the period of construction within any phase 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 or other extraneous material on the public highway.

Reason: To ensure safe and suitable conditions are maintained on the public highway, in the interests of highway safety.

24. The development shall be carried out in strict accordance with the measures detailed in the Working Method Statement prepared by RPS dated July 2020.

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

25. The development shall be carried out in strict accordance with the measures detailed in the Construction Environment Management Plan prepared by RPS dated July 2020 - and revised to show updated proposed site plan '18505PR/X/1000g'.

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

26. The development shall be carried out in strict accordance with the measures detailed in the Biodiversity Management Plan prepared by RPS dated July 2020 - and revised to show updated site plan '18505PR/X/1000g'.

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

27. 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'.

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.

28. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the dwellings hereby permitted shall not be enlarged or extended without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

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

29. Prior to the first occupation of the dwellings recharge points for electric vehicles shall be provided at a ratio of 1 charging point per dwelling with dedicated on plot parking/1 charging point per 10 spaces (or part thereof) where the dwellings are served by courtyard or roadside parking. Individual charging points shall be provided with an IP65 rated domestic socket 13amp socket directly wired to the consumer unit with 32 amp cable to an appropriate RCD, located where it can later be changed to a 32amp EVCP. Shared charging points shall be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2. To prepare for increased demand in future years suitable and appropriate cable provision shall be included in the scheme design in accordance with details first submitted to and approved in writing by the Local Planning Authority. Alternative provision to the above specification must be first submitted to and approved in writing by the Local Planning Authority. The electric vehicle charging point(s) shall be provided in accordance with the stated criteria and approved details prior to the first occupation or use of the respective premises and shall thereafter be maintained in working order and remain available for use throughout the life of the development.

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

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

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

Informatives:

- e. The Highway Authority recommends that the first 10m 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.
- f. 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 & Environment 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 , e-mail highways.hub@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.
- g. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- h. There is a Public Right of Way (Swadlincote Public Footpath 8 on the Derbyshire Definitive Map) to the north of the site. The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533190.
- i. Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development. If the applicant proposes to divert the sewer, the applicant will be required to make a formal application to the Company under Section 185 of the Water Industry Act 1991. They may obtain copies of our current guidance from our website (www.stwater.co.uk).
- j. Developers should look to provide for NGA broadband infrastructure services as an integral part of the development scheme.

Appendix 1 – Statement from Education Authority

DMPA/2020/0992 Common Side, Church Gresley

The County Council, as the Local Education Authority, has a statutory duty to make education provision available for each young person and elects where possible to provide a school place for each child at their normal area school. This duty applies across all schools and includes Academies. Although a new school must be established as a Free School, and some existing schools have opted to become an Academy, the statutory duty to plan provision remains with the Local Authority. In many cases the provision of additional school places is required to ensure that a proposed housing development is sustainable.

The County Council's response to a planning application consultation from the Local Planning Authority includes information on the number of pupils that the development is expected to generate, the net capacity of the normal area school, the projected number of pupils on roll for the next five years and the expected yield of pupils from development approved within the normal area over the previous 3 years. This provides a measure of whether there is any available capacity at the normal area school or whether contributions need to be requested.

Derbyshire County Council provided a consultation response to the above application (DMPA/2020/0992) on 24/11/2020. The County Council were subsequently approached by EMF representing the applicant, outlining that they considered there was sufficient spare capacity in the education system (i.e. the planning area) and that the secondary phase contributions requested are not required in order to make the development acceptable in planning terms. Please note, EMF used the SCAP returns published by Government which reports the projected number on roll but does not include the yield of pupils expected from approved planning permissions, an approach which is accepted by DfE. As such the SCAP figures do not provide the full picture as they do not take into account the future impact of development on schools.

The County Council as noted above identified that the proposed development is within the normal area of The Pingle School, which at the time of the response was projected to be over capacity when taking into account new development within its normal area.

As the County Council's response was provided in November 2020, for completeness, the most up to date assessment of the Pingle shows the net capacity to have increased to 1,441, with 1,400 pupils currently on roll. The number of pupils is projected to rise (irrespective of planning applications approved within the normal area during the previous 3 years) to 1428 by 2026/27. Within the previous 3 years there has been consent for 385 dwellings which are expected to yield 108 secondary phase pupils, which when added to the projected number on roll, exceeds the net capacity and therefore indicates The Pingle would be over capacity by 2026/27.

The Pingle also sits within a wider school 'planning area' which the County Council does not normally assess in its consideration of a planning application. However for information, the planning area (which also includes Granville Academy and The William Allitt School) currently has a cumulative net capacity of 3,216 places. Taking into account pupil yields from approved planning applications on top of the number of projected pupils within the planning area, the planning area will yield 3,263 pupils by 2026/27 which is in excess of the places available.

South Derbyshire District Council has recommended approval of planning application DMPA/202/0992 subject to the signing of a S106 agreement containing a contribution towards secondary phase education. Negotiations have taken place with the applicant seeking a methodology to ensure that the County Council can evidence that it has provided sufficient additional capacity at The Pingle to accommodate the secondary phase pupils arising from this development. Initially, the applicant sought to link the capacity increase to the Schools Funding Agreement. As The Pingle is an academy, the funding agreement is between the school and the DfE, in which the County Council plays no part, therefore this cannot be relied upon.

Subsequently the applicant sought to link the evidence to an increase in the Published Admissions Number (PAN). For secondary schools, PAN is only set at Y7 and Y12. Therefore an increase in PAN at Y7 by 4 pupils would then follow through the subsequent year groups (Y7 to Y11) giving an increase in 20 places, and not the 4 required. As can be seen above, the County Council's response to a planning application uses the overall capacity of the school rather than the PAN. A school can accept above its PAN (without needing to change the PAN) up to its net capacity, subject to approval. For example a school could have a PAN of 30, which for 7 year groups indicates 210 places, however the net capacity could be 220. As such additional capacity could be provided at The Pingle without necessarily changing the PAN.

The County Council has compromised on both the spend period, agreeing to a reduction to 5 years, and has offered to provide written confirmation to the applicant providing information on how their contribution was spent.

County Council officers have also met with the South Derbyshire District Council Planning Officer to explain the above issues, and to assure the applicant that the County Council would work with the school and at the relevant time should the school does not wish or need to expand, the contribution would not be payable. If the school agrees to expand, the County Council would put a legal agreement in place regarding the spending of funds, and as part of this agreement the school would be required to expand its PAN (subject to the size of the project as additional funds may be available to provide for a larger expansion).

Despite the efforts made by the County Council to enable the signing of the S106 agreement with regard to the evidencing of the creation of capacity, the applicant has not agreed to these proposals, and has indicated that they will seek to take this application to appeal.

Item No. 1.3

Ref. No. [DMPA/2022/0818](#)

Valid date: 09/06/2022

Applicant: Rory Mulroe

Agent: S G Design Studio Limited

Proposal: **The removal of condition no. 3 of permission ref. 9/2017/1262 (relating to the access) for the change of use of land for tourism purposes and retention of a yurt and a tipi with associated sauna and compost toilet structures with parking and hardstanding on Land at SK3221 7095, Ticknall Road, Hartshorne, Swadlincote**

Ward: Woodville

Reason for committee determination

There has been an objection from the County Highways Authority.

Site Description

The site is located to the west of Ticknall Road, a considerable distance to the north of Hartshorne, within National Forest woodland. The existing tree cover is relatively dense, minimising views into and out of the site. The land falls away to the south, as this part of Ticknall Road is on sloping ground that rises out of Hartshorne into the countryside. The site is adjacent to Buildings Farm, which comprises residential barn-conversions, as well as a logging business, and equestrian uses at Buildings Farm. The site is accessed by two existing accesses, that are also used by the other users of Buildings Farm. The southern access point, and main access track is also a public byway. The southern access point (opposite Coal Lane, and closer to the bend on Ticknall Road) is laid to tarmac and has a formalised kerb where it meets the highway. The northern access point (further away from the bend on Ticknall Road) is less formalised, with the surface comprising gravel and tree debris.

The proposal

The proposal has been submitted to remove Condition 3 from the host permission (9/2017/1262), as the requirement to stop up the southern access, would mean that the public byway (30) would also be restricted, of which the stopping up or obstructing, is a criminal offence. The applicant considers that this condition cannot be complied with and therefore seeks to remove it.

This is one of three applications due to the condition having been applied in a similar way on three applications at this site.

Applicant's supporting information

None.

Relevant planning history

9/2015/0440 - The erection of a log cabin to be used for holiday lettings on SK3221 70995 Ticknall Road, Hartshorne - approved 30/06/16

9/2017/1262 - Change of use of land for tourism purposes and retention of a yurt and a tipi with associated sauna and compost toilet structures with parking and hardstanding at Land at

DMPA/2022/0818 Land at SK3221 9755 Ticknall Road, Hartshorne, Swadlincote



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South Derbyshire District Council, LA 100019461.2020

SK3221 70995 Ticknall Road, Hartshorne - approved 09/05/18

9/2017/1365 - The erection of a log cabin to create a live/work unit along with creation of parking and turning area and decking at Buildings Farm (adjacent to the site) - refused 20/03/18

DMPA/2019/0966 - The variation of condition no.6 of permission ref. 9/2017/1262 (relating to change of use of land for tourism purposes and retention of a yurt and a tipi with associated sauna and compost toilet structures with parking and hardstanding) on Land at SK3221 70995 (Rowan Woods), Ticknall Road, Hartshorne - approved 29/07/20

DMOT/2020/1142 - Approval of details required by conditions 3 (access), 4 (Scheme of Noise Control), 5 (Acoustic Screening), 8 (Surface Water) and 9 (Health and Safety Risk Assessment) of permission ref. DMPA/2019/0966 - The variation of condition no.6 of permission ref. 9/2017/1262 (relating to change of use of land for tourism purposes and retention of a yurt and a tipi with associated sauna and compost toilet structures with parking and hardstanding) on Land at SK3221 70995 (Rowan Woods), Ticknall Road, Hartshorne - pending decision

DMPA/2022/0819 - The removal of condition no.6 of permission ref. 9/2015/0440 (relating to the access) for the erection of a log cabin to be used for holiday lettings on Land at SK3221 70995 (Rowan Woods), Ticknall Road, Hartshorne - pending decision

DMPA/2021/0837 - The variation of condition no.3 of permission ref. DMPA/2019/0966 (relating to sole vehicular access) for change of use of land for tourism purposes and retention of a yurt and a tipi with associated sauna and compost toilet structures with parking and hardstanding on Land at SK3221 70995 (Rowan Woods), Ticknall Road, Hartshorne - pending decision

Responses to consultations and publicity

Rights of Way Officer - I can confirm that Hartshorne Restricted Byway No. 30 is affected by the proposals, as shown on the attached plan. I appreciate that there are issues of public safety involved, and support the opinion that vehicular traffic associated with the development should be directed to use the agreed access road, as is the intention of conditions 3 and 6. However, the status of the alternative access is that of restricted byway. As such, blocking it off, as is stipulated in condition 3, would constitute an obstruction. As a restricted byway, it is a criminal offence to drive a mechanically propelled vehicle along it without lawful authority, but a variety of potential users would have lawful authority, including those who have the permission of the holder of the land. The only legal way of blocking it off would be to officially stop it up or divert it.

County Highway Authority

Derbyshire County Council, as Highway Authority, has concerns about the main/original southern track used to access to the site, which also carries the route of a Restricted Byway, due to the substandard visibility available to an emerging driver in the southerly direction. Derbyshire County Council, as Highway Authority originally objected to a proposal which would have resulted in additional use of the substandard access track, resulting in conditions being imposed requiring an alternative route to the north – the “dog leg”, to be provided to address the visibility issue and avoid any increase in use of the southern, substandard route. The Highway Authority maintains that any development which would result in an increase in the use of the southern access would increase the use of an access which is substandard in terms

of visibility, contrary to the best interests of highway safety. On this basis, without the conditions to restrict the route, the Highway Authority would have recommended refusal of the proposals. Bearing this in mind, removal of the conditions would alter the nature of the proposal and the Highway Authority's response would have differed. As such, the Highway Authority cannot condone the removal of the conditions from the three applications and therefore maintains its objection to the application on the grounds of highway safety.

However, I am aware that the Planning Authority is in a position whereby the conditions cannot be enforced as the obstruction of the Restricted Byway without a formal diversion of the route (which has not taken place or been required by the consents) would be an offence. I appreciate that whilst the Highway Authority can make recommendations, the decision rests with your Authority and I assume, therefore, that you will need to assess the merits of case and take a balanced view based on the situation before us.

Comments from members of the public

As applications DMPA/2022/0819 and DMPA/2022/0837 relate to the same matter, any responses received on those applications are detailed below:

Three comments from members of the public have been received

- a) The original application stipulated that the log cabin entrance should be the upper area entrance of the lay-by, not the restricted byway entrance which is opposite coal lane. The reason was for safety purposes due to the closeness to the brow of the hill on Ticknall Road. Derbyshire County Council and or SDCC must have stipulated this for a reason and so just by removing the condition, you are increasing the danger on Ticknall Road. There have been numerous serious accidents at this junction over the years. By removing this restriction, if no action is taken to make the junction safer, then you're making the junction more dangerous, especially with the increased flow of traffic once the applicant starts renting the place out to guests.
- b) I do not agree with the removal of this condition regarding access to the site. Nothing has changed since the condition was applied in 2015, and therefore what was applicable then is still applicable now - if not even more applicable since the re-opening of the abattoir on Coal Lane which has intensified traffic at this junction to Buildings Farm. Several accidents have happened at the end of this by way in the last couple of years and visibility from here is difficult due to the hedges.
- c) The applicant has written this in the application that the track in question is an old byway and cannot be blocked off. However, this has always been a condition for all the planning permission for the businesses and properties at Buildings Farm, as the highway agency have highlighted that it is a dangerous entrance and exit. It has however never been implemented by the land owner.

Relevant policy, guidance and/or legislation

National Planning Policy Framework (2021)

Planning considerations

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

- Approach to using conditions

Planning assessment

Condition 3 of permission 9/2017/1262 states "Within three months of the date of this permission, or the first occupation of the site, the sole vehicular access to the site shall be via the access shown on the application site to Ticknall Road (A514) only, with the alternative access blocked off."

It is considered that the above condition has been imposed with the best intentions of mitigating against highway safety concerns at the southern access to the site, however, by stipulating that the southern access be blocked up, the applicant would be in conflict with other legislation by obstructing a designated public byway. Due to this conflict, it is considered that the condition fails the test as set out in paragraph 56 of the NPPF, which states that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable
- precise;
- reasonable in all other respects.

As the obstruction of a public byway is a criminal offence, it would not be enforceable or reasonable to stipulate that the applicant complies with the condition, which has been confirmed by a legal opinion. It is therefore considered, that despite the reason for the condition, that the removal of the condition is acceptable on the grounds of the legal basis and conflict with the tests set out in the NPPF. Whilst the highway issues raised by the Highway Authority and by the members of the public are not dismissed by the Local Planning Authority, unfortunately it must consider the position as it presents itself currently. Notwithstanding the comments of the Highway Authority, it is noted that the southern access can be used in an unrestricted way by other users of the site and is the more formalised access of the two. Other measures to direct vehicles to use the northern ('dog leg') access have been explored, but again fail the tests as set out in the NPPF, as they cannot be enforced. While betterment to highways access is considered to be a priority to the District Council, in this instance, it is not possible to enforce a condition that requires users of the proposal under 9/2017/1262, and existing users relating to other dwellings and businesses in the location, to use one existing access over another one. Furthermore, it is not for this application to determine whether or not the access is acceptable in highway terms, but rather to consider whether the condition can lawfully be retained. Considering this legal stance, it is considered that there is no alternative but to grant permission for the removal of the condition.

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

Recommendation

It is recommended that the legal position is considered with respect to this application, and that permission be granted to remove Condition 3 from application 9/2017/1262.

1. The development hereby permitted shall be carried out in accordance with following plans/drawings and documents; the 1:2500 plan received on 30 October 2019, showing the position of the proposed fire pits and area for maintenance fires; Fire Policy and BBQ Dimensions received 10 December 2019; Site Plan 1, Site Plan 2, Site Plan 3, Yurt Floor Plan, Yurt Elevation Plan, Tipi Floor Plan, Tipi Elevation Plan, Compost Toilet Floor Plan, Compost Toilet Elevation Plan, Hot Tub Floor Plan, Hot Tub Elevation Plan, Sauna Floor Plan and the Sauna Elevation Plan all received on 9 January 2018 under application ref. 9/2017/1262; the document 'Change of use of Forestry Land at Rowan Woods to tourist accommodation Glamping sites' received on 9 January 2018 under application ref. 9/2017/1262; 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. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Article 3 and Part 3 of the Town and Country Planning (General Permitted Development) Order 2015, or any Order(s) which revokes, amends or replaces that Order(s); this permission shall relate to the use of the premises as described in the application documents and for no other purpose.

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

3. Prior to the first use of the fire pits and first controlled open fire a scheme of noise control shall be submitted to and approved in writing with the Local Planning Authority. This scheme shall include details of a 'quiet site' policy, enforced between 10pm and 8am, details of site management which shall be provided by means of signage by the site entrance, and the contact details of person with responsibility for the site made available. The scheme shall be carried out in accordance with the approved details prior to the first use of the fire pits and first controlled open fire.

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

4. Prior to the first use of a hot tub, details of acoustic screening of the hot tub areas shall be submitted to and approved in writing by the Local Planning Authority. The screening shall be installed prior to the first use of each respective hot tub and retained as such thereafter.

Reason: To protect the amenity of neighbouring residents.

5. Notwithstanding the submitted details, other than BBQs there shall be no open fires on the site other than for site maintenance purposes only to a maximum of three open fires within a calendar year

Reason: In the interest of the public amenity

6. There shall be no external lighting fixed to any structure on the site.

Reason: To protect the public amenity from light pollution.

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

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

8. Prior to the first use of the fire pits and first controlled open fire, a health and safety risk assessment incorporating an emergency plan for the evacuation of the site shall be submitted to and approved in writing by the Local Planning Authority. The approved recommendations of that assessment shall then be implemented in full as stated throughout the lifetime of the development.

Reason: In the interests of public safety.

Informatives:

- k. Further to condition 8 above, the Council will expect the plan to ensure compliance with the Regulatory Reform (Fire Safety) Order 2005.

Item No. 1.4

Ref. No. [DMPA/2022/0819](#)

Valid date: 09/06/2022

Applicant: Rory Mulroe

Agent: S G Design Studio Limited

Proposal: The removal of condition no. 6 of permission ref. 9/2015/0440 (relating to the access) for the erection of a log cabin to be used for holiday lettings on Land at SK3221 7095, Ticknall Road, Hartshorne, Swadlincote

Ward: Woodville

Reason for committee determination

There has been an objection from the County Highways Authority.

Site Description

The site is located to the west of Ticknall Road, a considerable distance to the north of Hartshorne, within National Forest woodland. The existing tree cover is relatively dense, minimising views into and out of the site. The land falls away to the south, as this part of Ticknall Road is on sloping ground that rises out of Hartshorne into the countryside. The site is adjacent to Buildings Farm, which comprises residential barn-conversions, as well as a logging business, and equestrian uses at Buildings Farm. The site is accessed by two existing accesses, that are also used by the other users of Buildings Farm. The southern access point, and main access track is also a public byway. The southern access point (opposite Coal Lane, and closer to the bend on Ticknall Road) is laid to tarmac and has a formalised kerb where it meets the highway. The northern access point (further away from the bend on Ticknall Road) is less formalised, with the surface comprising gravel and tree debris.

The proposal

The proposal has been submitted to remove Condition 6 from the host permission (9/2015/0440), as it is not possible to enforce the prevention of using the southern existing access to the site. The applicant considers that this condition cannot be complied with and therefore seeks to remove it.

This is one of three applications due to the condition having been applied in a similar way on three applications at this site.

Applicant's supporting information

None.

Relevant planning history

9/2015/0440 - The erection of a log cabin to be used for holiday lettings on SK3221 70995 Ticknall Road, Hartshorne - approved 30/06/16

9/2017/1262 - Change of use of land for tourism purposes and retention of a yurt and a tipi with associated sauna and compost toilet structures with parking and hardstanding at Land at SK3221 70995 Ticknall Road, Hartshorne - approved 09/05/18

9/2017/1365 - The erection of a log cabin to create a live/work unit along with creation of

DMPA/2022/0819 Land at SK3221 9755 Ticknall Road, Hartshorne, Swadlincote



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South Derbyshire District Council, LA 100019461.2020

parking and turning area and decking at Buildings Farm (adjacent to the site) - refused
20/03/18

DMPA/2019/0966 - The variation of condition no.6 of permission ref. 9/2017/1262 (relating to change of use of land for tourism purposes and retention of a yurt and a tipi with associated sauna and compost toilet structures with parking and hardstanding) on Land at SK3221 70995 (Rowan Woods), Ticknall Road, Hartshorne - approved 29/07/20

DMOT/2020/1142 - Approval of details required by conditions 3 (access), 4 (Scheme of Noise Control), 5 (Acoustic Screening), 8 (Surface Water) and 9 (Health and Safety Risk Assessment) of permission ref. DMPA/2019/0966 - The variation of condition no.6 of permission ref. 9/2017/1262 (relating to change of use of land for tourism purposes and retention of a yurt and a tipi with associated sauna and compost toilet structures with parking and hardstanding) on Land at SK3221 70995 (Rowan Woods), Ticknall Road, Hartshorne - pending decision

DMPA/2022/0818 - The removal of condition no. 3 of permission ref. 9/2017/1262 (relating to the access) for the change of use of land for tourism purposes and retention of a yurt and a tipi with associated sauna and compost toilet structures with parking and hardstanding on Land at SK3221 70995 (Rowan Woods), Ticknall Road, Hartshorne - pending decision

DMPA/2021/0837 - The variation of condition no.3 of permission ref. DMPA/2019/0966 (relating to sole vehicular access) for change of use of land for tourism purposes and retention of a yurt and a tipi with associated sauna and compost toilet structures with parking and hardstanding on Land at SK3221 70995 (Rowan Woods), Ticknall Road, Hartshorne - pending decision

Responses to consultations and publicity

Rights of Way Officer - I can confirm that Hartshorne Restricted Byway No. 30 is affected by the proposals, as shown on the attached plan. I appreciate that there are issues of public safety involved, and support the opinion that vehicular traffic associated with the development should be directed to use the agreed access road, as is the intention of conditions 3 and 6. However, the status of the alternative access is that of restricted byway. As such, blocking it off, as is stipulated in condition 3, would constitute an obstruction. As a restricted byway, it is a criminal offence to drive a mechanically propelled vehicle along it without lawful authority, but a variety of potential users would have lawful authority, including those who have the permission of the holder of the land. The only legal way of blocking it off would be to officially stop it up or divert it.

County Highway Authority

Derbyshire County Council, as Highway Authority, has concerns about the main/original southern track used to access to the site, which also carries the route of a Restricted Byway, due to the substandard visibility available to an emerging driver in the southerly direction. Derbyshire County Council, as Highway Authority originally objected to a proposal which would have resulted in additional use of the substandard access track, resulting in conditions being imposed requiring an alternative route to the north – the “dog leg”, to be provided to address the visibility issue and avoid any increase in use of the southern, substandard route. The Highway Authority maintains that any development which would result in an increase in the use of the southern access would increase the use of an access which is substandard in terms of visibility, contrary to the best interests of highway safety. On this basis, without the conditions to restrict the route, the Highway Authority would have recommended refusal of the

proposals. Bearing this in mind, removal of the conditions would alter the nature of the proposal and the Highway Authority's response would have differed. As such, the Highway Authority cannot condone the removal of the conditions from the three applications and therefore maintains its objection to the application on the grounds of highway safety.

However, I am aware that the Planning Authority is in a position whereby the conditions cannot be enforced as the obstruction of the Restricted Byway without a formal diversion of the route (which has not taken place or been required by the consents) would be an offence. I appreciate that whilst the Highway Authority can make recommendations, the decision rests with your Authority and I assume, therefore, that you will need to assess the merits of case and take a balanced view based on the situation before us.

Comments from members of the public

As applications DMPA/2022/0818 and DMPA/2022/0837 relate to the same matter, any responses received on those applications are detailed below:

Three comments from members of the public have been received

- a) The original application stipulated that the log cabin entrance should be the upper area entrance of the lay-by, not the restricted byway entrance which is opposite coal lane. The reason was for safety purposes due to the closeness to the brow of the hill on Ticknall Road. Derbyshire County Council and or SDCC must have stipulated this for a reason and so just by removing the condition, you are increasing the danger on Ticknall Road. There have been numerous serious accidents at this junction over the years. By removing this restriction, if no action is taken to make the junction safer, then you're making the junction more dangerous, especially with the increased flow of traffic once the applicant starts renting the place out to guests.
- b) I do not agree with the removal of this condition regarding access to the site. Nothing has changed since the condition was applied in 2015, and therefore what was applicable then is still applicable now - if not even more applicable since the re-opening of the abattoir on Coal Lane which has intensified traffic at this junction to Buildings Farm. Several accidents have happened at the end of this by way in the last couple of years and visibility from here is difficult due to the hedges.
- c) The applicant has written this in the application that the track in question is an old byway and cannot be blocked off. However, this has always been a condition for all the planning permission for the businesses and properties at Buildings Farm, as the highway agency have highlighted that it is a dangerous entrance and exit. It has however never been implemented by the land owner.

Relevant policy, guidance and/or legislation

National Planning Policy Framework (2021)

Planning considerations

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

- Approach to using conditions

Planning assessment

Condition 6 of permission 9/2015/0440 states 'Prior to first occupation of the log cabin hereby permitted, the sole vehicular access to the site shall be via the access shown on the application site to Ticknall Road (A514) only.'

It is considered that the above condition has been imposed with the best intentions of mitigating against highway safety concerns at the southern access to the site, however, by stipulating that the southern access be blocked up, the applicant would be in conflict with other legislation by obstructing a designated public byway. Due to this conflict, it is considered that the condition fails the test as set out in paragraph 56 of the NPPF, which states that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable
- precise;
- reasonable in all other respects.

As the obstruction of a public byway is a criminal offence, it would not be enforceable or reasonable to stipulate that the applicant complies with the condition, which has been confirmed by a legal opinion. It is therefore considered, that despite the reason for the condition, that the removal of the condition is acceptable on the grounds of the legal basis and conflict with the tests set out in the NPPF. Whilst the highway issues raised by the Highway Authority and by the members of the public are not dismissed by the Local Planning Authority, unfortunately it must consider the position as it presents itself currently. Notwithstanding the comments of the Highway Authority, it is noted that the southern access can be used in an unrestricted way by other users of the site and is the more formalised access of the two. Other measures to direct vehicles to use the northern ('dog leg') access have been explored, but again fail the tests as set out in the NPPF, as they cannot be enforced. While betterment to highways access is considered to be a priority to the District Council, in this instance, it is not possible to enforce a condition that requires users of the proposal under 9/2015/0440, and existing users relating to other dwellings and businesses in the location, to use one existing access over another one. Furthermore, it is not for this application to determine whether or not the access is acceptable in highway terms, but rather to consider whether the condition can lawfully be retained. Considering this legal stance, it is considered that there is no alternative but to grant permission for the removal of the condition.

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

Recommendation

It is recommended that the legal position is considered with respect to this application, and that permission be granted to remove Condition 6 from application 9/2015/0440.

1. The development hereby permitted shall be carried out in accordance with the amended Layout Plan and Proposed Building Rev4.3 drawing on application 9/2015/0440 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 interest of sustainable development.

2. Notwithstanding the provisions of Part C Class 3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015, (or any Order(s) revoking or reenacting either or both Order(s)); the log cabin hereby permitted shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order without the prior grant of planning permission by the Local Planning Authority, and:
 - i. the log cabin shall not be occupied as a person's sole, or main place of residence;
 - ii. the accommodation shall not be occupied by a person or group of persons for a continuous period of more than 28 days and it shall not be re-occupied by the same person(s) within 3 months following the end of that period;
 - iii. the site operator shall maintain an up-to-date register of the names of all occupiers of the log cabin, and of their main home addresses, and shall make that information available at all reasonable times to the Local Planning Authority.

Reason: The provision of a dwelling in this location would be contrary to the Development Plan and the objectives of sustainable development.

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

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the nature, setting and size of the development.

4. The facing materials to be used in the construction of the external walls and roof of the cabin should be carried out in accordance with the approved details submitted through the Discharge of Condition information on file 9/2015/0440 in July 2017.

Reason: In the interest of protecting the amenity of the area.

5. Notwithstanding the submitted details, prior to the commencement of development the position of the three silver birch trees (as shown as Gp2 on Appendix 3: The Tree Location Plan on application 9/2015/0440) 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.

Reason: To protect the trees/landscape areas from undue disturbance, recognising that initial ground works could cause unacceptable damage to the trees.

6. Landscaping and planting should be carried out in accordance with the landscaping details approved through Discharge of Condition information on file 9/2015/0440 submitted in July 2017.

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.

7. 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.

8. The disposal of surface water and foul water should be carried out in accordance with the drainage details approved through Discharge of Condition information on file 9/2015/0440 submitted in July 2017.

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

9. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 2015, the positions, design, materials and type of boundary treatments should be carried out in accordance with the details approved through Discharge of Condition details on file 9/2015/0440 submitted in July 2017. The boundary treatments shall be completed in accordance with the approved details before the development is occupied.

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

10. The finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be undertaken in accordance with the details approved through Discharge of Condition details on file 9/2015/0440 submitted in July 2017. 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, recognising that initial ground works will have an influence on acceptable levels for the development.

Item No. 1.5

Ref. No. [DMPA/2022/0837](#)

Valid date: 10/06/2022

Applicant: Rory Mulroe

Agent: S G Design Studio Limited

Proposal: **The variation of condition no.3 of permission ref. DMPA/2019/0966 (relating to sole vehicular access) for change of use of land for tourism purposes and retention of a yurt and a tipi with associated sauna and compost toilet structures with parking and hardstanding) on Land at SK3221 7095 (Rowan Woods), Ticknall Road, Hartshorne, Swadlincote**

Ward: Woodville

Reason for committee determination

There has been an objection from the County Highways Authority.

Site Description

The site is located to the west of Ticknall Road, a considerable distance to the north of Hartshorne, within National Forest woodland. The existing tree cover is relatively dense, minimising views into and out of the site. The land falls away to the south, as this part of Ticknall Road is on sloping ground that rises out of Hartshorne into the countryside. The site is adjacent to Buildings Farm, which comprises residential barn-conversions, as well as a logging business, and equestrian uses at Buildings Farm. The site is accessed by two existing accesses, that are also used by the other users of Buildings Farm. The southern access point, and main access track is also a public byway. The southern access point (opposite Coal Lane, and closer to the bend on Ticknall Road) is laid to tarmac and has a formalised kerb where it meets the highway. The northern access point (further away from the bend on Ticknall Road) is less formalised, with the surface comprising gravel and tree debris.

The proposal

The proposal has been submitted to remove Condition 3 from the host permission (DMPA/2019/0966), as the requirement to stop up the southern access, would mean that the public byway (30) would also be restricted, of which the stopping up or obstructing, is a criminal offence. The applicant considers that this condition cannot be complied with and therefore seeks to remove it.

This is one of three applications due to the condition having been applied in a similar way on three applications at this site.

Applicant's supporting information

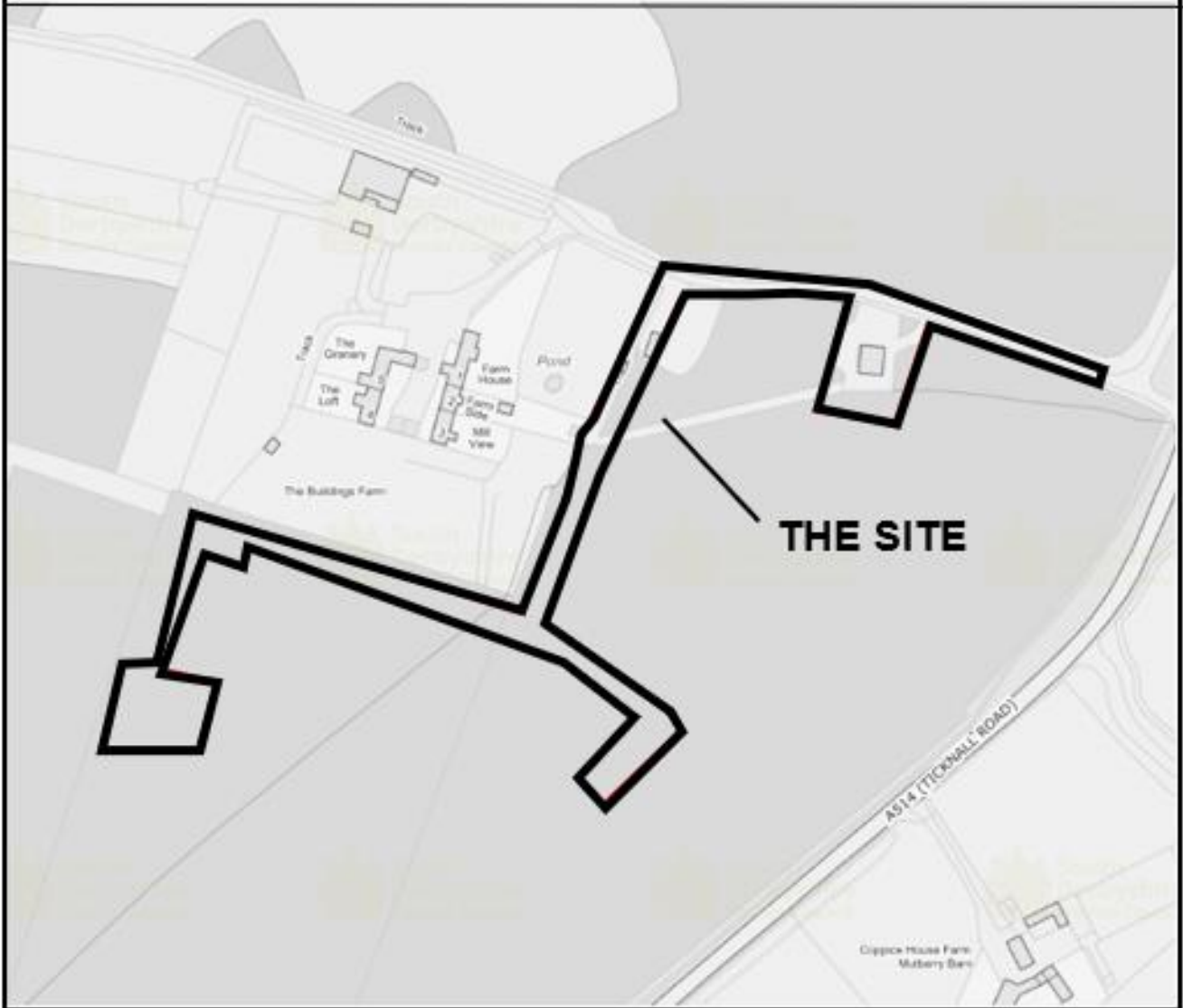
None.

Relevant planning history

9/2015/0440 - The erection of a log cabin to be used for holiday lettings on SK3221 70995 Ticknall Road, Hartshorne - approved 30/06/16

9/2017/1262 - Change of use of land for tourism purposes and retention of a yurt and a tipi with associated sauna and compost toilet structures with parking and hardstanding at Land at

DMPA/2022/0837 Land at SK3221 9755 Ticknall Road, Hartshorne, Swadlincote



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SK3221 70995 Ticknall Road, Hartshorne - approved 09/05/18

9/2017/1365 - The erection of a log cabin to create a live/work unit along with creation of parking and turning area and decking at Buildings Farm (adjacent to the site) - refused 20/03/18

DMPA/2019/0966 - The variation of condition no.6 of permission ref. 9/2017/1262 (relating to change of use of land for tourism purposes and retention of a yurt and a tipi with associated sauna and compost toilet structures with parking and hardstanding) on Land at SK3221 70995 (Rowan Woods), Ticknall Road, Hartshorne - approved 29/07/20

DMOT/2020/1142 - Approval of details required by conditions 3 (access), 4 (Scheme of Noise Control), 5 (Acoustic Screening), 8 (Surface Water) and 9 (Health and Safety Risk Assessment) of permission ref. DMPA/2019/0966 - The variation of condition no.6 of permission ref. 9/2017/1262 (relating to change of use of land for tourism purposes and retention of a yurt and a tipi with associated sauna and compost toilet structures with parking and hardstanding) on Land at SK3221 70995 (Rowan Woods), Ticknall Road, Hartshorne - pending decision

DMPA/2022/0818 - The removal of condition no. 3 of permission ref. 9/2017/1262 (relating to the access) for the change of use of land for tourism purposes and retention of a yurt and a tipi with associated sauna and compost toilet structures with parking and hardstanding on Land at SK3221 70995 (Rowan Woods), Ticknall Road, Hartshorne - pending decision

DMPA/2022/0819 - The removal of condition no.6 of permission ref. 9/2015/0440 (relating to the access) for the erection of a log cabin to be used for holiday lettings on Land at SK3221 70995 (Rowan Woods), Ticknall Road, Hartshorne - pending decision

Responses to consultations and publicity

Rights of Way Officer - I can confirm that Hartshorne Restricted Byway No. 30 is affected by the proposals, as shown on the attached plan. I appreciate that there are issues of public safety involved, and support the opinion that vehicular traffic associated with the development should be directed to use the agreed access road, as is the intention of conditions 3 and 6. However, the status of the alternative access is that of restricted byway. As such, blocking it off, as is stipulated in condition 3, would constitute an obstruction. As a restricted byway, it is a criminal offence to drive a mechanically propelled vehicle along it without lawful authority, but a variety of potential users would have lawful authority, including those who have the permission of the holder of the land. The only legal way of blocking it off would be to officially stop it up or divert it.

County Highway Authority

Derbyshire County Council, as Highway Authority, has concerns about the main/original southern track used to access to the site, which also carries the route of a Restricted Byway, due to the substandard visibility available to an emerging driver in the southerly direction. Derbyshire County Council, as Highway Authority originally objected to a proposal which would have resulted in additional use of the substandard access track, resulting in conditions being imposed requiring an alternative route to the north – the “dog leg”, to be provided to address the visibility issue and avoid any increase in use of the southern, substandard route. The Highway Authority maintains that any development which would result in an increase in the use of the southern access would increase the use of an access which is substandard in terms

of visibility, contrary to the best interests of highway safety. On this basis, without the conditions to restrict the route, the Highway Authority would have recommended refusal of the proposals. Bearing this in mind, removal of the conditions would alter the nature of the proposal and the Highway Authority's response would have differed. As such, the Highway Authority cannot condone the removal of the conditions from the three applications and therefore maintains its objection to the application on the grounds of highway safety.

However, I am aware that the Planning Authority is in a position whereby the conditions cannot be enforced as the obstruction of the Restricted Byway without a formal diversion of the route (which has not taken place or been required by the consents) would be an offence. I appreciate that whilst the Highway Authority can make recommendations, the decision rests with your Authority and I assume, therefore, that you will need to assess the merits of case and take a balanced view based on the situation before us.

Comments from members of the public

As applications DMPA/2022/0818 and DMPA/2022/0819 relate to the same matter, any responses received on those applications are detailed below:

Three comments from members of the public have been received

- a) The original application stipulated that the log cabin entrance should be the upper area entrance of the lay-by, not the restricted byway entrance which is opposite coal lane. The reason was for safety purposes due to the closeness to the brow of the hill on Ticknall Road. Derbyshire County Council and or SDCC must have stipulated this for a reason and so just by removing the condition, you are increasing the danger on Ticknall Road. There have been numerous serious accidents at this junction over the years. By removing this restriction, if no action is taken to make the junction safer, then you're making the junction more dangerous, especially with the increased flow of traffic once the applicant starts renting the place out to guests.
- b) I do not agree with the removal of this condition regarding access to the site. Nothing has changed since the condition was applied in 2015, and therefore what was applicable then is still applicable now - if not even more applicable since the re-opening of the abattoir on Coal Lane which has intensified traffic at this junction to Buildings Farm. Several accidents have happened at the end of this by way in the last couple of years and visibility from here is difficult due to the hedges.
- c) The applicant has written this in the application that the track in question is an old byway and cannot be blocked off. However, this has always been a condition for all the planning permission for the businesses and properties at Buildings Farm, as the highway agency have highlighted that it is a dangerous entrance and exit. It has however never been implemented by the land owner.

Relevant policy, guidance and/or legislation

National Planning Policy Framework (2021)

Planning considerations

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

- Approach to using condition.

Planning assessment

Condition 3 of permission DMPA/2019/0966 states 'Prior to the first use of the fire pits and first controlled open fire measures shall be implemented to ensure the sole vehicular access to the site from Ticknall Road (A514) is via the access shown on approved location plan with the alternative access blocked off'.

It is considered that the above condition has been imposed with the best intentions of mitigating against highway safety concerns at the southern access to the site, however, by stipulating that the southern access be blocked up, the applicant would be in conflict with other legislation by obstructing a designated public byway. Due to this conflict, it is considered that the condition fails the test as set out in paragraph 56 of the NPPF, which states that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable
- precise;
- reasonable in all other respects.

As the obstruction of a public byway is a criminal offence, it would not be enforceable or reasonable to stipulate that the applicant complies with the condition, which has been confirmed by a legal opinion. It is therefore considered, that despite the reason for the condition, that the removal of the condition is acceptable on the grounds of the legal basis and conflict with the tests set out in the NPPF. Whilst the highway issues raised by the Highway Authority and by the members of the public are not dismissed by the Local Planning Authority, unfortunately it must consider the position as it presents itself currently. Notwithstanding the comments of the Highway Authority, it is noted that the southern access can be used in an unrestricted way by other users of the site and is the more formalised access of the two. Other measures to direct vehicles to use the northern ('dog leg') access have been explored, but again fail the tests as set out in the NPPF, as they cannot be enforced. While betterment to highways access is considered to be a priority to the District Council, in this instance, it is not possible to enforce a condition that requires users of the proposal under DMPA/2019/0966, and existing users relating to other dwellings and businesses in the location, to use one existing access over another one. Furthermore, it is not for this application to determine whether or not the access is acceptable in highway terms, but rather to consider whether the condition can lawfully be retained. Although the application in this instance is for the variation of Condition 3, it is not considered that the condition can be varied in such a way that would be enforceable, and therefore, as per the related applications and considering this legal stance, it is considered that there is no alternative but to grant permission for the removal of the condition.

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

Recommendation

It is recommended that the legal position is considered with respect to this application, and that permission be granted to remove Condition 3 from application DMPA/2019/0966.

1. The development hereby permitted shall be carried out in accordance with following plans/drawings and documents; the 1:2500 plan received on 30 October 2019, showing the position of the proposed fire pits and area for maintenance fires; Fire Policy and BBQ Dimensions received 10 December 2019; Site Plan 1, Site Plan 2, Site Plan 3, Yurt Floor Plan, Yurt Elevation Plan, Tipi Floor Plan, Tipi Elevation Plan, Compost Toilet Floor Plan, Compost Toilet Elevation Plan, Hot Tub Floor Plan, Hot Tub Elevation Plan, Sauna Floor Plan and the Sauna Elevation Plan all received on 9 January 2018 under application ref. 9/2017/1262; the document 'Change of use of Forestry Land at Rowan Woods to tourist accommodation Glamping sites' received on 9 January 2018 under application ref. 9/2017/1262; 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. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Article 3 and Part 3 of the Town and Country Planning (General Permitted Development) Order 2015, or any Order(s) which revokes, amends or replaces that Order(s); this permission shall relate to the use of the premises as described in the application documents and for no other purpose.

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

3. Prior to the first use of the fire pits and first controlled open fire a scheme of noise control shall be submitted to and approved in writing with the Local Planning Authority. This scheme shall include details of a 'quiet site' policy, enforced between 10pm and 8am, details of site management which shall be provided by means of signage by the site entrance, and the contact details of person with responsibility for the site made available. The scheme shall be carried out in accordance with the approved details prior to the first use of the fire pits and first controlled open fire.

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

4. Prior to the first use of a hot tub, details of acoustic screening of the hot tub areas shall be submitted to and approved in writing by the Local Planning Authority. The screening shall be installed prior to the first use of each respective hot tub and retained as such thereafter.

Reason: To protect the amenity of neighbouring residents.

5. Notwithstanding the submitted details, other than BBQs there shall be no open fires on the site other than for site maintenance purposes only to a maximum of three open fires within a calendar year.

Reason: In the interest of the public amenity.

6. There shall be no external lighting fixed to any structure on the site.

Reason: To protect the public amenity from light pollution.

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

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

8. Prior to the first use of the fire pits and first controlled open fire, a health and safety risk assessment incorporating an emergency plan for the evacuation of the site shall be submitted to and approved in writing by the Local Planning Authority. The approved recommendations of that assessment shall then be implemented in full as stated throughout the lifetime of the development.

Reason: In the interests of public safety.

Informatives:

- i. Further to condition 8 above, the Council will expect the plan to ensure compliance with the Regulatory Reform (Fire Safety) Order 2005.

Item No. 1.6

Ref. No. [DMPA/2022/0974](#)

Valid date: 11/07/2022

Applicant: Andrew Bennett

Proposal: The erection of extensions at 20 Tennyson Avenue, Midway, Swadlincote, DE11 0DT

Ward: Midway

Reason for committee determination

The application is presented to the Committee as the applicant is an employee of SDDC.

Site Description

20 Tennyson Avenue (the Site) is a detached dwelling dating from the latter half of the twentieth century and is within an area of similar dwellings . Architectural features differ within each dwelling, but the overall character is similar. The residential area features detached dwellings and bungalows in the immediate proximity of the host, semi detached dwellings can be identified to the east and further west of the host.

Typical features of neighbouring dwellings are a variety of roofing and wall cladding materials along with other typical architectural features of this era. Some dwellings have been modernized from the exterior, and feature a cooler toned colour pallet. The host does not currently feature this change and is in-keeping with the era.

The Site is within the defined settlement boundary of Swadlincote as referenced within policy SD1 and as shown on the Settlement Boundary Maps to LP2.

The proposal

Planning permission is sought for the erection of a two storey side extension and rear extension with sections of this just being altered to ground floor level. The proposals at ground floor seek to add an extended garage space and an open plan kitchen/dining/family area. At first floor level, an additional bedroom and space to accommodate a dressing area and en-suite, to two of the four bedrooms, as well as a larger open plan landing area.

The existing flat roof featured on the garage, will be favourably amended with a space above and a gable roof element. This will be set below the main roof mass. Adjacent to this the flat above the porch element will be replaced with a lean too roof.

Similar features are mirrored to the rear of the host, with a large gable to the left and a lean too roof mass at ground floor. The proposals form a mirrored and balancing composition which is clear from the proposed site block plan.

Applicant's supporting information

None of relevance.



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Relevant planning history

There is no relevant planning history here.

Responses to consultations and publicity

There have been no responses to consultations and publicity.

Relevant policy, guidance and/or legislation

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

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): S2 Presumption in Favour of Sustainable Development; SD1 Amenity and Environmental Quality; SD4 Contaminated Land and Mining Legacy Issues; BNE1 Design Excellence

2017 Local Plan - Part 2 (LP2): SD1 Settlement boundaries and development; H27 Residential Extensions and other Householder Development

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

Planning considerations

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

- Principle of the proposed development
- Impact upon the host dwelling and the character and appearance of the area
- Residential amenity
- Other issues - mining legacy issues

Planning assessment

Principle of the proposed development

Policy SD1 supports development within defined settlement boundaries provided it accords with the relevant policies of the development plan. In combination with policies BNE1, SD1 and advice within the SPD, supports development where it will not harm the character of the host, the character and appearance of the area or unduly harm the residential amenity of nearby properties. The principle of extending the host property is therefore acceptable.

Impact upon the host property and the character and appearance of the area

As noted above the character of the area is suburban where the dominant building style is varied. Therefore, the proposals will follow the character and appearance of the area. With regard to the impact of the proposal upon the host property, whilst there are a number of elements to the proposals, the scale is subordinate to the host and therefore it is considered that the proposal will not harm the host or the entirety of the building.

Residential Amenity

Due to the sitting of the extensions, the host and its relationship with its two immediate neighbours, the impact on neighbouring residential amenity is mitigated through existing boundary treatments, positioning of the host, coupled with the scale and form of the proposed development. It is considered that the proposal will not unduly harm residential amenity through being overbearing or causing any loss of privacy.

Other Issues

The site is located within a coal mining risk area and therefore an informative should be added to any decision to ensure that there is no detriment to public health.

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

Recommendation

Policy SD1 supports development within defined settlement boundaries provided it accords with the relevant policies of the development plan. The proposals accord with the relevant policies of the development plan and is therefore considered to be acceptable.

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

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

2. The development hereby permitted shall be carried out in accordance with the block plan, site location plan, proposed elevations and floor plans and the application form received 11th of July 2022, unless otherwise required by condition attached to this permission or following approval of an application made.

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

3. Other than where specified on the approved plans/drawings, all external materials used in the development 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 are first submitted to and approved in writing by the Local Planning Authority pursuant to an application made in that regard, whereafter the approved alternative details shall be incorporated into the development.

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

Informatives:

m. 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.

Item No. 1.7

Ref. No. [DMPA/2022/1241](#)

Valid date: 07/09/2022

Applicant: Sam Elgie

Agent: Wilson Architects Ltd

Proposal: The erection of a proposed roof and rear extension, replacement of windows and doors with aluminium and render entire property at 3 Fishpond Lane, Egginton, Derby, DE65 6HJ

Ward: Etwall

Reason for committee determination

This item is presented to the Committee at the request of Councillor Lisa Brown based on local objection.

Site Description

The site lies within the Settlement Boundary of Egginton and is host to a large detached two storey dwelling set 32m back from the highway by a hard surfaced parking area and driveway. To the east of the property lies a sizeable garden area containing a substantial amount of vegetation with a number of outbuildings present also.

The surrounding area consists of a range of property sizes including detached two storey properties and two storey terrace dwellings, some located a significant distance from the highway and other located just off it. The architectural design of the properties varies also with some properties supporting red brick and others painted white brickwork. To the south of the site lies playing fields and Egginton Primary School lies approximately 120m south east of the site.

The proposal

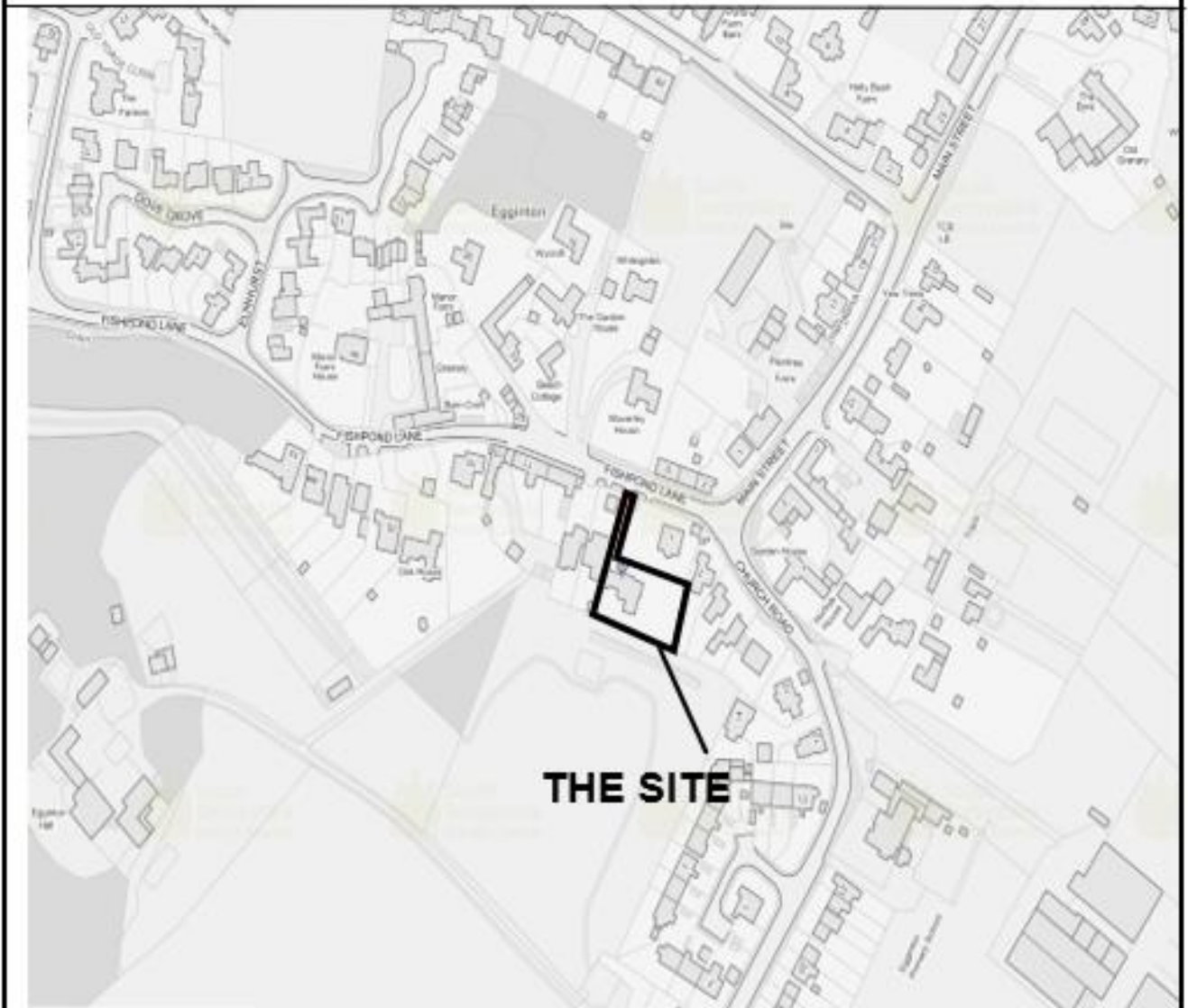
The application seeks permission to raise the roof of the existing single storey main element to create a two storey element, conversion of the garage into a bedroom, removal of the existing conservatory and the erection of an extension to the rear to provide a larger dining/living room at ground floor and an open terrace area at first floor level.

Applicant's supporting information

The documents submitted with the application include;

- Existing Elevations
- Existing Floor Plans
- Proposed Ground Floor Plan
- Proposed First Floor Plan
- Proposed Site Plan
- Proposed Elevations
- Mass Models

DMPA/2022/1241 3 Fishpond Lane, Egginton, Derby, DE65 6HJ



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Relevant planning history

DMPA/2022/0624 - The erection of a proposed roof and rear extension - Refused by Planning Committee July 2022.

9/2013/0359 - The erection of an extension - Approved with conditions

9/1998/0645 - The installation of a pitched roof on the garage and a conservatory at the rear of the detached dwelling - Approved.

Responses to consultations and publicity

Highways

No objections.

Parish Council

Object. Remains issues with regard to car parking and vehicle access. Considering the size of the proposed property, the only access is a single drive, which can't be widened as its boundaries belong to neighbouring properties, and there is limited car parking which would be inadequate to service a property of this size.

The Parish Council believes the development should include a garage rather than a sixth bedroom. If a sixth bedroom is required, there is room to incorporate that out at the back garden. What we do not want is more cars parked on Fishpond Lane, rather than on peoples' driveways or in their garages.

Public Comment

One letter of objection has been received by a neighbour outlining the following;

- a) Previous concerns raised have not been sufficiently addressed in this new application.
- b) Design out of character with the surrounding area.
- c) Design would have an overbearing impact and result in loss of privacy to our property.
- d) trees have been removed which provided some privacy previously.
- e) fence has been erected reaching over 2m - resulting in a detrimental effect on the light in our dining and bathroom.
- f) concerns regarding parking and access given the number of bedrooms proposed. visitors have caused issues with access and parking on the road.

Relevant policy, guidance and/or legislation

The relevant policies are:

2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development); SD1 (Amenity and Environmental Quality); SD2 (Flood Risk); and BNE1 (Design Excellence).

2017 Local Plan Part 2: H27 (Residential Extensions and Other Householder Development).

National Guidance:

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

Local Guidance:

South Derbyshire Design Guide SPD (Design SPD)

Planning considerations

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

- Design;
- Impacts on amenity;
- Highway Impacts
- Flood risk;

The previous application DMPA/2022/0624 was recommended for approval but was overturned at Planning Committee citing the following reason for refusal; *'The proposed extensions, due to their scale, design, proposed materials and massing on the boundary with the neighbour at number 5 Fishpond Lane would be out of character with the surrounding area, particularly when viewed from the open space to the rear and would be detrimental to the amenity of this immediate neighbour'*.

Following this decision, the current application has made with some changes to the proposal in an attempt to overcome this reason for refusal. These include;

- The rear extension to the existing garage has been removed (adjacent western boundary)
- Double storey fully glazed feature corner window to the master bedroom/living room removed.
- Double height fully glazed entrance porch removed from the 'front elevation'

Planning assessment

Design

The proposed development would sit a significant distance (approximately 32m) from the public highway and would not be unduly prominent within the street scene. The proposal includes raising the roof height of the existing single storey element to create a second storey as well as an extension to the rear which includes a first floor open terrace. Whilst the proposed extensions would increase the overall bulk to the dwelling, they would largely be built on the existing footprint of the dwelling and would not appear excessive or cramped within the plot. Furthermore, the removal of the entrance porch, double storey fully glazed feature corner and garage extension at the rear has decreased the bulk of the building further from the previous scheme.

The removal of the double height entrance porch, allows the building to be read more easily as its original form when viewed from the front of the site. The pitched roof design is maintained with the proposed extensions and would be in keeping with the character of the surrounding properties in the area. The design reflects a more modern style with the use of render and aluminium cladding. Whilst the properties in the locality are of a more traditional style, they vary in size and design and the site does not lie within a Conservation Area. Taking this into account it is considered the design and materials used on the property are acceptable and refusal on design could not be justified in this instance and they would be in accordance with Policies S2 and BNE1 of the Local Plan.

Residential Amenity

The proposed property sits 15m from the rear elevation of No. 1 Fishpond Lane. No windows

are proposed at first floor level, apart from 3 rooflights which would not be considered to result in any detrimental overlooking to the rear garden of No. 1.

In terms of the impact to No. 5 Fishpond Lane, the previous rear extension to the garage has been omitted from this scheme with it remaining as existing apart from the projecting window seat to the rear elevation. The proposed rear extension would be situated 3.1m from the shared boundary with No. 5 and taking this into consideration, the proposed development would not result in any detrimental overbearing impact to this property. In terms of loss of privacy, no windows are proposed which would overlook No. 5. The open terrace will have a pergola with full height panelling on the side element preventing any direct overlooking towards No.5. The proposed dwelling is set further back from No. 5 and any overlooking to arise from the open terrace would be to the bottom end of the neighbouring garden area, not of its most private amenity space immediately adjacent the rear of the property. Furthermore given the position of the properties to one another, a mutual level of overlooking from first floor windows into the neighbouring garden areas is to expected.

Taking the above into account it is not considered the amended scheme would result in any detrimental overbearing impact or loss of privacy and is considered to comply with Policy SD1 of the Local Plan.

Highways

No changes are proposed to the existing access, however the driveway to the front has been extended into the garden area and this area alone can comfortably accommodate 4 parking spaces. Another car could also fit in front of the north elevation. The Highway Authority have raised no objections and the proposal would not result in any harmful impact to highway safety in this instance.

Flood Risk

The application site is within an area at risk of flooding. However, the limited extensions to the footprint on the building will not add to this risk, and the EA standing advice applies whereby the extensions should be designed to incorporate flood resilience measures.

Conclusion

In conclusion it is considered that the proposals as amended would achieve a satisfactory standard of design and would not result in any significant detriment to residential amenity, such that permission should be refused. Parking provision is considered to be sufficient and in all other regards the proposals are acceptable and in accordance with the relevant policies of the local plan.

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

Recommendation

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

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

2. The development hereby permitted shall be carried out in accordance with the application form, site location plan ref 22,031-P-001, Proposed first floor plan ref. 22,031 - P - 104 Rev D, Proposed site plan ref. 22,031 - P - 106 Rev C, Proposed ground floor plan ref. 22,031 - P - 103 Rev E and Proposed elevations ref. 22,031-P-105 Rev C unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. The development hereby permitted shall, as a minimum, have (a) floor levels set no lower than existing levels and (b) flood proofing incorporated where appropriate and practicable. Any flood proofing shall, once installed, be retained and maintained in working order.

Reason: To reduce the risk from flooding to the proposed development and its future occupants.

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 dwelling hereby permitted shall not be enlarged, extended or altered without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

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

Item No. 1.8

Ref. No. [DMPA/2022/0715](#)

Valid date: 31/05/2022

Applicant: Thomas Hardwick

Agent: Thomas Hardwick

Proposal: Regulation 77 application at Sealwood Barn, Seal Wood Lane, Linton, Swadlincote, DE12 6PA

Ward: Linton

Reason for committee determination

This application is reported to the Planning Committee as applications under Section 77 of The Conservation of Habitats and Species Regulations 2017 ('the Habitat Regulations') are not presently included within the Council's Scheme of Delegation.

Site Description

The site lies outside the settlement boundary of Linton. The site relates to a large open plot of redundant land which previously accommodated a barn. Access to the site is gained via Sealwood Lane and there are a number of hedges and trees spread through the site.

The proposal

The application is in relation to the impact of the barn conversion on the River Mease Special Area of Conservation (SAC) arising from the works proposed under Prior Notification ref. DMPN/2021/1336. The applicant is required to submit an application in accordance with Section 77 of the Habitat Regulations to allow the Council to assess the potential effects of the proposal on the European Site prior to the commencement of the development.

Applicant's supporting information

Water Neutrality and Drainage Strategy with input from Ecological Consultants FPCR. Agent's supporting email dated 3rd October 2022.

Relevant planning history

DMPN/2021/1336 - Change of Use of Agricultural Building to Dwellinghouses - Approved March 2022.

Responses to consultations and publicity

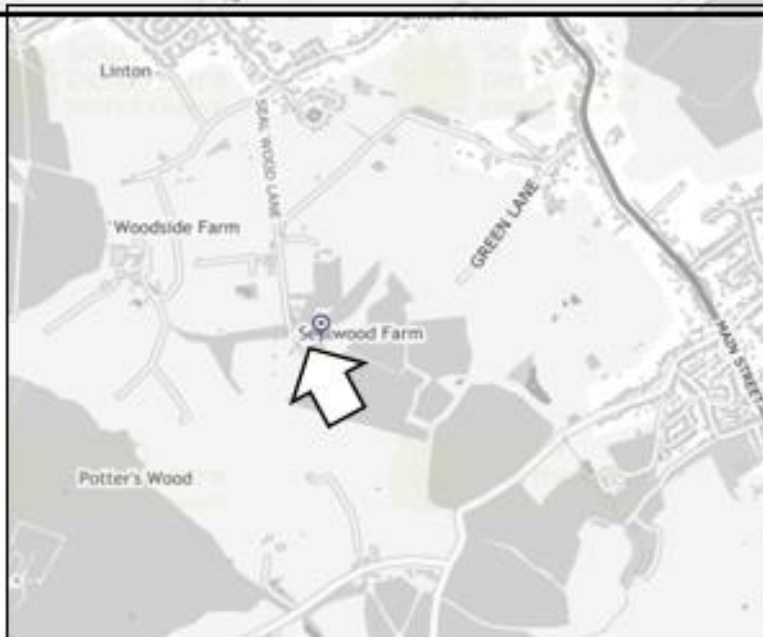
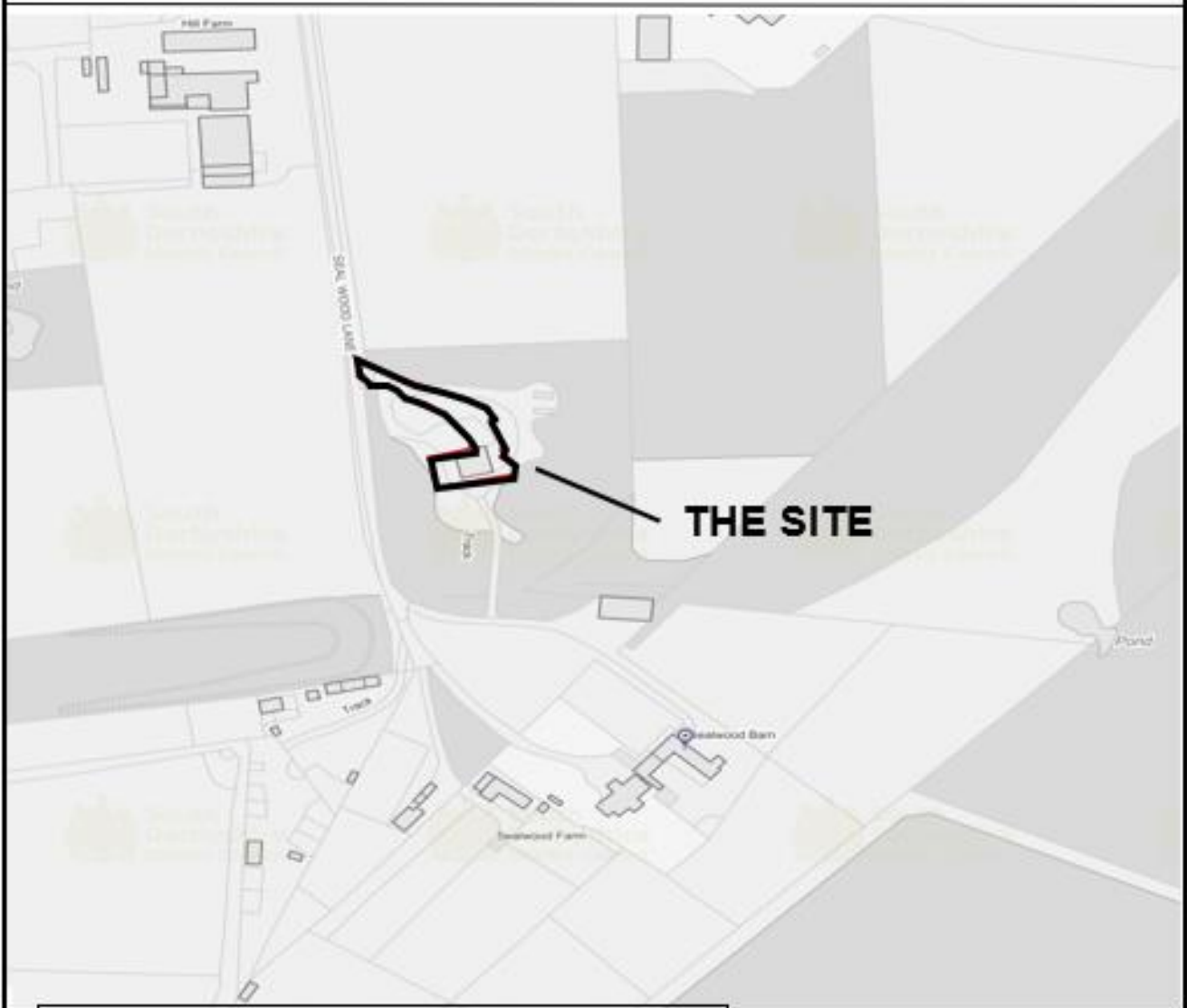
Natural England

No objections to the details provided.

Environmental Agency

I'm grateful to be informed that the Biodisc sewage treatment plant is to discharge to the rain garden. As per my earlier email discharges of 2 cubic metres or less per day to ground fall under the Environment Agency's General Binding Rules: General binding rules for small sewage discharges (SSDs) with effect from January 2015 - GOV.UK (www.gov.uk). In his response below the applicant has indicated he will be applying this advice and on this understanding my team (planning) do not need to be contacted any further.

DMPA/2022/0715 Sealwood Barn, Sealwood Lane, Linton, Swadlincote, DE12 6PA



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Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), BNE3 (Biodiversity).

Local Plan Part 2 (LP2): BNE5 (Development in Rural Areas)

The relevant national policy and guidance is:

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

The relevant legislation is:

The Conservation of Habitats and Species Regulations 2017

Planning considerations

The scope of consideration under this application rests on the response of Natural England as the expert authority in respect of impacts on the River Mease SAC/SSSI in this case.

Planning assessment

The overall aim of the application is to determine whether the previously approved application DMPN/2021/1336 has been designed sustainably to ensure that there are no detrimental effects on phosphates within the River Mease from the proposed foul sewage proposals or surface water run off issues.

The agent has confirmed they have instructed an Ecological and Drainage Consultant (Oakshire Environmental) to provide full design and specification of the drainage detail for the system in question. They have also confirmed that:

- the Biodisc Sewage Treatment Plant will discharge to the rain garden as recommended
- will be designed to ensure the appropriate infiltration system is in place and the discharge rates are met as per the advice and guidance provided
- will be designed to ensure that overflow does not occur at any point; and
- the system will be maintained for the lifetime of the development.

The LPA has discussed the above details with Natural England who have advised the measures proposed would work in terms of providing adequate drainage. A HRA has been carried out by the LPA and from the information submitted it can be concluded that the amount of phosphorous which is likely to reach the River Mease SAC can be considered insignificant; thus will not cause an adverse effect on the integrity of the site. The Rain Garden also proposed is considered an appropriate sustainable drainage method that ensures that surface water run-off from the site would not adversely impact on the integrity of the River Mease SAC. Therefore taking these factors into account the LPA is satisfied the drainage details provided by the agent will work as intended for the lifetime of the development and thus will have no impact on the River Mease.

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

required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Approve in accordance with the details submitted to support the application as listed below:

Water neutrality and drainage strategy May 2022.

Site plan, location plan and proposed plans received 18th May 2022

Item No. 1.9

Ref. No. [DMPA/2022/0719](#)

Valid date: 27/05/2022

Applicant: Alex Kenny

Agent: DLP Planning Ltd

Proposal: Residential development comprising the erection of 65 dwellings, with open space, drainage and associated works at Etwall Common, Land at SK 2730 1591, East of Egginton Road and North of Jacksons Lane, Etwall Common, Derby

Ward: Etwall

Reason for committee determination

This item is presented to the Committee at the request of Councillor Brown due to local concern and unusual site circumstances. The item is also a major application which would represent a partial departure to the local plan allocation and which has been subject to more than 4 no. letters of objection where a recommendation to approve has been made.

Site Description

The site is located to the east of Egginton Road and north of Jacksons Lane, to the south west of Etwall a key service village in the Local Plan. The site comprises three arable fields in an L shape formation across 8.65ha. The site is generally flat with marginal changes in topography with levels falling gently from north east to south west in the most southern section of the site.

The site is bound by mature hedgerows with self-seeded scattered trees within and on the field margins. Some of the trees on the margins and the mature hedgerow boundary to the south-east are protected by Tree Preservation Orders.

Beyond the site boundary, as discussed to the west and south are Egginton Road and Jacksons Lane respectively. Beyond Jacksons Lane is the A50 – Derby Bypass running roughly east west through South Derbyshire. It is a principal vehicular route and managed by Highways England. To the east and south-east, beyond some small scale residential served by Jacksons Lane, there are arable fields and countryside with limited development, until the Willington Road and (the heavily screened) Toyota car plant approximately 450m east as the crow flies. To the north and north-west of the site are existing dwellings and allotments on Common End, Grove Park and Springfield Road, along with the Bloor Homes development to the north and north east which is accessed from Willington Road. The site is within the settlement boundary of Etwall, which provides a range of key services and amenities.

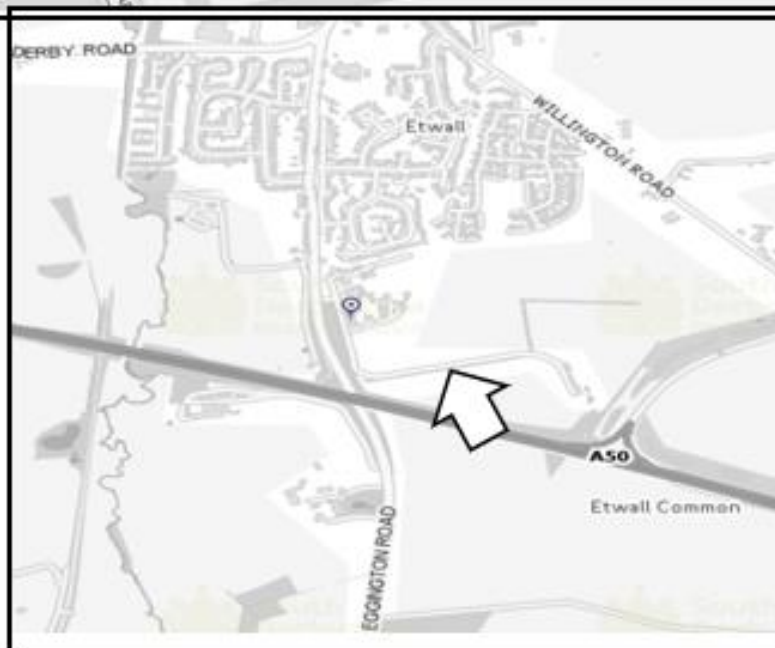
The site is allocated for housing development in the Local Plan by policy H23 – Non strategic Housing Allocations as site H23B – Jacksons Lane, Etwall (S/0284) for around 50 dwellings. There are key considerations for each of the sites as set out in the policy as follows:

The key considerations for each of the sites are:

- i) transport impacts – including vehicular access points, visibility, pedestrian and cycle links and impacts on the existing road network.*
- ii) impact on the surrounding landscape/and or townscape.*
- iii) management of flood risk and drainage*

DMPA/2022/0719 ETWALL COMMON, LAND AT SK2730 1591,

EAST OF EGGINTON ROAD AND NORTH OF JACKSON LANE, ETWALL COMMON



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- iv) *impact on designated and non-designated heritage assets and settings.*
- v) *biodiversity impacts.*
- vi) *the design and layout to take account of site characteristics.*

Further to this there are 'site specifics' set out to manage the development as follows:

- *Around 50 dwellings.*
- *Footpaths to be included that offer access to the allotments, Part 1 allocation to north and onto Jacksons Lane. In area A and B the consideration of separated footways/cycleways.*
- *Consideration of future noise impact on the site.*
- *Character area A – no more than 4 dwellings per hectare (gross)*
- *Character area B – no more than 6 dwellings per hectare (gross)*
- *Character area C – no more than 8 dwellings per hectare (gross)*
- *A landscape buffer implemented along the eastern boundary of the site.*
- *No more than 3 dwellings on the frontage of site to Egginton Road.*
- *No buildings to be in the area directly south of Etwall Grove.*
- *An off-site affordable housing contribution to be made.*

The site was subject to planning permissions set out in more detail below, that gained permission for a development consisting of 50 dwellings, subject to relevant conditions being discharged, the site is being developed accordingly at the time of writing.

There is no development on the site that is a designated or non designated heritage asset, nor is the site within or deemed to be within the setting of a conservation area or heritage asset. There are no marked public right of ways crossing the site, the closest being SD19/11/1 running north from Willington Road. The National Cycle Route 54 runs adjacent to the west of the site along Egginton Road. The site is in Flood Zone 1 representing the lowest risk of surface water flooding, however there is a small area of the south west corner on site noted for medium risk of flooding due to topography. The planting along Egginton Road is designated as a South Derbyshire Nature Site. There is a mature tree belt south of Jacksons Lane which is also protected by a TPO.

The proposal

As referred to above, the site already has the benefit of planning permission for 50 dwellings on site. The applicant, Redrow Homes, now seeks to increase this to 65 units, but a considerable proportion of the site layout is the same as has already been permitted, with the variations in layout (and unit numbers) limited to the most northern portion of the site.

The development description is:

Residential development comprising the erection of 65 dwellings, with open space, drainage and associated works

The proposals include a mixture of 2 no. three and 63 no. four houses presented in gable and hipped roof style, each with garages and off-road parking.

Housing Type	Consented Scheme	Proposed Scheme	Difference
1 bedroom	0	0	-

2 bedroom	0	0	-
3 bedroom	2	2	0
4 bedroom	34	63	+29
5 bedroom	14	0	-14
Total	50	65	+15

In terms of layout and density, the access and egress to the site remains from Eggington Road. There is central internal spine road (proposed to adoptable standards) that navigates through the L shape site with spurs (again to adoptable standards) and further private drive areas around which the development is arranged. As set out this layout form remains as per the approved scheme.

The increase in density is in the northern areas of the site. The allocation breaks up the site into three portions – A, B, C. Taking those references the proposed would deliver 4 dwellings per hectare in Area A, 9 dwellings per hectare in Area B and 14 dwelling per hectare in Area C.

Area	Consented Scheme		Proposed Scheme		Difference	
	Units	Density	Units	Density	Unit	Density
A	8	4	8	4	-	-
B	20	6	25	9	+5	+3
C	22	8	32	14	+10	+6
Total	50	-	65	-	+15	-

As previously proposed a total of 11,500sqm of public open space is proposed across the site with numerous pathways, feature planting and seating areas planned and a 400sqm Local Equipped Area for Play (LEAP). The LEAP is proposed to include 6 pieces of equipment including: an inclusive orbit roundabout; timber team swing; joined logs; net bridge; inclined twine and orangutan timber climber also with litter bin, bench seat and various grass/rubber surfacing with gates and fencing forming the enclosure to the play area, with 3 birch trees and shrub planting proposed.

Again, the external facing materials for the dwellings are stated as Istock Leicester Weathered Red Stock and Istock Arden Olde Farm House bricks and red/slate grey Forticrete Gemini roof tiles, with some dwellings featuring Weberpral M render chalk. A variety of boundary treatments are proposed including 1.8m brick screen walls, 1.8m close boarded fencing, 1.8m close board feature fencing and 2m acoustic fencing with superficial mass of 12kg/m2.

Retention of existing mature hedgerows is proposed. The development is again stepped back from the southern and eastern boundary to provide a 15m landscaped buffer and visual screening by further proposed planting to supplement the existing hedgerow boundaries. To the boundaries of the site are the surface water drainage features comprising swales, ponds and ditches with a series of flow control leading to surface water outfall areas. Footpaths are

also proposed throughout the site to create a circular route through and also providing footpaths up to the northern boundary with the recently erected housing site off Wellington Road, to the west towards the Common Lane allotments and south onto the corner of Jacksons Lane.

The application site

Applicant's supporting information

Application forms and certificate of ownership

Confirms the proposed development and outlines that the applicant Redrow Homes East Midlands is in Sole Ownership (Certificate A) of the land subject to the application.

Design and Access Statement (DAS) - 2022

The DAS sets out the context of the site and Etwall village, planning history of the site and design influences. It confirms the increase in dwellings and density, outlining the approach to locating these dwellings whilst reflecting the established principles in the previous layout and Policy H23B site specifics. The document provides detail of the other elements of the scheme such as access, open space, LEAP provision, footpaths and landscaping. The document assesses the dwellings against Built for Life standards.

The document sets out that the increase in density is below surrounding areas and dwellings still retain generous plots and amenity, leading to a high-quality living environment.

Environmental Noise Assessment – February 2022

Environmental Noise Assessment found that suitable internal noise levels within habitable rooms can be achieved by specifying appropriate glazing and attenuated through wall mechanical vents to the plots closest to the A50. This Assessment also confirmed that by providing appropriate glazing constructions to the proposed facades, calculations indicate that internal ambient noise levels within proposed dwellings will be capable of meeting the requirements set out in local and national planning policy, as well as the relevant British Standards.

Ecological Appraisal and, Ecological Design Strategy – August 2022

Ecological Appraisal conducted by FPCR as an update to that which they carried out for the original 50 home scheme found that the habitats and species present within and around the site have not changed materially since the previous surveys were conducted, and that the site's potential ability to support a range of protected and notable species remains the same. The Ecological Design Strategy set out the approach to securing ecological enhancements on site through the design of the proposal.

Flood Risk Assessment – September 2022

The Flood Risk Assessment & Drainage Strategy Report produced by Armstrong Stokes & Clayton (ASC) Ltd. is an update to the Flood Risk Assessment carried out by Systra in 2017 (ref. MID/3950/FRA) in support of the original 50 dwelling scheme. The Flood Risk Assessment produced by ASC Ltd. found that the entirety of the site falls within Flood Zone 1, with the only risk of flooding coming from pluvial sources, with this risk considered to be very low. This Assessment also confirms that surface water will be discharged off-site via the existing ditch network, and that the intended surface drainage strategy will

utilise SuDS applications and will be designed to manage and convey the site run-off under a 100 year+ climate change event. It concludes by stating that the development is considered to be compatible with the site's prevailing levels of flood risk, and capable of managing the development run-off within the standards required by the Environment Agency (and others), and that the site passes the sequential test with prevailing levels of flood risk which are comparable with local areas and which fall into the lowest level of risk as defined in the NPPF.

Draft Arboricultural Assessment dated August 2022 produced by FPCR

The report identifies what would be needed to ensure the retained trees are protected during development. It has incorporated a Tree Survey, Tree Retention Plan and tied these in with a clear tree Protection Plan. The report has evaluated both trees and hedgerows and states a total of four individual trees, six groups and eight hedgerows were surveyed as part of the Arboricultural Assessment. All trees are protected by Tree Preservation Orders, TPO22 and TPO 264.

Pre Development Tree Survey – May 2015

This Survey serves as a catalogue of the site's existing trees and includes information such as height, diameter, branch spread, and estimated remaining lifetime. A Tree Constraints Plan was also submitted with the outline application, which identifies existing on-site trees and categorises them by perceived level of importance and identifies other arboricultural features such as Root Protection Areas.

Transport Statement – April 2022

A Transport Statement has been produced by DTA, further to the Transport Assessment carried out by Systra in 2017 (ref. 106330-R001d) in support of the original 50 home scheme. The Transport Statement produced by DTA concludes that the proposed development is accessible by sustainable modes of transport, with footpaths, cycle routes and bus stops located within the local vicinity, and that the 65 home scheme would only generate 8 or 9 additional two-way trips in the respective peaks compared to the 50 home scheme. The Transport Statement concludes by stating that its findings demonstrate that the 65 home scheme will have no material adverse impact on the safety or operation of the adjacent highway network

Drawings

- 65 Unit Planning Engineering Layout (dwg. ref. 20-001_02_07)
- 65 Unit Planning Surface Finishes (dwg. ref. 20-001_02_08)
- 65 Unit Planning Swept Path Analysis (dwg. ref. 20-001_02_09)
- Drawing Schedule
- External Works Layout – 65 Plots (dwg. ref. 2267/06 Rev. A)
- External Materials (dwg. ref 2267/07)
- Location Plan – 5823-100-000
- Proposed Site Layout – (dwg. ref. 2267/03/02 Rev E.)
- Proposed Visuals (dwg. ref. 2267/11 Rev A)
- House Type CAMBRIDGE – AS Plots: 14, 18, 22, 31, 36 (dwg. ref. 2267/20)
- House Type CAMBRIDGE – OPP Plots: 16, 26 (dwg. ref. 2267/21)
- House Type LEAMINGTON Plots: 21 & 29 (dwg. ref. 2267/22)
- House Type HARROGATE – AS Plots: 15, 19, 24, 27, 34, 38, 42, 47, 55, 57 (dwg. ref. 2267/24)

- House Type HARROGATE – OPP Plots: 33, 40, 6 (dwg. ref. 2267/25)
- House Type HARROGATE – OPP Plots: 12, (dwg. ref. 2267/26)
- House Type BALMORAL – AS Plots: 1 (dwg. ref. 2267/27)
- House Type BALMORAL – AS Plots: 7, 11, 20, 28, 48 (dwg. ref. 2267/28)
- House Type BALMORAL – OPP Plots: 4, 64 (dwg. ref. 2267/29)
- House Type BALMORAL – OPP Plots: 25, 37, 39, 41, 43, 46, 53, 54, 58, 59, 61 (dwg. ref. 2267/30)
- House Type BLENHEIM – Area A – AS Plots: 3, 62, 63 (dwg. ref. 2267/31)
- House Type BLENHEIM – Area A – OPP Plots: 2, 65 (dwg. ref. 2267/32)
- House Type BLENHEIM – AS Plots: 52, 56, 60 (dwg. ref. 2267/33)
- House Type OXFORD – AS Plots: 17, 35 (dwg. ref. 2267/34)
- House Type OXFORD – OPP Plots: 13, 23, 30, 32 (dwg. ref. 2267/35)
- House Type RICHMOND – AS Plots: 5 (dwg. ref. 2267/36)
- House Type RICHMOND – OPP Plots: 9, 45, 50 (dwg. ref. 2267/37)
- House Type HAMPSTEAD Plots 9, 10, 44, 49, 51 (dwg. ref. 2267/38)
- Double Garage (dwg. ref. 2267/40)

Relevant planning history

DMOT/2022/1060 – The approval of detail reserved by condition nos. 18 (surface water hierarchy) and 19 (surface water drainage details) of permission ref. DMPA/2020/0985 for outline permission (all matters reserved for future approval) for residential development of up to 50 dwellings with open space, drainage and associated works) – **Under Consideration**

DMOT/2022/0312 – Approval of details required by conditions 2, 3, 4 and 10 of permission ref: DMPA/2021/0164 (Approval of reserved matters (access, layout, scale, appearance and landscaping) pursuant to outline permission ref. DMPA/2020/0985 (The variation of condition no. 9 (relating to skylark habitat compensation) of permission ref. 9/2017/1191 (relating to outline permission (all matters reserved for future approval) for residential development of up to 50 dwellings with open space, drainage and associated works) – **Approved July 2022**

DMOT/2022/0303 – Approval of details required by conditions 8, 10, 12, 13, 14 and 17 of permission ref: DMPA/2020/0985 S73 to 9/2017/1191 (Outline application (all matters reserved for future approval) for residential development for up to 50 dwellings with open space, drainage and associated works) – **Under Consideration**

DMOT/2021/1664 – Approval of details required by conditions 18 and 19 attached to ref. 9/2017/1191 (Outline application (all matters reserved for future approval) for residential development for up to 50 dwellings with open space, drainage and associated works) – **Approved July 2022**

DMPA/2021/0164 – Approval of reserved matters (access, layout, scale, appearance and landscaping) pursuant to outline permission ref. DMPA/2020/0985 (The variation of condition no. 9 (relating to skylark habitat compensation) of permission ref. 9/2017/1191 (relating to outline permission (all matters reserved for future approval) for residential

development of up to 50 dwellings with open space, drainage and associated works) – **Approved January 2022**

**Officer note: This application comprised the reserved matters for outline application 2020/0985. This is the operative consent under which the site is currently being developed and conditions are being satisfied.*

DMOT/2021/0274 – Approval of details required by condition 9 attached to ref. DMPA/2020/0985 (The variation of condition no. 9 (relating to skylark habitat compensation) of permission ref. 9/2017/1191 (relating to outline permission (all matters reserved for future approval) for residential development of up to 50 dwellings with open space, drainage and associated works)) on – **Approved July 2021**

DMOT/2020/1396 – Approval of details required by condition 11 attached to ref. 9/2017/1191 DMPA/2020/0985 (outline application (all matters reserved for future approval) for residential development for up to 50 dwellings with open space, drainage and associated works) on – **Part Approved May 2021**

DMPA/2020/0985 – The removal of condition no. 9 (relating to skylark habitat compensation) of permission ref. 9/2017/1191 (relating to outline permission (all matters reserved for future approval) for residential development of up to 50 dwellings with open space, drainage and associated works) on – **Approved May 2021**

**Officer note: This variation of condition application created a new standalone outline planning permission with modified requirements in relation to ecology mitigation.*

9/2018/0003 – The side pruning of all species of trees covered by South Derbyshire District Council tree preservation order number 264 at – **Granted 26th February 2018**

9/2017/1191 – Outline application (all matters reserved for future approval) for residential development for up to 50 dwellings with open space, drainage and associated works on – **Approved May 2019**

**Officer note: This application represented the original outline permission on the site, seeking to implement the allocation of the site (Policy H23b) for residential purposes.*

9/2015/0759 – Erection of up to 98 dwellings with associated public open space and sustainable drainage at – **Withdrawn May 2016**

Responses to consultations and publicity

The application was publicised via two rounds of consultation the first running from 15th June until the 15th July 2022, during which letters were sent to neighbours and a site notice publicised the application. Further to this, a second round of consultation running from the 26th September 2022 and this ran until the 10th October, during which again letters were sent to publicise the application and interested parties were informed of the amendments.

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

At the time of writing the application have received numerous responses broken down as follows below. Comments are provided verbatim so that it is clear the information Officers have received on which determination has been made, and such is provided in this report which is public.

Environmental Health Officer – No objection subject to conditions

Further information was sought on noise levels and mitigation. Having provided this the EHO raised no objection subject to previous conditions attached to DMPA/2021/0164 being applied.

Landscape and Public Open Space – No objection subject to conditions

No objection subject to previous conditions and obligations attached to DMPA/2021/0164 being applied.

Affordable Housing Team – No objection – agree to uplifted affordable housing sum

Following our discussion with Redrow

I confirm that I am happy with the calculation and formula discussed that equates to a further £209, 700 being paid in lieu of affordable housing for the additional 15 homes provided on the site,

= 4.5 homes at £46,600 per dwelling that is comparative with the previous calculation of the offsite contribution,

Can you word the s106 to state 'to be spent within 10 years on the provision of affordable housing or refurbishment of existing social housing within the district.'

Derby & Derbyshire Clinical Care Commission (CCG) (NHS) – No objection subject to contributions to healthcare

<p>Impact of new development on GP practice</p>	<p>The development is proposing 65 (A) dwellings which based on the average household size of 2.5 per dwelling and assuming 100% of the new population would come into this area for primary care health provision would result in an increased patient population of approx 163 (B) (2.5 x A).</p> <p>The calculation below shows the likely impact of the new population in terms of number of additional consultations. This is based on the Dept. of Health calculation in HBN11-01: Facilities for Primary and Community Care Services.</p> <p>Consulting room</p> <table border="1" data-bbox="421 573 1490 882"> <tr> <td>Number of Dwellings</td> <td>A 65</td> </tr> <tr> <td>Proposed population</td> <td>B 162.5</td> </tr> <tr> <td>Access rate (per patient per year)</td> <td>5.26</td> </tr> <tr> <td>Anticipated annual contacts</td> <td>855</td> </tr> <tr> <td>Assume 100% patient use of room</td> <td>855</td> </tr> <tr> <td>Assume surgery open 50 weeks per year</td> <td>17 contacts per week</td> </tr> <tr> <td>Appointment duration</td> <td>15 mins</td> </tr> <tr> <td>Patient appointment time per week</td> <td>4.3 hours</td> </tr> </table> <p>Treatment room</p> <table border="1" data-bbox="421 954 1490 1146"> <tr> <td>Anticipated annual contacts</td> <td>855</td> </tr> <tr> <td>Assume 20% patients use room</td> <td>171</td> </tr> <tr> <td>Assume surgery open 50 weeks per year</td> <td>3 contacts per week</td> </tr> <tr> <td>Appointment duration</td> <td>20 mins</td> </tr> <tr> <td>Patient appointment time per week</td> <td>1.1 hours</td> </tr> </table>	Number of Dwellings	A 65	Proposed population	B 162.5	Access rate (per patient per year)	5.26	Anticipated annual contacts	855	Assume 100% patient use of room	855	Assume surgery open 50 weeks per year	17 contacts per week	Appointment duration	15 mins	Patient appointment time per week	4.3 hours	Anticipated annual contacts	855	Assume 20% patients use room	171	Assume surgery open 50 weeks per year	3 contacts per week	Appointment duration	20 mins	Patient appointment time per week	1.1 hours
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Patient appointment time per week	1.1 hours																										
<p>GP practice most likely to be affected by growth and therefore directly related to the housing development</p>	<p>It is unlikely that NHS England or Derby and Derbyshire ICB would support a single handed GP development as the solution to sustainably meet the needs of the housing development and that the health contribution would ideally be invested in enhancing capacity/infrastructure with existing local practices. The closest practices to this development are;</p> <ul style="list-style-type: none"> • Wellbrook Medical Centre • Willington Surgery 																										

<p>Necessary to make the development acceptable in planning terms</p>	<p>We would like to discuss the potential for S106 funding to be used to provide additional capacity at any practice in the vicinity of the development, which may be through the extension or reconfiguration of one of more existing site, or a new building.</p> <p>The area is identified as a high priority in the Derby and Derbyshire CCG Primary Care Estates Strategy, which is primarily due to population growth in the area.</p>							
<p>Plans to address capacity issues</p>	<p>The amount requested is proportionate to the scale of the housing development proposed.</p>							
<p>Fairly and reasonably related in scale and kind to the development.</p>	<p>The indicative size of the premises requirements has been calculated based on current typical sizes of new surgery projects factoring in a range of list sizes recognising economies of scale in larger practices. The cost per sq m has been identified by a quantity surveyor experienced in health care projects.</p> <p>This is the cost of providing additional accommodation for 163 (B) patients:</p> <table border="1" data-bbox="422 840 1501 1167"> <tr> <td data-bbox="422 840 671 1167"> <p>(B) Additional patients to be accommodated</p> <p style="text-align: center;">163</p> </td> <td data-bbox="671 840 719 1167" style="text-align: center;">x</td> <td data-bbox="719 840 959 1167"> <p>(D) Standard area m²/person Based on total list size of approx. 0.08 m²</p> </td> <td data-bbox="959 840 1007 1167" style="text-align: center;">x</td> <td data-bbox="1007 840 1236 1167"> <p>(E) Cost of extension including fees £/m²</p> <p style="text-align: center;">£ 4,500*</p> </td> <td data-bbox="1236 840 1284 1167" style="text-align: center;">=</td> <td data-bbox="1284 840 1501 1167"> <p>Total cost (B) x (D) x (E)</p> <p style="text-align: center;">£58,680</p> </td> </tr> </table> <p>*Update May 2022 in line with increase build costs.</p>	<p>(B) Additional patients to be accommodated</p> <p style="text-align: center;">163</p>	x	<p>(D) Standard area m²/person Based on total list size of approx. 0.08 m²</p>	x	<p>(E) Cost of extension including fees £/m²</p> <p style="text-align: center;">£ 4,500*</p>	=	<p>Total cost (B) x (D) x (E)</p> <p style="text-align: center;">£58,680</p>
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<p>Financial contribution requested</p>	<p>£58,680</p>							

Secure By Design – No objection / Comments

Thank you for referring this application for our attention. The additional number of houses, amended types and boundaries don't present any additional problems to us from the consented reserved matters scheme. The layout remains broadly the same and is fine excepting the below.

The main issue which I still think is a bad idea is connectivity across the northern edge of the site into Common End. The reasons for this are well documented so I won't go over old ground, particularly as the route forms part of the approved detailed layout. Also the opposite end of the path to the north eastern edge of the site remains truncated, so provides no strong connectivity to circulation routes to the north and existing Bloor Homes development.

I do note the now added separation of shared driveways from the footpath to this edge, and across the site generally with post and rail fencing, which for me is a positive move.

In short a well specified scheme, with the exception of the likelihood of problems generated by the north westerly footpath connection to Common End, and incomplete connection to the Bloor Homes site.

South Derbyshire District Council Planning Policy – Comments

The application site lies within Etwall settlement boundary and is allocated for housing development under Policy H23B.

The site was previously granted outline planning permission for up to 50 dwellings under 9/2017/1191, and this was subsequently superseded by DMPA/2020/0985. Reserved matters for 50 dwellings was approved under permission DMPA/2021/0164. This application seeks to increase the number of units on the site from 50 to 65 dwellings.

Policy H23B of the Adopted Local Plan Part 2, lists a number of site specific requirements. The Policy states the site should accommodate around 50 dwellings, with the site split into 3-character areas, with a maximum density per area provided:

- Character area A: no more than 4 dwellings per hectare (gross)*
- Character area B: no more than 6 dwellings per hectare (gross)*
- Character area C: no more than 8 dwellings per hectare (gross).*

The application proposes more than the around 50 dwellings stated within the policy. The proposal meets the maximum density requirements for character area A. The proposed layout of this character area is the same as that granted under reserved matters DMPA/2021/0164. However, the densities for character area B and C are higher than that stated within Policy H23B. Nine dwellings per hectare are proposed under character area B and 14 dwellings per hectare are proposed under character C. This is contrary to Policy H23B.

The proposal includes footpaths to the site boundary at Jacksons Lane, the allotments and to the north of the site, which borders the Local Plan Part 1 housing allocation. This is in line with Policy H23B.

In accordance with Policy H23B, the proposal also includes a landscape buffer along the eastern boundary of the site, along with other areas of proposed planting. The Case Officer may wish to seek comment from the landscape officer.

TPO22 is located to the north the site (at Grove Park) and TPO264 is located along the southern boundary and part of the eastern boundary of the site. The application should accord with policy BNE7 'Trees, Woodland, and Hedgerows'.

The application is in close proximity to the A50. The case officer will need to be satisfied that the proposal would not lead to adverse impact on the amenity of existing and future occupiers within or around the proposed development, to accord with Policy SD1 'Amenity and Environmental Quality' and BNE1 'Design Excellence'. An Environmental Noise Assessment has been submitted as part of the application. The Case Officer may wish to consult Environmental Health for comments regarding noise mitigation.

A new access is proposed as part of the application. Comments from County Highways should be sought in regard to Policy S6 'Sustainable Access' and Policy INF2 'Sustainable Transport', which seeks to ensure (among other things) that adequate car parking provision and safe access is provided.

With the proposal being for 65 dwellings, the scheme will require a Section 106 Agreement to secure developer contributions for Education, Health and Recreation (Open Space (LEAP provided on site), Outdoor Facilities and Built Facilities). Furthermore, Policy H23B states an off-site affordable housing contribution should be made. Comments should be received from Strategic Housing regarding the contribution amount, or whether on site affordable would be more desirable due to the proposed increase in dwelling numbers.

Derbyshire County Council Policy (Education) – No objection subject to planning obligations including a contribution to education and library provision

Thank you for your consultation dated 15 June 2022 in respect of the implications for the provision of strategic infrastructure and services which are the responsibility of the County Council arising from the above proposed development. This response is in accordance with the National Planning Policy Framework (NPPF) and the County Council's Developer Contributions Protocol.

I note that the County Council previously responded to application 9/2017/1191 for up to 50 dwellings on 18 December 2017 which was approved on 22 May 2019. The Council also previously responded to a reserved matters application (DMPA/2021/0164) on the 1 April 2021 which related to planning permission 9/2017/1191. This application was approved on the 31 January 2021.

Local Member Comments

The local County Councillor Ford has been consulted for his views on the potential infrastructure requirements that may require contributions from developers.

At the time of writing, no comments have been received with regard to items covered in this response, however, I will forward any relevant comments received at a later date for your consideration.

With regard to any highways issues, the County Council's highways response as a statutory consultee offers impartial technical analysis as Highway Authority and is provided under delegated powers. Comments received from the Local Member regarding highway related matters will always be considered by officers, however it is not always possible to incorporate these into the Highways statutory technical response. Members may therefore provide direct responses to the Local Planning Authority in their role as a County Council community representative.

Officer Comments

The information provided below is based on the application consultation details as provided by the District Council.

In the absence of a Community Infrastructure Levy, financial contributions will be secured via Section 106 planning obligations.

CIL Compliance/ Use of Funding

Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if building cost inflation using the Building Cost Information Service All in Tender Price Index. The thresholds and level of contribution required is set out below.

2022/23 Level of Contributions Places per 100 dwellings Cost per pupil place Cost per 1 dwelling Cost per 10 dwellings Cost per 100 dwellings

Primary phase

24 places

£18,165.55

£4,359.73

£43,597.31

£435,973.09

Secondary phase (without Post16)

20 places

£27,372.07

£5,474.41

£54,744.14

£547,441.40

Secondary phase (with Post 16)

28 places

£28,033.07

£7,849.26

£78,492.59

£784,925.86

SEND

0.7 places

£103,946.90

£727.63

£7,276.28

£72,762.82

Primary Level

The proposed development falls within and directly relates to the normal area of Etwall Primary School. The proposed development of 65 dwellings would generate the need to provide for an additional 16 primary pupils.

Etwall Primary School has a net capacity for 315 pupils, with 294 pupils currently on roll. The number of pupils on roll is projected to increase during the next five years to 359. They meet the 3 statutory tests as set out in the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and in paragraph 56 of the NPPF; they are

- necessary to make the development acceptable in planning terms,*
- directly related to the development, and*
- fairly and reasonably related in scale and kind.*

The County Council will only seek planning obligations where they accord with the CIL Regulations and relevant planning policies. All consultation responses will be in line with the Developer Contributions Protocol.

Amendments to the CIL Regulations which came into force on 1st September 2019 have deleted Regulation 123 which governed pooling and therefore the County Council no longer needs to provide evidence to ensure their request for contributions is in conformity with Regulation 123.

1) Education

The NPPF clearly sets out that the purpose of planning is to help achieve sustainable development, with paragraph 95 of the NPPF (2021) stating:

'It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement and to development that will widen choice in education. They should:

- a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and*
- b) work with schools' promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted'*

Whilst education provision is a statutory function of the County Council, and the Government provides funding to address natural demographic growth, it does not provide monies to accommodate additional pupils generated as a result of new housing development as a matter of course.

Assessing the Proposed Development

The County Council has a statutory duty to make education provision available for each young person and elects where possible to provide a school place for each child at their normal area school. This duty applies across all schools and includes Academies.

The number of places at the normal area school is assessed through a system provided by the Department of Education which produces a net capacity. The number on roll at a school reflects the number of pupils attending the school, and the difference between the net capacity

and the number on roll is the number of places available or not available to accommodate future requests for places.

Pupil numbers are calculated looking at the five year projection of numbers on roll based on birth rates. This projection does NOT include the impact of any new housing with planning permission or allocated in local plans. The pupil yield from approved planning applications in the normal area of the school is then added.

The number of pupils that the development is expected to generate is calculated using the formula that for every 100 dwellings there will be 24 primary, 20 secondary and 8 post-16 pupils. This formula is based on a statistical assessment of birth rate and housing occupancy data in Derbyshire using information from the 2011 census. In calculating the pupil yields one-person households have been omitted. This reflects the fact that one-bedroom dwellings are omitted from the assessments of need contained in consultation responses. The pupil yield employed in the SEND assessment reflects the proportion of Derbyshire pupils being educated within Special Schools as well as Enhanced Resources within mainstream schools.

The requirement for financial contributions towards education provision is therefore based on the normal area school's net capacity, projected pupil numbers on roll over the next five years and the impact of all major residential development with extant planning permissions within the normal area of a school to assess the effect that committed development coming forward will have on school capacity.

The level of contribution required is fair and reasonable in scale and kind and is determined using multipliers provided by the Department for Education based on their analysis of building costs per pupil adjusted to reflect regional variations in costs. These multipliers are revised annually in line with

An evaluation of recently approved major residential developments within the normal area of Etwall Primary School shows new development totalling 50 dwellings, amounting to an additional 12 primary pupils.

Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area primary school would not have sufficient capacity to accommodate the 16 primary pupils arising from the proposed development.

Secondary Level

The proposed development falls within and directly relates to the normal area of John Port Spencer Academy. The proposed development of 65 dwellings would generate the need to provide for an additional 18 secondary phase (with post16) places.

John Port Spencer Academy has a net capacity for 2,070 pupils with 1,972 pupils currently on roll. The number of pupils on roll is projected to increase to 2,015 during the next five years.

An evaluation of recently approved major residential developments within the normal area of John Port Spencer Academy shows new development totalling 440 dwellings, amounting to an additional 123 secondary phase (with post16) pupils.

Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area secondary school would not have sufficient capacity to accommodate the 18 secondary phase (with post 16) pupils arising from the proposed development.

Mitigation

The above analysis indicates that there would be a need to mitigate the impact of the proposed development on school places in order to make the development acceptable in planning terms. The County Council therefore requests financial contributions as follows:

- *£290,648.80 towards the provision of the new primary school at New House Farm to support 16 primary places.*

Although this development falls within the Etwall Primary School normal area the funding is requested to support the new primary school at New House Farm. Etwall Primary School is currently undergoing expansion to accommodate pupils arising from previously consented applications. Phase 1 of the expansion has been completed with Phase 2 in the design stage. These expansions enlarge the school to the maximum size which can be supported by the site. Contributions are therefore requested towards the new primary school at New House Farm.

- *£504,595.26 towards the provision of additional facilities at John Port Spencer Academy or the new secondary school at Infinity Park, to support 18 secondary phase (with post 16) places*

The above is based on current demographics which can change over time and therefore the County Council would wish to be consulted on any amendments to a planning application or further applications for this site.

Should it emerge that there are viability issues associated with the proposals in the above planning application and the District Council is in agreement with the applicant's financial appraisal, there may be some flexibility in the payment triggers. The full contribution, however, would still be required to fully mitigate the impact that the proposed development would have on the normal area primary school and secondary schools. The County Council requests that its officers are also party to any further negotiations on developer contributions.

If there is insufficient capacity to accommodate the increase in pupils forecast to be generated by this proposed development and the development itself cannot enable the necessary provision, the County Council wishes to highlight that the proposed development may not provide for a sustainable form of development.

2) Broadband

Investment in the County's broadband infrastructure, to support the future economic prosperity of the county, continues to be a priority for the County Council.

The Digital Derbyshire programme is a partnership between Derbyshire County Council and Openreach to provide access to NGA fibre broadband services for residents and businesses. The Council's ambition is that 98% of homes and businesses in Derbyshire will be able to access speeds of at least 24 Mbps by the end of 2020.

The Digital Derbyshire programme applies to existing households and businesses. New residential developments coming forward will not necessarily be covered by the Digital Derbyshire programme. Therefore, all developers proposing housing developments should look to provide for NGA broadband infrastructure and services as part of the design of their development schemes at the outset.

It is not expected that the County Council will require fibre-based broadband to be provided to make a development acceptable in planning terms, however developers should look to provide for NGA broadband infrastructure services as an integral part of the development scheme at the outset.

Mitigation

Local Planning Authorities should attach advisory notes to planning permissions to request that developers work with broadband providers to ensure NGA broadband services are incorporated as part of the design of new development. However, if it can be shown that this would not be possible, practical or economically viable, in such circumstances, suitable ducting should be provided within the site and to the property to facilitate future installation.

Guidance on the characteristics of qualifying NGA technologies is available from The Department for Digital, Culture, Media and Sport

3) Local Authority Collected Waste

Government legislation is focused on the prevention and minimisation of waste, maximising re-use and recycling and diverting waste from landfill. Derbyshire County Council as a Waste Disposal Authority has a statutory duty under the Environmental Protection Act 1990 to offer facilities to local residents where they may deposit their household waste. New developments should be provided with a convenient means of waste management, including access to a Household Waste Recycling Centre (HWRC) offering suitable facilities for re-use, recycling and disposal.

New residential development in Derbyshire can be expected to generate an increase in the overall amount of household waste and depending on the size of the development this can have a varying impact on the existing local HWRC network. Where it is expected that new housing development will generate a need for additional provision, funding through developer contributions will be expected to help provide the necessary additional capacity.

The County Council is currently reviewing its approach to assessing the impact of housing development on waste services.

4) Libraries

The County Council has included Libraries in its review of the Developer Contributions Protocol. Where a proposed development is over 50 dwellings, contributions will be requested to mitigate the additional demand on library services in order to maintain the statutory responsibility and vision for libraries.

Etwall Library is the nearest library to this site, however, no capital improvements to Etwall Library are required as a result of this development proposal.

However, where a library building is able to accommodate the extra demand created by a new development but it is known that the stock levels are only adequate to meet the needs of the existing catchment population, a “stock only” contribution will be sought.

The National Library Standard upper threshold as cited in Championing archives and libraries within local planning recommends a stock level of 1,532 items per 1,000 population, with the average price of £20.00 per stock item (based on Askews Library Services book prices at May 2019).

In this instance a stock only contribution of £4,560 is sought and is calculated as follows:

65 dwellings x 2.3 (average household size) = 149 people

149 people x 1.532 (stock level per person) = 228 stock items

228 (stock items) x £20 (cost per stock item) = £4,560 (i.e. £70.15 per dwelling).

5) Greenways

It is welcomed that some footpath links being provided in and around the site, which will presumably be the developer's responsibility to maintain going forward. If any of these can also be made available for cycling then that would be beneficial. However, where it is proposed to take these routes to the site boundary it will be necessary to check the existence of an onward route which the public has a right to use, for example Common End does not appear to be an adopted highway or an existing public right of way.

Consideration should also be given to making adequate provision for pedestrians and cyclists along Egginton Road from where "Street 1" emerges and continues out onto the main Egginton Road, along with a safe crossing onto the shared footway facility which has been provided on the opposite side of the road.

6) Employment and Skills

The Employment and Skills Strategy is an important part of Derbyshire County Council's approach to delivering economic prosperity across the county. The County Council is keen to ensure it fulfils its statutory responsibilities around supporting young people, disadvantaged adults and the wider workforce into suitable, sustained employment.

A range of agencies across the public sector are actively working to deliver employment and skills activity in Derbyshire, and the County Council wishes to help facilitate stronger partnership working and driving more cohesive action on skills and employment across the county. The County Council would wish to work collaboratively to support the District/Borough Councils to identify where activities or contributions are required to deliver employment and skills development where they are supported by policies in the local plan.

7) Monitoring fees

In line with the revised Community Infrastructure Levy Regulations 2010 (as amended) Regulation 122 2(a), the County Council will seek a monitoring fee towards the monitoring and reporting of S106 contributions. The fee will be based on the cumulative number of triggers to be monitored for County Council obligations x £73.50 (based on 2 hours officer time Grade 12).

8) Other Information

Please note that a separate response may be provided by:

- The Highways Development Control Team in its role as the Highway Authority. This response will cover Public Rights of Way and Greenways where relevant. Your area's Highway Development Control Engineer can be contacted through our call centre: 'Call Derbyshire', on 01629 533190 or email ETE.DevelopmentControl@derbyshire.gov.uk.*
- The Flood Risk Team as the Lead Local Flood Authority. Your area's Flood Risk Engineer for the Lead Local Flood Authority can be contacted through our call centre: 'Call Derbyshire' on 01629 533190, and ask for the Flood Risk Team or email flood.team@derbyshire.gov.uk.*

The County Council wishes to support development which constitutes sustainable growth and requests that the required contributions as set out above, or ones subsequently agreed through negotiation, and the reasons why they are necessary be included in the officer's report considered by your authority's relevant committee or under delegated powers as appropriate.

Please contact me if you would like to discuss this response further. I would be grateful if you would keep me informed of progress with this planning application and any related legal agreements. The County Council would wish to be a signatory on any legal agreements containing planning obligations that relate to County Council infrastructure and services.

Derbyshire County Council Archaeologist – No objection subject to conditions

Thank you for consulting on the above planning application.

Outline application 9/2017/1191 was consented with archaeological conditions for the excavation and recording of an Iron Age enclosure and associated features within the northern part of the site. The relevant condition reads as follows:

11. a) No development, including preparatory works, shall commence until a Written Scheme of Investigation for archaeological work (WSI) has been submitted to and approved in writing by the

Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:

i) the programme and methodology of site investigation and recording;

ii) the programme and provision to be made for post investigation analysis and reporting;

iii) provision to be made for publication and dissemination of the analysis and records of the site investigation;

iv) provision to be made for archive deposition of the analysis and records of the site investigation; and nomination of a competent person or persons/organisation to undertake the works set out within the WSI.

b) The development shall take place in accordance with the approved WSI and shall not be occupied until the site investigation and post investigation reporting has been completed in accordance with the programme set out in the approved WSI and the provision to be made for publication and dissemination of results and archive deposition has been secured

The fieldwork was carried out in late 2021 in accordance with an approved WSI. I have subsequently seen and commented on a draft of the fieldwork report, but this has not been completed and it is not yet clear whether any further analysis is needed. Therefore although part a of the condition has been discharged, part b is still in play pending completion of reporting and provision for archive deposition etc.

I therefore recommend that part b of the condition is reproduced on any new consent under the current application, reworded to refer to the approved WSI document, to secure completion of and public benefit from the archaeological process on this site in line with NPPF para 205.

The following condition should therefore be attached to any planning consent:

“The development shall take place in accordance with the Written Scheme of Investigation for archaeological work Land east of Egginton Road and north of Jacksons Lane, Etwall: written scheme of investigation for archaeological work (RPS, January 2021) previously approved under Condition 11a of 9/2017/1191, and shall not be occupied until the site investigation and post investigation reporting has been completed in accordance with the programme set out in the approved WSI and the provision to be made for publication and dissemination of results and archive deposition has been secured”

If the reporting is completed as per WSI before determination of the current application and provision for archiving etc is shown to be in place, then the condition would not be required.

Derbyshire County Highways – No objections subject to confirmation of management of junction, suitable adoption of roads and conditions

Attached is the Land Registry document I referred to which has been signed on the final page by Redrow Homes but not by the vendors National Highways. As such, my concerns remain that this is not sufficient evidence to ensure that the required visibility at the junction onto the main section of Egginton Road. You will be aware that without control of the land to provide the visibility splay in the southerly direction, the application is open to objection on highway safety terms. However, during our discussions it was established that this could be controlled by condition.

As you are aware, the Highway Authority is not entirely happy with the design and layout of roads 1 & 2 with the swales between the footway and the carriageway. However, I note that in the past the applicant has offered assurances that the swales in the highway are designed to take highway surface water only, as such, it is not considered that there is sufficient reason for recommending refusal of the proposal on highway safety grounds. The applicant should be aware that provision of swales within the adopted highway will attract a significant commuted sum and, depending on the final design/construction details of the swales and their outfalls, their inclusion may compromise the adoption of the road as public highway.

On this basis, there are no objections to the proposal from the highway point of view subject to the following conditions being included in any consent in the interests of highway safety.

- 1. Prior to any other works commencing on site, the junction onto the main section of Egginton Road shall be provided with visibility sightlines of 2.4m x 142m to the north and 2.4m x 101m to the south the sightlines shall be demarked in accordance with a scheme first submitted to and approved in writing by the local Planning Authority and the area forward of the sightlines taken into the public highway, constructed as either footway or verge and maintained throughout the lifetime of the development free from any obstruction.*
- 2. Prior to the first occupation of any dwelling hereby permitted, the road improvement works to the existing Egginton Road highway shall be carried out, surfaced, drained and lit generally in accordance with application drawing 20-001_03_01 rev C. For the avoidance of doubt, an Agreement will be required under Section 278 of the Highways Act 1980.*
- 3. No development shall commence on site until a temporary access onto Egginton Road has been provided for construction purposes. The access shall have a minimum width of 5.5m, be constructed to base, provided with a 10m radius on the northern side and visibility sightlines of 2.4m x 43m in each direction, the area forward of which shall be maintained clear of any obstruction exceeding 600mm in height relative to road level.*
- 4. No development shall take place until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for the storage of plant and materials, site accommodation, loading, unloading of goods' vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway and any proposed temporary traffic restrictions.*
- 5. Details of wheel washing / cleaning facilities for construction traffic connected with the development shall be submitted to and approved in writing by the Local Planning Authority. The approved wheel cleaning facilities shall be installed and operational before any development commences and shall be retained in working order*

throughout all phases of development, to prevent mud and other debris being deposited on the surrounding highway during the construction of the development.

- 6. No dwelling shall be occupied until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details or until such time as an Agreement has been entered into under Section 38 of the Highways Act (1980).*
- 7. The new dwellings shall not be occupied until the proposed new estate street, between each respective plot and the existing public highway, has been laid out in accordance with the approved application drawings, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.*
- 8. Prior to the first occupation of any dwelling hereby permitted, space shall be provide within the plot curtilage for the parking of vehicles, laid out in accordance with the application drawing and maintained throughout the lifetime of the development free from any impediment to its designated use. 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 garages and parking spaces to be provided in connection with each dwelling erected shall not be used other than for the parking of vehicles except with the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.*
- 9. The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.*
- 10. Any gates shall be set back at least 5m into a site from the highway boundary and open inwards only.*
- 11. Notwithstanding the submitted drawings, bin collection points shall be provided within private land at the entrance to shared private accesses and/or courtyards, sufficient to accommodate two bins per dwelling served, in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The bin collection points shall be provided prior to the first occupation of a dwelling to which they serve and shall be retained thereafter free from any impediment to their designated use as such.*
- 12. The development hereby permitted shall not be occupied until such time as secure (and under cover) cycle parking has been provided in accordance with details first submitted to and agreed in writing by the Local Planning Authority. Thereafter the cycle parking shall be maintained and kept available for use.*

The following notes should be appended to any consent for the information of the applicant.

- a. Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first*

be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk email highways.hub@derbyshire.gov.uk or telephone 01629 533190.

- b. *Planning permission does not give you approval to work on the public highway. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written agreement of the County Council as Highway Authority. It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed, which may take up to 16 weeks. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the County Council via email – ete.devcontrol@derbyshire.gov.uk. The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.*
- c. *If an adoption Agreement is not in place when the development is commenced, the Highway Authority is obliged to serve notice on the developer, under the provisions of the Advance Payments Code part of the Highways Act 1980 (section 219 / 220), to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.*
- d. *If the roads within the proposed development are to be offered for adoption by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980. Detailed plans will need to be submitted and approved, the Agreement signed and all sureties and fees paid prior to the commencement of development. The Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please contact the County Council's Implementation team – email ete.devcontrol@derbyshire.gov.uk*
- e. *Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.*
- f. *Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gully laid*

across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

- g. The layout of swales within the proposed highway limits do not comply with the Highway Authority's Design Guide and the design indicated on the application drawings has not been used elsewhere in the County. The applicant should be aware that their provision will attract a commuted sum for future maintenance purposes and could compromise the future adoption of the new estate streets.*

Local Lead Flood Authority – No objection subject to conditions

Derbyshire County Council as the Lead Local Flood Authority (LLFA) has reviewed the information submitted for this application, which was received on 22/09/2022. The LLFA has no objection subject to the conditions below.

To ensure adherence to National Planning Policy Framework, DEFRA's Non-statutory technical standards for sustainable drainage systems and local guidance, these recommended conditions should not be altered without consulting the County Council Flood Risk Management team.

- 1. "No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within: a. Flood Risk Assessment and Drainage Strategy prepared by Armstrong Stokes&Clayton Limited dated September 2022, Ref: RED103 Eggington Road, Etwall, FRA, Rev "including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team" b. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority."*

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

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

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

- 3. "The attenuation ponds should not be brought into use until such a time as it is fully designed and constructed in line with CIRIA SuDS manual C753, and an associated management and maintenance plan, in line with CIRIA SuDS Manual C753 is submitted to and approved in writing by the Local Planning Authority"*

Reason: To ensure that the proposed attenuation pond does not increase flood risk, that the principles of sustainable drainage are incorporated into the proposal, the system is operational prior to first use and that maintenance and management of the sustainable drainage systems is secured for the future.

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

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

SITE SPECIFIC COMMENTS

- The proposed development includes a swale in the drainage design to accommodate for an increase in surface water with climate change. The applicant should ensure there is a sufficient buffer strip in place which will allow for efficient maintenance to take place. We would recommend an easement of approximately 3m if the swale is less than 2m in width and 4.5m for swales over 2m in width. Whilst this is not stipulated within any legal byelaw the LLFA would recommend these distances in order to safeguard access for essential maintenance and inspection purposes.*
- Details of outfall arrangements to be submitted, Land Drainage Consent may be required depending on type of outfall arrangements.*
- A Land Drainage Consent is required for the existing ditch to be converted into a culvert.*
- Condition of existing culvert (culverted connection under Eggington Road) to be determined including the capacity to ensure that the existing culvert is capable to accept flows.*

Advisory/Informative Notes (It should be noted that the information detailed below (where applicable), will be required as an absolute minimum in order to discharge any of the drainage conditions set by the LPA):

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

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

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

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

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

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

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

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

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

I. Surface water drainage plans should include the following:

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

J. On Site Surface Water Management;

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

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

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

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

Peak Flow Control

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

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

Volume Control

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

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

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

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

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

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

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

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

- *Ground percolation tests to BRE 365.*

- Ground water levels records. Minimum 1m clearance from maximum seasonal groundwater level to base of infiltration compound. This should include assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.
- Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689-1:2003.
- Volume design calculations to 1% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2.
- Location plans indicating position (soakaways serving more than one property must be located in an accessible position for maintenance). Soakaways should not be used within 5m of buildings or the highway or any other structure.
- Drawing details including sizes and material.
- Details of a sedimentation chamber (silt trap) upstream of the inlet should be included.
- Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.

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

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

Arboricultural Officer – No objection subject to conditions

Comments regarding a draft Arboricultural Assessment dated August 2022 produced by FPCR and submitted by Redrow Homes Limited

FPCR have produced a comprehensive report (draft) that is clear and very helpful and does address those issues previously raised. The report clearly identifies what would be needed to ensure the retained trees are protected during development. It has incorporated a Tree Survey, Tree Retention Plan and tied these in with a clear tree Protection Plan. The report has evaluated both trees and hedgerows and states a total of four individual trees, six groups and eight hedgerows were surveyed as part of the Arboricultural Assessment. All trees are protected by Tree Preservation Orders, TPO22 and TPO 264

All individual trees have been highlighted for retention. This includes T2, T3 and T4, the three individuals located in the south west of the site which have all been positioned within an area of public open space. Note: T1, the category U specimen identified within G2, is located in an area of green space behind rear garden plots. this tree was noted as being situated on the boundary line and as such ownership was unknown. Given its condition and new location within a development parcel it is recommended that this specimen is reduced to four metres above ground level and retained as habitat. Should ownership be held by the site then this would be as part of the planning process and as such the TPO status to be recognised and the tree work agreed. I have no objection to this recommendation, should it form part of any planning consent or a TPO application. All the tree groups identified on site have been shown as retained in their entirety

Sections of hedgerows in order to facilitate access will require removal. These proposals should be accessed by either the DWT or the Councils Biodiversity Officer

New planting and the success of any landscaping scheme has been covered in Section 6.8 Rooting Environment and Soil Volumes. It is vital that the recommendations within this section are adhered. Section 7 Tree Protection Measures – This section is comprehensive and should

be used by the developer as guidance on how to erect suitable protection fencing and why it is important

Conclusion

The development proposals will see the retention of the vast majority of tree stock on site, which is very positive. To allow access within the site, from Egginton Road and facilitate the proposals three hedgerows will need to be partially removed and these may need consultation comments from the DWT or Biodiversity Officer (if not already on file) Note – the report states; Given quality of the hedgerows these losses will be mitigated for within the onsite planting scheme

The report also states - Tree cover was located throughout the site towards the perimeters of the field parcels, typical for an agricultural setting. The majority of tree cover on site was considered of moderate or low arboricultural value. This cannot be confirmed without a site visit, however, at this time there is no reason to assume the assessment is inaccurate There are two tree preservation orders, TPO 22 and TPO 264, covering trees on or adjacent to the site. The trees covered by these TPO's are all to be retained. Trees located off-site, should be treated as 'Material Considerations'. All tree (visual) amenity value will be uplifted by granting planning consent as the trees will become visible to future residents living on the new estate

The submitted Arboricultural Assessment is a workable document that the developer should find easy to follow.

- 1. Ensure the submitted Arboricultural Assessment is integrated as part of any planning consent*
- 2. All sections of the report should be followed and adhered, and conditions written accordingly*
- 3. No works to any trees within Tree Preservation Order (TPO), TPO 22 and TPO 264 should be allowed unless either applied for via a TPO application or the granting of full planning permission, as this would override the protection afforded by the Tree Preservation Order to those trees shown as removed/pruned to facilitate the proposals within any approved plans*
- 4. Not directly connected to this application – A review of the TPO 22 and TPO 264 is required as Area categories are intended for short-term protection in an emergency and may not be capable of providing appropriate long-term protection. Authorities are advised to only use this category as a temporary measure until they can fully assess and reclassify the trees in the area. In addition, authorities are encouraged to resurvey existing Orders which include the area category.*

Etwall Parish Council – Objection

Etwall Parish Council wish to object to the extra 15 houses on the Redrow site (Jacksons Lane) due to the following:

Flooding: There is a great deal of variation in ground water flooding, depending on local conditions. Adding 15 more houses to this site increases flood risk.

Highway issues: Jacksons Lane and Egginton Road T-junctions, as well as Old Egginton Road and New Egginton Road, are unsafe and insufficient for the current volume of traffic. The addition of 15 houses means 15-45 more cars will use those junctions, which equates to a minimum of 100 additional car movements per day.

Housing Need / Affordable Housing

The developer has paid a sum of £700,000 to not have to provide affordable housing provision. These additional 15 houses neither contribute towards the affordable housing need nor increase the £700,000 106 provision.

Section 106 provisions

If the application is approved, the existing section 106 agreement for Education, Built facilities and Sport facilities etc. should be increased proportionately.

Lack of public transport links:

The site is not served by Public Transport, meaning any developments are encouraging car dependency.

Current and previous development

Redrow's current development was approved based on its low density houses. There should have been consideration of any further developments in the immediate area alongside this original proposal. A proposal for development afterwards would mean the plan for a low density build, sympathetic to the site and the surroundings was and is idle.

Infrastructure

Etwall does not have a GP practice, and Wellbrook and Willington are already over capacity. Both John Port and Etwall have undergone recent expansions, but they still struggle to accommodate the demand.

Where will the new families find schooling, healthcare and social provisions?

Please see below additional objections on this amendment from Etwall Parish Council (previous objections still stand);

There should be no pedestrian access through H7. Besides damaging hedgerows and undergrowth, this is hazardous for pedestrians as well (there is no street lighting or pavement). Jacksons Lane is a single carriageway.

As a matter of public safety and environmental conservation, the hedgerows that surround the development should be strengthened rather than weakened.

According to the Design & Access Statement, the nearest bus stop is 50 metres away on two separate occasions (pg 7 & 25). When, in fact, and as noted in previous documents, the nearest bus stop is 0.8 miles away. This affects the additional planning application as 15 families will need to use their cars. There will be a minimum of four parking spaces provided for each dwelling, which further aggravates this problem. By doing this, we actively encourage people to own more vehicles, which is not conducive to a move towards carbon neutrality.

Derbyshire County Council Adult and Social Care – No objection

As this development is fewer than 100 dwellings and relates to general housing, ASCH are unable to provide specific feedback. However, we would like the following general design principles considered to comply with the NPPF's requirement for developments to 'create places that are safe, inclusive and accessible and which promote health and well-being, with high standards of amenity and flexibility for existing and future users.'

- Dwellings meet national space and/or M4(2) standards to encourage independent living for all ability and mobility levels.*
- Good internal space standards, ceiling heights, natural light levels.*
- Stairways, walls and ceilings capable of accommodating stair lifts or hoists should these be required in future; large internal cupboards which could be converted for through floor lifts at a future date.*
- A mix of tenures and types: affordable accommodation is important to help ensure the stability of the domiciliary care market.*
- Having a proportion of dwellings built on one level (stacked or bungalow) and ensuring this type of provision is located near public transport routes and/or urban centres."*

Derbyshire Wildlife Trust – No objection subject to conditions

Thank you for consulting the Derbyshire Wildlife Trust with regard to the above planning application. I am responding as the Biodiversity Planning Officer responsible for work relating

to the Service Level Agreement, which the Council and the Trust have signed. The following comments are aimed at providing accurate and up to date information on the nature conservation issues associated with the proposed development.

The application is supported by the following ecological information;

- Ecological Appraisal prepared by FPCR dated February 2022
- Ecological Design Strategy prepared by FPCR Dated February 2022

The Ecological Appraisal presents the results of a updated walkover survey carried out in February 2022. The survey identified that the habitats and species within and around the site have not changed materially since the previous surveys. We advise that this is likely to be an accurate assessment and we concur that the potential for the site to support a range of protected and notable species remains the same. The previously proposed habitat creation and enhancement measures and species mitigation measures still remain relevant for this current application, including the agreed off site skylark mitigation scheme which should be transferred to any new permission.

We have considered the Ecological Design Strategy and advise that the bird box provision should be brought into line with the recently published guidance British Standard (BS 42021:2021 Integral nest boxes – Selection and installation for new developments). This requires the number of integrated swift or universal nest bricks to at least equal the number of new dwellings

Severn Trent Water (Foul) – No Objection subject to informatives

With reference to the above planning application the Company's observations regarding sewerage are as follows.

Foul is proposed to connect into the public sewer, which will be subject to a formal section 106 sewer connection approval.

Surface water is proposed to discharge into a watercourse, which we have no comment. Please note that it is advised to discuss surface water proposals with the Lead Local Flood Authority for their requirements or recommendations regarding acceptable disposal methods or flow rates.

For the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website (www.stwater.co.uk) or by contacting our Developer Services Team (Tel: 0800 707 6600).

Suggested Informative

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.

Should you require any further information please contact us on email below.

Public Objections

37.no of objections have been received from the public over both consultation periods (at the time of writing) raising the following comments:

- a. Request for a construction logistics plan, construction method statement, construction, environmental method statement and travel plan be submitted with this application for consideration?
- b. Support the plans and it will enhance village subject to understanding construction methodology.
- c. Current issues with construction of existing permission – dirt, dust etc. needs to be managed via wheel washing etc. and addressed.
- d. Proposed new layout will increase properties overlooking our property by 50%
- e. Reduction in private parking spaces and garages will increase traffic and parking on roads.
- f. Subsequent noise and highway safety issues will arise.
- g. Proposed layout amends the footpaths closer to boundary edge decreasing security and privacy of adjacent properties.
- h. Junction at Jacksons Lane to Egginton Road and Old Egginton Road to New Egginton Road are not safe nor adequate for the current quantity of traffic – additional 15 units will exacerbate this.
- i. Surrounding junctions need to be subject to a Road Safety Audit.
- j. NPPF sets out development should “Give priority first to pedestrian and cycle movements, both within the scheme and neighbouring areas”.
- k. Current junction is not safe for pedestrians and cyclists.
- l. Proposed highway interventions lead to crossing Egginton Road twice which is unsafe.
- m. The site is not well served by public transport which in turn encourages car dependency contrary to planning policy and guidance.
- n. The National Cycle Route 54 should be enhanced and connected to the development
- o. Traffic generation is underestimated in the transport statement.
- p. The additional car journeys would lead to a decrease in air quality which is already below WHO recommended levels and would undermine meeting Government targets.
- q. Flood risk would be exacerbated by the additional 15 houses.
- r. Previous scheme was approved on the basis of ‘low density’ – additional 15 dwellings would create an unacceptable density.
- s. Additional 15 houses would reduce green space and impact biodiversity.
- t. Affordable housing contribution needs to be increased to reflect additional dwellings .
- u. Surrounding infrastructure does not have the capacity to cater for the additional development.
- v. Impact of traffic and noise will degrade village setting and impact negatively on existing residents.
- w. Increase of dwellings is a 25% uplift.
- x. The proposed properties are out of keeping with the surrounding area and properties.
- y. Visibility at the T junction with Egginton Road needs to be enhanced.
- z. Etwall is already too large and cannot cope with additional housing.
- aa. Local infrastructure of doctors, schools and roads a at capacity.
- bb. Construction traffic should not be routed through Etwall.

- cc. Traffic calming measures should be delivered in Etwall to slow traffic down.
- dd. Affordable housing should be on site. The market housing is not affordable for families.
- ee. Why do we keep allowing greedy, green belt devouring developers to destroy our countryside? At this rate, Etwall, Mickleover, Hilton and Hatton will all merge and there will be nothing left of our peaceful village community.
- ff. Existing construction traffic is a safety concern – there is insufficient room for the construction vehicles to pass.
- gg. Impact on wildlife and nature on site and in the surrounds.
- hh. Concern that ‘around 50 dwellings’ does not equate to an additional 15 dwellings (30% uplift) and such would result in unacceptable density .
- ii. The additional dwellings would be laid out in estate style rows rather than previous curved setting which was more appropriate to the village setting .
- jj. Etwall does not need more housing, especially not expensive housing that is not built with good connections to public transport.
- kk. Balance ponds on Alms Meadow have Great Crested Newts in them and there are significant bats at dusk. The development would unacceptably impact this wildlife.
- ll. The development would exacerbate drainage problems which Alms Meadow has suffered
- mm. Objection based on the current wildlife and no need for more houses when the plans have already been in place, this will mean more balancing ponds needed.
- nn. Unacceptable amenity impacts from construction vehicles and processes.
- oo. Adverse environmental effects to this development as there are protected species within the vicinity such as Great Crested Newts and bats.
- pp. There are not the local amenities or road networks to accommodate such an increase in population in the village but expansion of those is absolutely not wanted either.
- qq. The field is a lapwing nesting site, the balancing ponds next door are home to great crested newts which are endangered
- rr. Overbearance and overdevelopment of the site.
- ss. Object to the pedestrian access through H7. This is not only damaging to the hedgerow and undergrowth but dangerous for pedestrians also.
- tt. Jacksons Lane is a single carriageway that creates vehicular access to Broomhill Cottages at the bottom. There is no street lighting nor pavement for pedestrian refuge. To not only allow pedestrians to cross from the development to Jacksons Lane but encourage it by creating a route is totally irresponsible of the developer.
- uu. The hedgerows that border the development should be reinforced not weakened, for both environmental purposes and public safety.
- vv. Inaccurate information in the DAS – the closest bus stop is 0.8miles away.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 Local Plan Part 1 - S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), SD6 (Sustainable Energy and Power Generation), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local

Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF6 (Community Facilities), INF7 (Green Infrastructure), INF8 (National Forest) and INF9 (Open Space, Sport and Recreation).

2017 Local Plan Part 2 – SDT1 (Settlement Boundaries and Development), H23 (Non-Strategic Housing Allocations – 23B Jacksons Lane, Etwall), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage).

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document
Affordable Housing SPD
S106 Agreements A Guide for Developers
Trees and Development Page
Cycling Strategy
Planning the Right Lighting
Strategic Housing Market Assessment 2021
Landscape Character of Derbyshire

The relevant national policy and guidance is:

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

Material Considerations:

Report on the Examination of the South Derbyshire Local Plan Part 2 By Mike Hayden BSc (Hons) DipTP MRTPI – File Ref: PINS/F1040/429/2
Schedule of Main Modifications to the South Derbyshire District Council Submission Local Plan Part 2 recommended by the Inspector – Appendix F

Planning considerations

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

- Principle of development
- Impact on surrounding landscape and townscape
- Housing mix and local character
- Surrounding residential amenity
- Access, highway safety and parking
- Biodiversity
- Trees, hedgerows and landscape character
- Flood risk and drainage
- Other matters; and,
- Conclusions and planning balance.

Planning assessment

Principle of development

Policy H1 (Settlement Hierarchy) designates Etwall as a “Key Service Village” and states that in such settlements, “development of all sizes within the settlement boundaries will be considered appropriate”. The site falls within the settlement boundary of Etwall.

The site is wholly located within the non-strategic housing allocation H23B of the LP2 called ‘Jacksons Lane, Etwall’. The main body of text for the policy states

The following sites are allocated for housing development as shown on the Policies Map and in the site specific maps under Policies 23A-N.

The key considerations for each of the sites are:

- i) transport impacts – including vehicular access points, visibility, pedestrian and cycle links and impacts on the existing road network.*
- ii) impact on the surrounding landscape/and or townscape.*
- iii) management of flood risk and drainage*
- iv) impact on designated and non-designated heritage assets and settings.*
- v) biodiversity impacts.*
- vi) the design and layout to take account of site characteristics.*

The site specifics for Jacksons Lane are stated as:

- Around 50 dwellings.*
- Footpaths to be included that offer access to the allotments, Part 1 allocation to north and onto Jacksons Lane. In area A and B the consideration of separated footways/cycleways.*
- Consideration of future noise impact on the site.*
- Character area A – no more than 4 dwellings per hectare (gross)*
- Character area B – no more than 6 dwellings per hectare (gross)*
- Character area C – no more than 8 dwellings per hectare (gross)*
- A landscape buffer implemented along the eastern boundary of the site.*
- No more than 3 dwellings on the frontage of site to Egginton Road.*
- No buildings to be in the area directly south of Etwall Grove.*
- An off-site affordable housing contribution to be made.*

On review of the policy and its drafting during adoption it is material to note that the phrase ‘up to 50 dwellings’ was struck-out and replaced with ‘around 50 dwellings’ (Modification refence MM6 & MM8 in Schedule of Main Modifications to the South Derbyshire District Council Submission Local Plan Part 2). Furthermore, the Inspectors comments on this point were: Policy H23 and the site specific Policies H23A-N propose ‘up to’ a fixed number of dwellings for each of the non-strategic housing allocations. Although this may be based on agreed figures for each site, Policy S4 sets a requirement for ‘at least’ 12,618 dwellings, for which Policy H23 is intended to allocate 600. Therefore, it is not consistent with the spatial strategy in SDLPP1 for Policy H23 and the site specific policies to set a ceiling on the capacity of each site. Rather they should allow flexibility, so that the design and planning application process can determine the number of dwellings on each site and potentially boost the overall supply of housing in the district. Accordingly, modifications MM6-9 and MM11-21 are necessary for the Plan to be justified and effective. They achieve this by removing the upper limit of dwellings for each site, whilst still including a dwelling number to ensure the overall non-strategic housing requirement is delivered.

The site benefits from detailed planning permission for 50 dwellings via application reference DMPA/2021/0164. Work has begun on the site.

Considering the development against each of the site specifics outlined in Policy H23B:

Around 50 dwellings

It is accepted that the development represents an increase over the figure advised in H23B, however this is not necessarily harmful in and of itself, indeed policy H1 accepts developments

of all sizes within settlement boundaries will be considered acceptable. H23B states ‘around 50 dwellings’, this wording was amended by the Inspector in his consideration of the Local Plan during its adoption. This is because density and layout must be considered within the context of the overarching H23 policy which is to deliver housing, albeit subject to the impact of development on landscape, flood risk/drainage and design and layout relative to the site characteristics, among other things, which are considered below. The fact that SDDC can evidence a 5-year housing supply is not sufficient to simply dismiss a greater number of units on this site. This approach was one recently endorsed by the recent appeal at Oak Close which overturned a refusal for a similar increase in dwelling numbers above the Local Plan allocation.

Footpaths to be included that offer access to the allotments, Part 1 allocation to north and onto Jacksons Lane. In areas A and B the consideration of separated footpaths/cycleways.

The arrangement and width of footpaths (dwg. ref: 2267/03/02 Rev. C) reflects that permitted by DMPA/2021/0164. Consultation has raised no issues with this matter subject to the same conditions previously applied which will be added again. The proposal is inline with H23B on this matter.

Consideration of future noise impact on the site

Permission DMPA/2021/0164 was approved on the basis that, despite noise from the A50, this was acceptably mitigated by limiting dwellings and habitable rooms towards the A50, setting back units from the southern boundary, together with the provision of a landscape bund and provision of 1.8m brick screen walls (materials to match the associated dwelling) and 2m high acoustic fencing achieving a superficial mass of 12kg/m². Consideration was given to agent of change principle with regards to the freeport.

The proposal reflects this approach in terms of layout and unit’s distance from the A50. No objection was raised from relevant consultees. Further details of the bund and acoustic fencing and their provision will be secured by condition. No application has been made with regards to the Freeport and therefore under the agent of change principle (the scheme coming second needs to take into account implications from the development(s) already there/ consented but not vice-versa), Redrow is not subject to providing mitigation from such. Again accordingly, the proposed residents will have an acceptable standard of amenity with regards to noise from the A50, and the proposal is in line with H23B on this matter.

Character area A – no more than 4 dwellings per hectare (gross), Character area B – no more than 6 dwellings per hectare (gross) and Character area C – no more than 8 dwellings per hectare (gross)

The planning policy provides for “around” 50 houses and sought to secure a very prescriptive form of development on this site, different from those provided for in other site allocations in both the Adopted Part 1 and Part 2 plans, with very prescriptive densities specified within the policy. The Egginton Road frontage (area A) was to have the lowest density, the south-eastern part (area B) was to be higher, and the northern part (Area C) the highest (though all still relatively low). The approved plans provided for 8 houses within Area A, the corner of Egginton Road and Jacksons Lane, and the latest plans still show 8 houses; 20 houses in Area B, and the latest plans show 26 houses; and 22 houses in Area C, the latest plans show 31 houses. The total number now proposed being 65 houses, 15 more than previously approved. As set out in this table:

Area	Consented Scheme		Proposed Scheme		Difference	
	Units	Density	Units	Density	Unit	Density

A	8	4	8	4	-	-
B	20	6	26	9	+6	+3
C	22	8	31	14	+9	+6
Total	50	-	65	-	+15	-

In considering the design aspects of the proposed scheme, it is noted that Area A remains as previously approved, and the open area to the south of Etwall Grove, the historic building located to the north of that part of the site, remains open. Area B has a slightly tighter grain than previously approved, but still provides for what is fundamentally the same approach to the layout, whilst Area C becomes significantly more dense compared to the approved plan with houses closer together in parts, in order to accommodate the increased numbers. When the proposed layout is examined, the fundamental approach to delivering the scheme does not change substantially from the approved scheme. The Egginton Road frontage remains very low density with a very loose built form, and the overall site density gradually increases to the north where the site is adjacent to more dense existing neighbouring development. The surrounding densities are as follows:

- Egginton Road towards Etwall centre: c.22 dwellings per hectare
- Springfield Road (Bloor Development immediately north of the site) – c. 27 dwellings per hectare
- Egginton Road/Grove Park (north of access to site): c. 10 dwellings per hectare

The proposal still ensures that the other design elements provided within the previously approved scheme and policy are generally respected in terms of housetypes, connectivity, drainage, open space, and green corridor on the eastern boundary. The other policy design requirements, other than density, which require no more than three dwellings on the frontage of site to Egginton Road, and no buildings to be in the area directly south of Etwall Grove, are all respected. Overall, it is considered that the proposal would provide an acceptable form of development in design terms that would relate well to the built form surrounding of the site.

A landscape buffer implemented along the eastern boundary of the site.

The provision of open space, planting and landscaping along the eastern boundary remains as previously approved. No objections were raised by the landscape or public open space team. The same conditions previously applied will again be attached to ensure native species, high quality public realm and ongoing maintenance to realise the ecology enhancements. On this basis, the proposal is in line with H23B on this matter.

No more than 3 dwellings on the frontage of site to Egginton Road.

The layout of the proposal along Egginton Road does not exceed 3 dwellings and reflects that approved previously. On this basis, the proposal is in line with H23B on this matter.

No buildings to be in the area directly south of Etwall Grove.

The proposal does not propose any buildings to the area directly south of Etwall Grove and reflects that approved previously. On this basis, the proposal is in line with H23B on this matter.

An off-site affordable housing contribution to be made

The principle of an off-site affordable housing contribution for this site is accepted by policy H23B. The sum agreed for permission reference DMPA/2021/0164 was £700, 000. South Derbyshire District Council's Affordable Housing SPD, does not set a published method for

calculating the commuted sum. The matter was discussed with Officers and the Affordable Housing Team.

For this proposal, the proposed sum is now £906, 000 subject to indexing, which has been calculated on a pro rata basis of the previous sum and dwellings proposed. The sum and requested wording from the Affordable Housing Team in the obligation as to how and where the monies can be spent is agreed in principle.

The proposal is in line with H23B and the South Derbyshire District Council’s Affordable Housing SPD on this matter.

For the reason set out above, the principle of 65 residential dwellings is acceptable on site subject to consideration of the wider matters of H23B and Local Plan, and ultimately the planning balance of benefits and impacts.

Design, layout and impact on the surrounding landscape and amenity

The exceedance of the densities set out in H23B Site Specifics has been discussed below, however policy H23 also seeks wider consideration of the surrounding landscape/townscape and amenity. In this regard, the most applicable policies to consider are SD1 and BNE1 of the LP1 and H23B of the LP2 and the Design Guide SPD.

Whilst the site is a pleasant area of agricultural land, it is however within the settlement boundary and allocated for housing; it is not covered by any landscape designation. It is considered the land is not unduly prominent in the area, visible primarily from Eggington Road, Jacksons Road looking north and from adjacent recent residential development backing on to the field. As such, the proposal would be seen within the context of existing housing development from both Eggington Road and Jacksons Lane. This would lessen its impact locally. Furthermore, the landscaping around the site is generous and there is a feathering of development towards the more rural south and east, again considered to assist in the development assimilate into its position on the edge of Etwall.

On site the dwellings are considered to sit in generous plots and the landscaping, subject to condition, is considered generous and in line with relevant policies, and no objection has been raised. The POS reflects that consented and again provides a Local Equipped Area for Play (LEAP). The capacity of the LEAP and POS has been considered and the additional 15 units is not considered to require a uplift by Open Space officers. Contributions to public facilities will be uplifted accordingly – discussed below.

Development for the majority follows the previously consented layout. The additional dwellings are focussed to the north of the site adjacent to the recent denser residential developments. The comparable separation distances of the consented and proposed are set out below:

Adjacent Property	Approved	Distance (m)	Proposed	Distance (m)	Difference (m)
No. 95 – Eggington Road	Plot 1	29	Plot 1	29	0
No. 97 – Grove Park	Plot3	48	Plot 3	48	0
No. 1 – Grove Park	Plot 4	40	Plot 4	40	0
Etwall Grove – Grove Park	Plot 8	65	Plot 11	64	-1
No.53 – Springfield Road	Plot 17	44	Plot 24	43.5	+0.5
No.51 – Springfield Road	Plot 16	52	Plot 22	52	0

No.10 – Hastings Lane	Plot 14	51	Plot 20	49.5	-1.5
Plot Opposite No.7 - – Hastings Lane	Plot 13	49.5	Plot 19	45.5	-4
No. 9 – Hastings Lane	Plot 20	45	Plot 28	40.5	-4.5
No.15 – Hastings Lane	Plot 15	41	Plot 26	40.5	-0.5

It should be noted that the distances to Eggington Road and Grove Park is across the private road of Grove Park and there is a buffer of tree planting proposed. The views to Springfield Road, is across an internal road and also a landscaped buffer, and rear garden of these properties. The same is the case for Hastings Close. Overall, even when reduced the distances are not considered to unduly impact on residential amenity.

Transport Impacts

The most applicable policies to consider are S1, S2, S6, BNE1, INF1 and INF2 of the LP1 and H23B of the LP2 and the Design SPD. Between them, these policies and guidance seek that new development be located within sustainable locations with access to public transport and passive methods of transport with good links to existing transport infrastructure and that any impacts if mitigatable are secured on site or through financial contribution via commuted sum to off-site projects. Within the site itself, these policies and guidance seek that suitable road networks, pedestrian, cycle and electric vehicle charging infrastructure is in place and that parking is provided at a level commensurate and to a size standard as stipulated in the Design Guide SPD.

As set out the arrangement of the proposed development in terms of roads, shared drives and cycle/pedestrian pathway around the site reflects that of the consented layout. The access remains from Eggington Road. The proposal seeks adoption of the proposed vehicle routes and there is a shared pathway around the exterior to reflect policy H23 B and improve wider connections into and through the site.

The increase in dwellings this has been achieved by removing detached garages the amount of paving for driveways. Notwithstanding, this, internal garages are provided, and the suitability of parking was a matter consulted upon, to which no objection was raised. In terms of the layout and design, the rearrangement with regards to parking is not considered undermine the quality of the development and public realm, nor is it considered to compromise highway safety. A condition will be attached securing the level of parking and such spaces i.e. garages for this use only.

Policy INF2 (E) states ‘Parking – Development should include appropriate car parking provision having regard to: c) the need to encourage travel on foot, by cycle and by public transport in preference to the private car by minimising parking provision; f) the need to encourage the use of low emission vehicles’. The Design Guide SPD also encourages the provision of secure cycle storage and electric vehicle charging points on a 1 no. per dwelling basis. The size of plots would enable the provision of cycle storage as would the provision of garages if such was sought by the residents. No information has been provided for EV charging, however this matter was previously conditions and such an approach is again suitable. Consideration is given to the refuse strategy in the supporting DAS and swept path drawing. It is considered that the internal roads a sufficient to enable refuse and emergency access. Where collection exceeds acceptable drag distances the approach to such can be conditioned with further details of communal collection areas.

The primary issues with regards to highways is firstly the sustainability of the location, impact of additional traffic on the capacity of the highway network, concerns with regards to the adoptability of the internal roads and the T junction at Eggington Road (old) leading from the development to Eggington Road (new) which leads north as the primary route to Etwall and south over the A50.

Taking each in hand, the site is located within the settlement boundary for Etwall and is allocated for residential dwellings, for which permission has since been granted. If the site was unsuitable or unsustainable it would have been raised by the Inspector or during the previous application – it was not. It is considered, on this basis, the site is sustainable for development, subject to sufficient network capacity for the additional trips generated by the proposal. The application has been consulted upon with Derbyshire County Council Highways (DCC) who raise no objection in terms of the impact on the surrounding network capacity. On this basis, this matter is acceptable.

DCC did raise an issue with the proposed layout of the internal roads given the proposed swales and grass verges. The applicant has confirmed the swales will only take highway run-off (no private) and that the swales are going to be designed with a maximum grade of 1:1.5 batter and as such would be a parking deterrent. In addition, they consider that the size of the proposed properties driveways and the amount of allocated parking, coupled with the low density of the scheme, mean that it is highly unlikely that residents, or their visitors, would choose, or need to, park over the swales. The proposed plans show raised tables, which are not acceptable and as such will not be permitted, however as agreed previously this omission can be dealt with during the Section 38 process rather than amending the submitted plans. A condition preventing the use of raised tables or ramps within the development will be included to address this issue. The use of swales is not included within the Highway Design Guide as advised during consultation the use of swales will generate a substantial commuted sum, possibly compromising the adoption of the roads as public highway. It is considered a refusal of the application based on the inclusion of swales could not be substantiated and swales are of benefit to achieving sustainable drainage and additional soft landscaping on the site. Overall, on this point, to ensure that the roads will be suitably managed in the event of non-adoption a condition will be added seeking confirmation of adoption or suitable evidence to outline the ongoing management and maintenance of the private roads in perpetuity, prior to the occupation of any dwelling.

There is much local concern regarding the T junction at Eggington Road (old) leading from the development to Eggington Road (new). Previously, the approach to making the junction suitable for vehicle traffic was to extend the junction into Eggington Road to provide the necessary visibility splays. However, Redrow now have control of the land immediately to the north and south of the junction. This has been sufficiently evidenced by a signed title deeds, and subsequent blue line plan provided by the applicant.

On this basis, it is considered that there is sufficient evidence to ensure the required visibility at the junction onto the main section of Eggington Road, and therefore address the concern raised by DCC Highways on this point. To ensure that the junction is made suitable prior to any construction or development associated it will be required that the visibility splays have to be in place, and suitable evidence either via adoption or ongoing maintenance will also be required. Furthermore, the junction and Eggington Road (old) will be subject to enhancements as outlined in draft S278 documents submitted with the application which show a new public footpath and crossings to line the development with the existing public realm and adopted highway pavements. No objection has been raised by DCC Highways regarding the safety of

the arrangement and the final design will be managed by the S278 process in which adoption of the enhancements is facilitated.

Subject to the conditions, it is therefore considered the proposed development will cause no harm to highway safety, reasonably promote sustainable transport methods, not lead to unacceptable impact on the highway network capacity and provide suitable parking provision, inline with the policies referenced above.

Flood risk and drainage

The site lies within Flood Zone 1 on the Environment Agency's flood map. Consequently, the area is deemed to be at the least risk to flooding. The FRA does highlight small-isolated areas at risk of medium and high risk of surface water flooding in the southwest corner of the site. The most applicable policies to consider are S1, S2, SD2, SD3 and SD6 of the LP1. Paragraph 159 of the NPPF document states 'Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.'

Surface Water Drainage

The FRA confirms the site was surveyed and survey confirms that the application site, in its majority, falls from north-east to south-west, with a high contour level noted of circa 64.50m AOD, and a low level contour at circa 59.50m AOD.

With the site being open land, there is no positive foul or surface water drainage associated with the site, whilst there is an extensive field drainage / open ditch system. It is understood from the South Derbyshire District Council Strategic Flood Risk Assessment that Etwall's geology is made up of poorly drained soils. This tallies with that understood from consultation, in which the public and the Parish Council have raised concerns regarding flooding, providing pictures of the drainage infrastructure to date flooded. Further to this, concern is raised to possible flood risk being exacerbated to the recent development to the north of the site.

With regards to the pictures, Officers understand that the previous permission is being delivered, and on this basis, the site is a construction site. However, the condition controlling surface water drainage during the construction period – condition 17 attached to DMPA/2020/0985 has been submitted for discharge via application DMOT/2022/0303 but not yet discharged.

Given the geology, the drainage strategy has determined that the site is not suitable for infiltration and thus an attenuation based surface water drainage system is to be promoted. In this instance, the development layout has proposed a number of above ground SuDS features. These include an above ground pond and swale located to the western boundary adjacent to the Grove Park development. A SuDS pond feature is illustrated adjacent to the Jackson Lane southern boundary, with a further pond positioned to the south-western corner of the application site, adjacent to the Egginton Road and Jackson Lane junction, at the lowest topographical level of the application site. A limited controlled flow from each SuDS feature will discharge to the nearby open watercourse / surface water body via a gravity outfall into the existing culvert from the field at a rate at 2.0 l/s discharge for each pond which equates to the existing run off rate as assessed. As a consequence of the proposal the SuDS will deliver better ecology benefits than below ground attenuation and this is accepted.

The submitted information provides further details with regards to the capacity of the attenuation features and flow rates, concluding:

The implementation of an attenuation based sustainable surface water drainage strategy, as outlined within Section 5 of this report, will ensure that there is no increase in flood risk to surrounding areas resulting from the disposal of surface water run-off in the post development scenario.

The LLFA have considered the drainage strategy and FRA. They advise that within the proposed layout, there will be capacity to safely drain surface water subject to conditions seeking the final details of aspects like levels and permeable paving.

Foul Drainage

The proposal for foul drainage is to connect into the public sewer. This has been consulted on with Severn Trent who raise no objection, and such will be subject to a formal section 106 sewer connection approval. Given the approach to surface water, Severn Trent have no comments on this matter.

Overall, with regards to both surface and foul drainage no objection is raised. The information provided by the applicant sets out how the existing run off rate will be maintained across the three attenuation ponds. The capacity of the attenuation features also provides capacity for storm events. No issue has been raised with this assessment nor counter evidence to suggest this is misleading. The consternation caused by pictures of recent flooding is understood but is considered a symptom of Etwall's geology, the outstanding condition, as well as the attenuation SuDs proposed not being in place yet.

On the basis that the existing run off rate will be maintained and the further capacity of the SuDs will attenuate for storm events including an allowance for climate change which is required, it is concluded that the development, subject to conditions is in line with policies S1, S2, SD2, SD3 and SD6 of the LP1 and paragraph 159 of the NPPF.

Impact on designated and non-designated heritage assets and settings.

There is no development on the site that is a designated or non designated heritage asset, nor is the site within or deemed to be within the setting of a conservation area or heritage asset. The application was consulted upon with Derbyshire County Council – Archaeology. They noted the previous acceptance from previous permissions of possible remains. They also conclude that there is the possibility of remains and on this basis, prescribe the same approach of a Written Scheme of Investigation required by condition as previously applied to the consented development.

Whilst the applicant has partially discharged this condition given they have commenced development on site, but such was not provided with this application the applicant will be again required to provide a full WSI and subsequent verification of findings.

On this basis, there is an agreed approach which would acceptably maintain any historic remains inline with paragraph 205 of the NPPF and policy BNE10 and is therefore acceptable in this regard.

Biodiversity, Ecology and Trees

The most applicable policies and guidance to consider are S1, S2, S3, BNE1, BNE3, BNE4, INF1, INF2, INF7 and INF9 of the LP1, H23B and BNE7 of the LP2, the Design SPD, Trees and Development SPD.

An Ecological Appraisal and Design Strategy dated 2022 prepared by FPCR has been provided as an update to the information and surveys provided for the previous consent. The appraisal found that the habitats and species present within and around the site have not changed materially since the previous surveys were conducted, and that the site's potential ability to support a range of protected and notable species remains the same. As a result, the report concludes that previous habitat creation and enhancement measures and species mitigation measures remain relevant to the 65-home scheme.

The application has been consulted upon with Derbyshire Wildlife Trust (DWT). DWT accept the results and conclusions of these documents. On this basis, it is considered the previously proposed habitat creation and enhancement measures and species mitigation measures still remain relevant for this current application, including the agreed off site skylark mitigation scheme which should be transferred to any new permission.

With regards to the Ecological Design Strategy DWT advise the bird box provision should be brought inline with recent guidance meaning *the number of integrated swift or universal nest bricks to at least equal the number of new dwellings*.

Consequently, the previous conditions and obligations shall be attached to this permission and updated with regards to bird boxes.

Further to this, a Pre-Development Tree Survey was conducted by Midland Tree Surgeons in support of the outline application and at the request of the Arboricultural Officer, *a draft Arboricultural Assessment dated August 2022 produced by FPCR*.

These documents were consulted upon and the arboricultural officer considers now that all previous concerns have been addressed.

All the tree groups identified on site have been shown as retained in their entirety. All individual trees have been highlighted for retention. This includes T2, T3 and T4, the three individuals located in the south west of the site which have all been positioned within an area of public open space. Further intrusive management is accepted of T1 and this will be approved as part of this consent, but subject to condition of specific details of approach given the TPO status. During construction tree protection measures will be required and such will be conditioned. The conditioned landscaping plan will be expected to reflect guidance covered in Section 6.8 Rooting Environment and Soil Volumes.

Beyond the access point to Eggington Road and internal access, sections of hedgerow along the site boundary are proposed to connect the surrounding shared pathway to wider possible routes. Recent correspondence with the local public has raised concerns to such an approach given the state of Jacksons Lane and Eggington Road. On this basis, the pathway will be taken up to the boundary but no removal of hedgerow at this time is permitted, furthermore, where there is existing hedgerow gaps these shall be repaired as understood already agreed on the previous consent and such will be conditioned as part of a Landscape and Environmental Management Plan (LEMP).

For the reasons above the application is deemed to not give rise to unacceptable impacts on trees and hedgerows and result in an enhancement in biodiversity and ecology on site by

virtue of measures which will be conditioned. On this basis, the proposal is acceptable in this regard and in line with the policies referenced above.

Developer Contributions

Policy INF1 of LP1 states that new development which generates a requirement for infrastructure will normally be permitted if the necessary on and off-site infrastructure required to support and mitigate the impact of that development is provided. This could be included within the development or via a suitable mechanism to ensure this is delivered.

Policy INF6 of LP1 requires that development that increases the demand for community facilities and services either provides the required community facilities as part of the development or makes appropriate contributions towards providing new facilities or improving existing facilities.

It is considered that proposed development would lead to an increase in the local population which would create additional demand for local services – notably as raised by public comments education and healthcare. Consultation comments have been provided to demonstrate that additional provision would be required to cope with the increased demand on existing facilities and therefore, on this basis, these obligations are considered necessary to make the proposal acceptable and meet the statutory tests contained in Regulation 122 of the CIL, and the requirements of paragraph 56 of the Framework.

The following matters therefore will need to be controlled by legal obligation under Section 106 of the Town and Country Planning Act (1990)(as amended). The Heads of Terms upon which the legal agreement is being drafted is as follows:

Education

- £290,648.80 towards the provision of the new primary school at New House Farm to support 16 primary places.
- £504,595.26 towards the provision of additional facilities at John Port Spencer Academy or the new secondary school at Infinity Park, to support 18 secondary phase (with post 16) places

Libraries

In this instance a stock only contribution of £4,560 is sought and is calculated as follows:

65 dwellings x 2.3 (average household size) = 149 people

149 people x 1.532 (stock level per person) = 228 stock items

228 (stock items) x £20 (cost per stock item) = £4,560 (i.e. £70.15 per dwelling).

Service Provision

Reasonable endeavours to provide for NGA broadband infrastructure services as an integral part of the development scheme at the outset.

County Council Monitoring

The fee will be based on the cumulative number of triggers to be monitored for County Council obligations x £73.50 (based on 2 hours officer time Grade 12).

NHS/Healthcare

Financial contribution requested £58,680 towards enhancing capacity/infrastructure with existing local practices. The closest practices to this development are:

- *Wellbrook Medical Centre*
- *Willington Surgery*

Built facilities contribution

Financial contribution of £7, 982 towards improvements at Frank Wickham Hall; based on the sum calculated using the formula of £122.80 multiplied by the total number of bedrooms comprised in the total number of dwellings

Public Open Space

Retained in perpetuity as public open space

Sustainable Urban Drainage

No South Derbyshire nor Derbyshire County council liability to maintain

These contributions and measures have been accepted by the applicant in writing and the legal agreement is currently being drafted as the applicant is liable for all reasonable council costs, even abortive.

In this regard, the proposal would deliver suitable developer contributions inline with Policies INF1, INF2, INF6, S1, S2 and S6 of the LP1 and H23 of the LP2.

Conclusions and Planning Balance

The application site is within the settlement boundary for Etwall, supporting housing development via Policy H1 and allocated for housing via Policy H23B. On this basis, the site is a sustainable location for housing development. It is accepted that the development proposes 65 dwellings which is beyond 50 dwellings when taken literally and because of this, breaches two of the site specific densities prescribed in Policy H23B. However, the Inspectors amendments are considered material here, and it is considered that the policy applies flexibility when detailed design is undertaken, subject to wider considerations. It follows then, that despite prescribed densities, such would also be flexible.

It has been set out above that the densities remains below that of the surrounding development, and such densities proposed do not lead to the site not being able to meet other wider site specifics of policy H23B in that the landscaped buffer, public open space and no development to the south of Etwall Grove are retained as part of this proposal. Where the density is increased, the plots and housing types do not suffer in quality or amenity because of this. The adjacent existing development is also not considered to be unduly impacted by the increase in development. Overall, it is considered that the site still delivers a feathering of development towards the extent of the settlement boundary in line with the original intent of H23B.

Notwithstanding the above, the increased housing is considered to be a benefit as it will help SDDC meet its housing targets and maintain a 5 year housing supply reducing pressure to develop unallocated land. In addition, whilst there are concerns regarding services in Etwall, the application would result in developer contributions towards open space, local services and infrastructure considered commensurate to its impact in line with policy INF1 and INF6, and which is also considered a benefit of the scheme.

The technical matters of highways and flood risk are understood to be of considerable concern based on the public objections. Approaches to both matters have been considered and consulted upon. No objection has been raised by either statutory consultee on the matter and beyond pictures which have been considered in the context of outstanding conditions, nothing further has been provided to Officers to undermine the consultees position. Consequently,

subject to conditions it is considered that the matters can be controlled to ensure no unacceptable impact.

For the reason given, it is considered that the application does not overall conflict with H23B, is acceptable in land use terms, and would result in benefits to which weight in favour of the application is given. Technical matters have been interrogated given the public interest, but no objection is raised by consultees subject to conditions on these matters and there is nothing before Officers to depart from the plan or outweigh the benefits identified. Overall, on balance it is concluded that the application is acceptable, subject to conditions and legal agreement.

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

Recommendation

- A. GRANT delegated authority to the Head of Planning and Strategic Housing to conclude negotiations on and complete an agreement under section 106 of the Town and County Planning Act 1990 so as to vary the original planning obligations as outlined in this report; and
B. Subject to A, approve the application subject to the following condition(s):

Standard

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

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

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

65 Unit Planning Engineering Layout (dwg. ref. 20-001_02_07)

65 Unit Planning Surface Finishes (dwg. ref. 20-001_02_08)

65 Unit Planning Swept Path Analysis (dwg. ref. 20-001_02_09)

Drawing Schedule

External Works Layout – 65 Plots (dwg. ref. 2267/06 Rev. A)

External Materials (dwg. ref 2267/07)

Location Plan – 5823-100-000

Proposed Site Layout – (dwg. ref. 2267/03/02 Rev E.)

Proposed Visuals (dwg. ref. 2267/11 Rev A)

House Type CAMBRIDGE – AS Plots: 14, 18, 22, 31, 36 (dwg. ref. 2267/20)

House Type CAMBRIDGE – OPP Plots: 16, 26 (dwg. ref. 2267/21)

House Type LEAMINGTON Plots: 21 & 29 (dwg. ref. 2267/22)

House Type HARROGATE – AS Plots: 15, 19, 24, 27, 34, 38, 42, 47, 55, 57 (dwg. ref. 2267/24)

House Type HARROGATE – OPP Plots: 33, 40, 6 (dwg. ref. 2267/25)

House Type HARROGATE – OPP Plots: 12, (dwg. ref. 2267/26)

House Type BALMORAL – AS Plots: 1 (dwg. ref. 2267/27)

House Type BALMORAL – AS Plots: 7, 11, 20, 28, 48 (dwg. ref. 2267/28)
House Type BALMORAL – OPP Plots: 4, 64 (dwg. ref. 2267/29)
House Type BALMORAL – OPP Plots: 25, 37, 39, 41, 43, 46, 53, 54, 58, 59, 61 (dwg. ref. 2267/30)
House Type BLENHEIM – Area A – AS Plots: 3, 62, 63 (dwg. ref. 2267/31)
House Type BLENHEIM – Area A – OPP Plots: 2, 65 (dwg. ref. 2267/32)
House Type BLENHEIM – AS Plots: 52, 56, 60 (dwg. ref. 2267/33)
House Type OXFORD – AS Plots: 17, 35 (dwg. ref. 2267/34)
House Type OXFORD – OPP Plots: 13, 23, 30, 32 (dwg. ref. 2267/35)
House Type RICHMOND – AS Plots: 5 (dwg. ref. 2267/36)
House Type RICHMOND – OPP Plots: 9, 45, 50 (dwg. ref. 2267/37)
House Type HAMPSTEAD Plots 9, 10, 44, 49, 51 (dwg. ref. 2267/38)
Double Garage (dwg. ref. 2267/40)

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

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

Pre-Commencement/No further development on site

3. Before any development on site and submission of any other condition attached to this permission the applicant shall submit in writing confirmation the intention to implement the consented development and such will become the operative consent superseding permissions reference: DMPA/2021/0164 and DMPA/2020/0985 which are applicable to the site.

Reason: For the avoidance of doubt and to ensure no conflicting permissions as per *Pilkington v Secretary of State for the Environment and Others* [1973] 1 WLR 1527 CA

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

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

5. Prior to the commencement of the development a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall follow on from the details provided within the Ecological Design Strategy 2022 by FPCR shall cover a period of 40 years and include the following:
 - a) Description and evaluation of features to be managed;
 - b) Ecological trends and constraints on site that might influence management;

- c) Aims and objectives of management, including mitigation and enhancement for species identified on site;
 - d) Appropriate management options for achieving aims and objectives;
 - e) Prescriptions for management actions;
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a twenty-year period);
 - g) Details of the body or organisation responsible for implementation of the plan, along with funding mechanism(s) for that body or organisation;
 - i) Ongoing monitoring and remedial measures, including where monitoring shows that conservation aims and objectives of the LEMP are not being met.
- The approved plan shall be implemented in accordance with the approved details.

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

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

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

7. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
- a. Flood Risk Assessment and Drainage Strategy prepared by Armstrong Stokes&Clayton Limited dated September 2022, Ref: RED103 Eggington Road, Etwall, FRA, Rev "including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team"
 - b. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority.

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

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

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

9. No development, including preparatory works, shall commence until a scheme ('the offsetting scheme') for the offsetting of impacts to skylark and their habitat at the site

has been submitted to and approved in writing by the Local Planning Authority. The offsetting scheme shall include: i) a methodology for the identification of receptor site(s); ii) the identification of a receptor site(s); iii) details of the offset requirements of the development (in accordance with the recognised offsetting metrics standard outlined in the Defra Metrics Guidance dated March 2012); iv) the provision of arrangements to secure the delivery of the offsetting measures (including a timetable for their delivery); and v) a management and monitoring plan (to include for the provision, funding and maintenance of the offsetting measures for no less than 10 years from the date of implementation of the scheme). The offsetting scheme shall be implemented in accordance with the approved details.

Reason: To overcome a residual adverse impact on biodiversity that would arise from the development, noting that even initial preparatory works could about this adverse impact.

10. Prior to the commencement of the development a Construction Environmental Management Plan (CEMP) for the proposed development shall be submitted to and approved in writing by the Local Planning Authority.

The CEMP shall provide details of how demolition and construction works are to be undertaken and include:

- i) The identification of stages of works;
- ii) The parking of vehicles of site operatives and visitors
- iii) The erection and maintenance of security hoarding including external safety and information signage, interpretation boards, decorative displays and facilities for public viewing, where appropriate
- iv) Details of working hours, which unless otherwise agreed with the Local Planning Authority shall be limited to 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturdays);
- v) Details of all plant and machinery to be used during preparatory and construction stage, including an inventory of all Non-road Mobile Machinery (NRMM);
- vi) Details of any further Unexploded Ordnance Surveys;
- vii) Details of community engagement arrangements and complaints procedure;
- viii) Details of a acoustic hoarding on boundary of site;
- ix) Details of mitigation measures any species identified on site;
- x) Details for avoiding vegetation clearance during the bird nesting season;
- xi) A temporary drainage strategy and performance specification to control surface water runoff and Pollution Prevention Plan (in accordance with Environment Agency guidance);
- xii) Details of external lighting demonstrating no unacceptable impact on wildlife;
- xiii) Details of noise, dust and air quality monitoring and compliance arrangements, including provision for monthly attendance at the Parish council meeting;
- xiv) Details of measures to remove/prevent re-colonisation of non-native species; and
- xv) The appointment of an Ecological Clerk of Works to oversee the works and approved monitoring and compliance arrangements.
- xviii) Access and protection measures around the construction site for pedestrians, cyclists and other road users

The Proposed Development shall only be carried out in accordance with an approved CEMP.

Reason: To safeguard residential amenity and protect areas of nature conservation interest.

11. a) No development, including preparatory works, shall commence until a Written Scheme of Investigation for archaeological work (WSI) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:
- i) the programme and methodology of site investigation and recording;
 - ii) the programme and provision to be made for post investigation analysis and reporting;
 - iii) provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - iv) provision to be made for archive deposition of the analysis and records of the site investigation; and nomination of a competent person or persons/organisation to undertake the works set out within the WSI.
- b) The development shall take place in accordance with the approved WSI and shall not be occupied until the site investigation and post investigation reporting has been completed in accordance with the programme set out in the approved WSI and the provision to be made for publication and dissemination of results and archive deposition has been secured.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible, noting initial groundworks could lead to the irrevocable loss of items of archaeological interest.

12. Prior to any other works commencing on site, the junction onto the main section of Egginton Road shall be provided with visibility sightlines of 2.4m x 142m to the north and 2.4m x 101m to the south the sightlines shall be demarked in accordance with a scheme first submitted to and approved in writing by the local Planning Authority and the area forward of the sightlines taken into the public highway, constructed as either footway or verge and maintained throughout the lifetime of the development free from any obstruction.

Reason: In the interests of highway safety.

13. No development shall commence on site until a temporary access onto Egginton Road has been provided for construction purposes. The access shall have a minimum width of 5.5m, be constructed to base, provided with a 10m radius on the northern side and visibility sightlines of 2.4m x 43m in each direction, the area forward of which shall be maintained clear of any obstruction exceeding 600mm in height relative to road level.

Reason: In the interests of highway safety.

14. Details of wheel washing / cleaning facilities for construction traffic connected with the development shall be submitted to and approved in writing by the Local Planning Authority. The approved wheel cleaning facilities shall be installed and operational before any development commences and shall be retained in working order throughout all phases of development, to prevent mud and other debris being deposited on the surrounding highway during the construction of the development.

Reason: In the interests of highway safety.

Standalone trigger:

15. The attenuation ponds should not be brought into use until such a time as it is fully designed and constructed in line with CIRIA SuDS manual C753, and an associated management and maintenance plan, in line with CIRIA SuDS Manual C753 is submitted to and approved in writing by the Local Planning Authority

Reason: To ensure that the proposed attenuation pond does not increase flood risk, that the principles of sustainable drainage are incorporated into the proposal, the system is operational prior to first use and that maintenance and management of the sustainable drainage systems is secured for the future.

16. Prior to their incorporation in to the dwellings hereby approved, details of the colour of doors, garage doors, window frames, fascias and meter boxes shall be submitted to and approved in writing by the Local Planning Authority. The door, window frame, fascia and meter box colours shall be installed in accordance with the approved details.

Reason: In the visual interest of the buildings and local distinctiveness.

17. Prior to their incorporation in to the dwellings hereby approved, details of the eaves, verges, cills and lintels shall be submitted to and approved in writing by the Local Planning Authority. The details shall include drawings to a minimum scale of 1:10. The eaves, verges, cills and lintels shall be constructed in accordance with the approved drawings.

Reason: In the visual interest of the buildings and local distinctiveness.

Prior to occupation:

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

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

19. Prior to the first occupation of any dwelling hereby permitted, the road improvement works to the existing Egginton Road highway shall be carried out, surfaced, drained and lit generally in accordance with application drawing 20-001_03_01 rev C. For the avoidance of doubt, an Agreement will be required under Section 278 of the Highways Act 1980.

Reason: In the interests of highway safety.

20. Prior to the first occupation of any dwelling on site hereby approved, the details of the Locally Equipped Area of Play (LEAP) shown on the proposed layout plan Proposed Site Layout – (dwg. ref. 2267/03/02 Rev E.) shall be submitted to and agreed in writing by the Local Planning Authority. The details shall be installed prior to the occupation of any dwelling and once installed, the LEAP shall be retained in perpetuity and maintained in good working order for the lifetime of the development.

Reason: In the interests of promoting on-site recreation, community interaction, play and healthy lifestyles and in the interests of the landscape and overall character of the site.

21. No dwelling shall be occupied until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details or until such time as an Agreement has been entered into under Section 38 of the Highways Act (1980).

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

23. Prior to the first occupation of any dwelling hereby permitted, space shall be provide within the plot curtilage for the parking of vehicles, laid out in accordance with the application drawing and maintained throughout the lifetime of the development free from any impediment to its designated use. 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 garages and parking spaces to be provided in connection with each dwelling erected shall not be used other than for the parking of vehicles except with the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

Reason: In the interests of highway safety.

24. No dwelling shall be first occupied until further details of the south western bund (including dimensions) and acoustic fence in terms of noise mitigation specification and a timetable for their provision have been submitted to and approved in writing by the Local Planning Authority. The acoustic fencing and bund shall be completed in accordance with the agreed details and thereafter maintained as such.

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

25. Prior to the first occupation of the development hereby approved, a scheme for electric vehicle charging points including locations noted on a plan and specification of wall or stand style shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include 1 no. charging point per dwelling. Charging points should be provided with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket should be located where it can later be changed to a 32amp EVCP. The electric vehicle charging points shall be provided and available for first use on a prior to first occupation of the dwelling they are associated with basis and once installed, shall be maintained in good working order.

Reason: In the interests of promoting sustainable forms of transport and in the interests of pollution control and reducing and minimising emissions from vehicles.

26. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To protect and prevent the pollution of controlled waters, future end users of the land, neighbouring land, property and ecological systems from potential pollutants

27. No removal of hedgerows, trees or shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared 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.

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

28. The development hereby permitted shall not be occupied until such time as secure (and under cover) cycle parking has been provided in accordance with details first submitted to and agreed in writing by the Local Planning Authority. Thereafter the cycle parking shall be maintained and kept available for use.

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

29. The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: In the interests of highway safety to ensure no loose material is carried onto the highway.

Compliance:

30. All verges shall be finished in a mortar finish. There shall be no use of dry verge (cloaking tile) systems.

Reason: In the visual interest of the buildings and local distinctiveness.

31. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

Reason: In the visual interest of the buildings and local distinctiveness.

32. Any gates shall be set back at least 5m into a site from the highway boundary and open inwards only.

Reason: In the interests of highway safety

33. Notwithstanding the submitted drawings, bin collection points shall be provided within private land at the entrance to shared private accesses and/or courtyards, sufficient to accommodate two bins per dwelling served, in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The bin collection points shall be provided prior to the first occupation of a dwelling to which they serve and shall be retained thereafter free from any impediment to their designated use as such.

Reason: In the interests of highway safety and creating sustainable communities.

34. Notwithstanding the details as shown on the submitted drawings, no raised tables or ramps shall be included within the highway.

Reason: In the interests of highway safety and for the avoidance of doubt as such features are not acceptable methods of reducing vehicle speed.

35. Notwithstanding the submitted drawings, any road intended for adoption as highway maintainable at the public expense shall have a minimum carriageway width of 5m. Where a road is not intended for adoption, the extent of the highway shall be demarked and the access constructed as a dropped vehicular crossover.

Reason: In the interests of highway safety and for the avoidance of doubt.

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

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

37. 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 garages and parking spaces to be provided in

connection with each dwelling erected shall not be used other than for the parking of vehicles except with the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

Reason: To ensure adequate parking and turning provision, in the interests of highway safety and to protect amenity and local character.

Informatives:

Highways

- a. *Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk email highways.hub@derbyshire.gov.uk or telephone 01629 533190.*
- b. *Planning permission does not give you approval to work on the public highway. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written agreement of the County Council as Highway Authority. It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed, which may take up to 16 weeks. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the County Council via email – ete.devcontrol@derbyshire.gov.uk. The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.*
- c. *If an adoption Agreement is not in place when the development is commenced, the Highway Authority is obliged to serve notice on the developer, under the provisions of the Advance Payments Code part of the Highways Act 1980 (section 219 / 220), to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.*
- d. *If the roads within the proposed development are to be offered for adoption by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980. Detailed plans will need to be submitted and approved, the Agreement signed and all sureties and fees paid prior to the commencement of development. The Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please contact the County Council's Implementation team – email ete.devcontrol@derbyshire.gov.uk*
- e. *Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.*
- f. *Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to be taken to ensure that surface water*

run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

g. The layout of swales within the proposed highway limits do not comply with the Highway Authority's Design Guide and the design indicated on the application drawings has not been used elsewhere in the County. The applicant should be aware that their provision will attract a commuted sum for future maintenance purposes and could compromise the future adoption of the new estate streets.

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

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

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

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

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

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

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

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

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

I. Surface water drainage plans should include the following:

- Rainwater pipes, gullies and drainage channels including cover levels.*
- Inspection chambers, manholes and silt traps including cover and invert levels.*

- Pipe sizes, pipe materials, gradients, flow directions and pipe numbers.
- Soakaways, including size and material.
- Typical inspection chamber / soakaway / silt trap and SW attenuation details.
- Site ground levels and finished floor levels.

J. On Site Surface Water Management;

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

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

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

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

Peak Flow Control

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

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

Volume Control

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

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

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

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

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

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

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

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

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

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

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

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

Subject to addendum – Amendments to published committee report (the report)

The addendum sets out a range of amendments to the report. The struck-through text is to be omitted and replaced by that in italics. The bold headings reflect the structure of the report. Where not struck-through, the report remains as published.

Site Description

Should read as follows:

~~The proposals include a mixture of 2 no. three and 63 no. four houses presented in gable and hipped roof style, each with garages and off road parking.~~

Housing Type	Consented Scheme	Proposed Scheme	Difference
1 bedroom	0	0	-
2 bedroom	0	0	-
3 bedroom	2	2	0
4 bedroom	34	63	+29
5 bedroom	14	0	-14
Total	50	65	+15

The proposals include a mixture of 2 no. three, 50 no. four and 13 no. five bedroom dwellings presented in gable and hipped roof style, each with garages and off-road parking.

<i>Housing Type</i>	<i>Consented Scheme</i>	<i>Proposed Scheme</i>	<i>Difference</i>
<i>1 bedroom</i>	<i>0</i>	<i>0</i>	<i>-</i>
<i>2 bedroom</i>	<i>0</i>	<i>0</i>	<i>-</i>
<i>3 bedroom</i>	<i>2</i>	<i>2</i>	<i>0</i>
<i>4 bedroom</i>	<i>34</i>	<i>50</i>	<i>+16</i>
<i>5 bedroom</i>	<i>14</i>	<i>13</i>	<i>-1</i>
<i>Total</i>	<i>50</i>	<i>65</i>	<i>+15</i>

Responses to consultations and publicity

No further public comments

Further comments from DWT – Clarifying conditions specifically period for LEMP

Please see the attached comments on the application. The good practice principles for BNG require it to be ‘sustained over the longest possible timeframe’ with the expectation that it covers ‘at least the lifetime of the development (e.g. 25 to 30 years) with the objective of net

gain management continuing in the future'. The majority of LEMPS are now for a period of 30 years and this is probably the minimum requirement for establishing new habitats and ensuring that the biodiversity benefits are realized for a reasonable length of time. Clearly in perpetuity is better, but for most developments we now recommend 30 years.

Attached Comments:

I have reviewed the Ecological Design Strategy prepared by FPCR August 2022. We consider the EDS to be acceptable and note that it now includes 65 integrated swift bricks in line with the BS 42021:2021 Integral nest boxes – Selection and installation for new developments.

We advise that the implementation of the EDS should be secured by condition.

We also advise that a Landscape and Ecology Management Plan should be requested to secure the long-term management of the habitats and species features included in the EDS. Best practice guidance and principles in relation to Biodiversity Net Gain recommend that long-term plans should be 25 to 30 years depending on the size of the development and the habitats to be created and managed. Most LEMPS now extend over a period of 30 years. Suggested wording is set out below.

A Landscape and Ecology Management Plan (LEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the LEMP is to enhance and sympathetically manage the biodiversity value of onsite habitats, in line with the proposals set out in the Ecological Design Strategy prepared by FPCR August 2022. The LEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following:-

- a) Description and location of features to be retained, created, enhanced and managed*
- b) Aims and objectives of management*
- c) Appropriate management methods and practices to achieve aims and objectives.*
- d) Prescriptions for management actions.*
- e) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).*
- f) Details of the body or organization responsible for implementation of the plan.*
- g) A monitoring schedule to assess the success of the habitat creation and enhancement measures at regular intervals of 5, 10, 15, 20 and 25 years.*
- h) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.*
- k) Requirement for a statement of compliance upon completion of planting and enhancement works.*

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term (30 year) implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

We also note that the GCN and Reptile Mitigation Strategy prepared for the previous development remains relevant for this application with no changes or amendments required. As previously stated, the agreed off site skylark mitigation scheme which should be transferred to any new permission.

Recommendation

B. Subject to A, approve the application subject to the following condition(s):

Standard

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

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

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

65 Unit Planning Engineering Layout (dwg. ref. 20-001_02_07)
65 Unit Planning Surface Finishes (dwg. ref. 20-001_02_08)
65 Unit Planning Swept Path Analysis (dwg. ref. 20-001_02_09)
Drawing Schedule
External Works Layout – 65 Plots (dwg. ref. 2267/06 Rev. A)
External Materials (dwg. ref. 2267/07)
Location Plan – 5823-100-000
Proposed Site Layout – (dwg. ref. 2267/03/02 Rev E.)
Proposed Visuals (dwg. ref. 2267/11 Rev A)
House Type CAMBRIDGE – AS Plots: 14, 18, 22, 31, 36 (dwg. ref. 2267/20)
House Type CAMBRIDGE – OPP Plots: 16, 26 (dwg. ref. 2267/21)
House Type LEAMINGTON Plots: 21 & 29 (dwg. ref. 2267/22)
House Type HARROGATE – AS Plots: 15, 19, 24, 27, 34, 38, 42, 47, 55, 57 (dwg. ref. 2267/24)
House Type HARROGATE – OPP Plots: 33, 40, 6 (dwg. ref. 2267/25)
House Type HARROGATE – OPP Plots: 12, (dwg. ref. 2267/26)
House Type BALMORAL – AS Plots: 1 (dwg. ref. 2267/27)
House Type BALMORAL – AS Plots: 7, 11, 20, 28, 48 (dwg. ref. 2267/28)
House Type BALMORAL – OPP Plots: 4, 64 (dwg. ref. 2267/29)
House Type BALMORAL – OPP Plots: 25, 37, 39, 41, 43, 46, 53, 54, 58, 59, 61 (dwg. ref. 2267/30)
House Type BLENHEIM – Area A – AS Plots: 3, 62, 63 (dwg. ref. 2267/31)
House Type BLENHEIM – Area A – OPP Plots: 2, 65 (dwg. ref. 2267/32)
House Type BLENHEIM – AS Plots: 52, 56, 60 (dwg. ref. 2267/33)
House Type OXFORD – AS Plots: 17, 35 (dwg. ref. 2267/34)
House Type OXFORD – OPP Plots: 13, 23, 30, 32 (dwg. ref. 2267/35)
House Type RICHMOND – AS Plots: 5 (dwg. ref. 2267/36)
House Type RICHMOND – OPP Plots: 9, 45, 50 (dwg. ref. 2267/37)
House Type HAMPSTEAD Plots 9, 10, 44, 49, 51 (dwg. ref. 2267/38)
Double Garage (dwg. ref. 2267/40)
Phasing plan 5823-100-002
Ecological Design Strategy dated August 2022
Draft Proposed S278 Highway Works ref 20-001_03_01

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

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

Pre-Commencement/No further development on site

3. Before any development on site and submission of any other condition attached to this permission the applicant shall submit in writing confirmation the intention to implement the consented development and such will become the operative consent superseding permissions reference: DMPA/2021/0164 and DMPA/2020/0985 which are applicable to the site.

Reason: For the avoidance of doubt and to ensure no conflicting permissions as per *Pilkington v Secretary of State for the Environment and Others* [1973] 1 WLR 1527 CA

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

Prior to any development, including preparatory works, the tree protection measures set out in the Arboricultural Assessment dated August 2022 produced by FCPR shall be implemented and thereafter retained throughout the construction period for any phase as set out in plan 5823-100-002 Phasing Plan.

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

5. ~~Prior to the commencement of the development a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall follow on from the details provided within the Ecological Design Strategy 2022 by FPCR shall cover a period of 40 years and include the following:~~

- a) ~~Description and evaluation of features to be managed;~~
- b) ~~Ecological trends and constraints on site that might influence management;~~
- c) ~~Aims and objectives of management, including mitigation and enhancement for species identified on site;~~
- d) ~~Appropriate management options for achieving aims and objectives;~~
- e) ~~Prescriptions for management actions;~~
- f) ~~Preparation of a work schedule (including an annual work plan capable of being rolled forward over a twenty-year period);~~
- g) ~~Details of the body or organisation responsible for implementation of the plan, along with funding mechanism(s) for that body or organisation;~~

~~h) Ongoing monitoring and remedial measures, including where monitoring shows that conservation aims and objectives of the LEMP are not being met.
The approved plan shall be implemented in accordance with the approved details.~~

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

A Landscape and Ecology Management Plan (LEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the LEMP is to enhance and sympathetically manage the biodiversity value of onsite habitats, in line with the proposals set out in the Ecological Design Strategy prepared by FPCR August 2022. The LEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following:-

- a) Description and location of features to be retained, created, enhanced and managed*
- b) Aims and objectives of management*
- c) Appropriate management methods and practices to achieve aims and objectives.*
- d) Prescriptions for management actions.*
- e) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).*
- f) Details of the body or organization responsible for implementation of the plan.*
- g) A monitoring schedule to assess the success of the habitat creation and enhancement measures at regular intervals of 5, 10, 15, 20 and 25 years.*
- h) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.*
- k) Requirement for a statement of compliance upon completion of planting and enhancement works.*

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term (30 year) implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

6. Prior to the commencement of development including preparatory works the details of any fencing (~~including temporary~~) including the specification of suitable mammal gaps shall be submitted to and approved in writing by the Local Planning Authority.

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

7. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
 - a. Flood Risk Assessment and Drainage Strategy prepared by Armstrong Stokes&Clayton Limited dated September 2022, Ref: RED103 Eggington Road,

Etwell, FRA, Rev “including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team”

b. And DEFRA’s Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority.

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

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

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

9. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any

key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

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

10. Prior to the commencement of the development a Construction Environmental Management Plan (CEMP) for the proposed development shall be submitted to and approved in writing by the Local Planning Authority.

The CEMP shall provide details of how demolition and construction works are to be undertaken and include:

- i) The identification of stages of works;
- ii) The parking of vehicles of site operatives and visitors
- iii) The erection and maintenance of security hoarding including external safety and information signage, interpretation boards, decorative displays and facilities for public viewing, where appropriate
- iv) Details of working hours, which unless otherwise agreed with the Local Planning Authority shall be limited to 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturdays);
- v) Details of all plant and machinery to be used during preparatory and construction stage, including an inventory of all Non-road Mobile Machinery (NRMM);
- ~~vi) Details of any further Unexploded Ordnance Surveys;~~
- vii) Details of community engagement arrangements and complaints procedure;
- ~~viii) Details of a acoustic hoarding on boundary of site;~~
- ~~ix) Details of mitigation measures any species identified on site;~~
- ~~x) Details for avoiding vegetation clearance during the bird nesting season;~~
- ~~xi) A temporary drainage strategy and performance specification to control surface water runoff and Pollution Prevention Plan (in accordance with Environment Agency guidance);~~
- xii) Details of external lighting demonstrating no unacceptable impact on wildlife;
- xiii) Details of noise, dust and air quality monitoring and compliance arrangements, including provision for monthly attendance at the Parish council meeting;
- ~~xiv) Details of measures to remove/prevent re-colonisation of non-native species; and~~
- ~~xv) The appointment of an Ecological Clerk of Works to oversee the works and approved monitoring and compliance arrangements.~~
- xvi) Access and protection measures around the construction site for pedestrians, cyclists and other road users
- xvii) Details of wheel washing / cleaning facilities for construction traffic connected with the development*

The Proposed Development shall only be carried out in accordance with an approved CEMP.

Reason: To safeguard residential amenity and protect areas of nature conservation interest.

11. a) No development, including preparatory works, shall commence until a Written Scheme of Investigation for archaeological work (WSI) has been submitted to and

approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:

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

b) The development shall take place in accordance with the approved WSI and shall not be occupied until the site investigation and post investigation reporting has been completed in accordance with the programme set out in the approved WSI and the provision to be made for publication and dissemination of results and archive deposition has been secured

Reason: In the interests of archaeology and designated heritage asset protection, conservation and recording.

12. Prior to any other works commencing on site, the junction onto the main section of Egginton Road shall be provided with visibility sightlines of 2.4m x 142m to the north and 2.4m x 101m to the south the sightlines shall be demarked in accordance with a scheme first submitted to and approved in writing by the local Planning Authority and the area forward of the sightlines taken into the public highway, constructed as either footway or verge and maintained throughout the lifetime of the development free from any obstruction.

Reason: In the interests of highway safety and to provide adequate visibility for drivers entering or leaving Egginton Road and to ensure the safety of pedestrians and vehicles.

13. No development shall commence on site until a temporary access onto Egginton Road has been provided for construction purposes. The access shall have a minimum width of 5.5m, be constructed to base, provided with a 10m radius on the northern side and visibility sightlines of 2.4m x 43m in each direction, the area forward of which shall be maintained clear of any obstruction exceeding 600mm in height relative to road level.

Reason: In the interests of highway safety and to provide adequate visibility for drivers entering or leaving Egginton Road and to ensure the safety of pedestrians and vehicles.

- ~~14. No development shall take place until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for the storage of plant and materials, site accommodation, loading, unloading of goods' vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway and any proposed temporary traffic restrictions.~~

- ~~15. Details of wheel washing / cleaning facilities for construction traffic connected with the development shall be submitted to and approved in writing by the Local Planning Authority. The approved wheel cleaning facilities shall be installed and operational before any development commences and shall be retained in working order throughout all phases of development, to prevent mud and other debris being deposited on the surrounding highway during the construction of the development.~~

Standalone trigger:

16. The attenuation ponds should not be brought into use until such a time as it is fully designed and constructed in line with CIRIA SuDS manual C753, and an associated management and maintenance plan, in line with CIRIA SuDS Manual C753 is submitted to and approved in writing by the Local Planning Authority

Reason: To ensure that the proposed attenuation pond does not increase flood risk, that the principles of sustainable drainage are incorporated into the proposal, the system is operational prior to first use and that maintenance and management of the sustainable drainage systems is secured for the future.

17. Prior to their incorporation in to the dwellings hereby approved, details of the colour of doors, garage doors, window frames, fascias and meter boxes shall be submitted to and approved in writing by the Local Planning Authority. The door, window frame, fascia and meter box colours shall be installed in accordance with the approved details.

Reason: In the visual interest of the buildings and local distinctiveness.

18. Prior to their incorporation in to the dwellings hereby approved, details of the eaves, verges, cills and lintels shall be submitted to and approved in writing by the Local Planning Authority. The details shall include drawings to a minimum scale of 1:10. The eaves, verges, cills and lintels shall be constructed in accordance with the approved drawings.

Reason: In the visual interest of the buildings and local distinctiveness.

Prior to occupation:

19. Prior to the first occupation of any dwelling hereby permitted, the road improvement works to the existing Egginton Road highway shall be carried out, surfaced, drained and lit generally in accordance with application drawing 20-001_03_01 rev C. For the avoidance of doubt, an Agreement will be required under Section 278 of the Highways Act 1980.

Reasons: In the interests of highway safety for all road users at the Egginton Road junction immediately west of the site

- ~~20. Prior to the first occupation of any dwelling on site hereby approved, the Locally Equipped Area of Play (LEAP) shall be installed as per the details shown on drawing 'Play Area Proposals LEAP GL1451-02'. Once installed, the LEAP shall be retained in perpetuity and maintained in good working order for the lifetime of the development.~~

~~Reason: In the interests of promoting on-site recreation, community interaction, play and healthy lifestyles and in the interests of the landscape and overall character of the site.~~

21. No dwelling shall be occupied until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details or until such time as an Agreement has been entered into under Section 38 of the Highways Act (1980).

Reason: To ensure suitable provisions are in place for the on going management and maintenance of the estate roads in the event of non-adoption.

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

Reasons: To ensure suitable access to each dwelling prior to occupation

23. Prior to the first occupation of any dwelling hereby permitted, space shall be provided within the plot curtilage for the parking of vehicles, laid out in accordance with the application drawing and maintained throughout the lifetime of the development free from any impediment to its designated use. 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 garages and parking spaces to be provided in connection with each dwelling erected shall not be used other than for the parking of vehicles except with the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

Reason: To ensure suitable provision for the parking of vehicular cars inline with Highway Standards

24. No dwelling shall be first occupied until further details of the south western bund (including dimensions) and acoustic fence in terms of noise mitigation specification and *if necessary ventilation details for southern plots* and a timetable for their provision have been submitted to and approved in writing by the Local Planning Authority. The acoustic fencing and bund shall be completed in accordance with the agreed details and thereafter maintained as such.

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

25. Prior to the first occupation of the development hereby approved, *each dwelling shall be provided with a working electric vehicle charging point in so far as a 32amp supply and 13 amp socket as standard, which can then facilitate a range of vehicle specific chargers. This 32amp supply shall be located in the garage of the respective plot.*

~~a scheme for electric vehicle charging points including locations noted on a plan and specification of wall or stand style shall be submitted to and approved in~~

~~writing by the Local Planning Authority. The scheme shall include 1 no. charging point per dwelling. Charging points should be provided with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket should be located where it can later be changed to a 32amp EVCP. The electric vehicle charging points shall be provided and available for first use on a prior to first occupation of the dwelling they are associated with basis and once installed, shall be maintained in good working order at the cost of the inhabitant at that time.~~

Reason: In the interests of promoting sustainable forms of transport and in the interests of pollution control and reducing and minimising emissions from vehicles.

26. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To protect and prevent the pollution of controlled waters, future end users of the land, neighbouring land, property and ecological systems from potential pollutants.

27. No removal of hedgerows, trees or shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared 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.

Reason: To protect wildlife on site and in the surrounding area.

- ~~28. The development hereby permitted shall not be occupied until such time as secure (and under cover) cycle parking has been provided in accordance with details first submitted to and agreed in writing by the Local Planning Authority. Thereafter the cycle parking shall be maintained and kept available for use.~~

29. The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: In the interests of highway safety to ensure no loose material is carried onto the highway.

Compliance:

30. *Where not already approved*, all verges shall be finished in a mortar finish. There shall be no use of dry verge (cloaking tile) systems.

Reason: In the visual interest of the buildings and local distinctiveness.

31. *Where not already approved* gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. ~~No fascia boards shall be used.~~

Reason: In the visual interest of the buildings and local distinctiveness.

32. Any gates shall be set back at least 5m into a site from the highway boundary and open inwards only.

Reason: In the interests of highway safety

33. Notwithstanding the submitted drawings, bin collection points shall be provided within private land at the entrance to shared private accesses and/or courtyards, sufficient to accommodate two bins per dwelling served, in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The bin collection points shall be provided prior to the first occupation of a dwelling to which they serve and shall be retained thereafter free from any impediment to their designated use as such.

34. Notwithstanding the details as shown on the submitted drawings, no raised tables or ramps shall be included within the highway.

Reason: In the interests of highway safety and for the avoidance of doubt as such features are not acceptable methods of reducing vehicle speed.

35. Notwithstanding the submitted drawings, any road intended for adoption as highway maintainable at the public expense shall have a minimum carriageway width of 5m. Where a road is not intended for adoption, the extent of the highway shall be demarked and the access constructed as a dropped vehicular crossover.

Reason: In the interests of highway safety and for the avoidance of doubt.

- ~~36. Throughout the period of construction vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.~~

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

- ~~37. 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 garages and parking spaces to be provided in connection with each dwelling erected shall not be used other than for the parking of vehicles except with the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.~~

~~Reason: To ensure adequate parking and turning provision, in the interests of highway safety and to protect amenity and local character.~~

Additional conditions – as requested by DWT.

A. Soft and Hard Landscaping scheme

Prior to the occupation of any dwelling hereby approved, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All hard landscaping within a phase set out in drawing Phasing plan 5823-100-002 shall be carried out in accordance with the approved details prior to occupation of each dwelling of that specific phase set out in drawing Phasing plan 5823-100-002, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of each respective dwelling or the completion of the development, whichever is the sooner; and any plants which within a period of five years (10 years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interest of the visual setting of the development and the surrounding area.

B. The development shall be carried out in accordance with the proposed mitigation measures for Great Crested Newt as outlined in section 4.2.4 of the Extended Phase 1 Habitat Survey report Rev 2 prepared by Prime Environment dated July 2017; and the reasonable avoidance measures for reptiles as outlined in section 4.2.5 of the same report as previously submitted to and approved in writing by the Local Planning Authority via application reference DMPA/2020/0985.

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

C. No development, including preparatory works, shall commence until a scheme ('the offsetting scheme') for the offsetting of impacts to skylark and their habitat at the site has been submitted to and approved in writing by the Local Planning Authority. The offsetting scheme shall include:

- i) a methodology for the identification of receptor site(s);*
- ii) the identification of a receptor site(s);*
- iii) details of the offset requirements of the development (in accordance with the recognised offsetting metrics standard outlined in the Defra Metrics Guidance dated March 2012);*
- iv) the provision of arrangements to secure the delivery of the offsetting measures (including a timetable for their delivery); and*
- v) a management and monitoring plan (to include for the provision, funding and maintenance of the offsetting measures for no less than 10 years from the date of implementation of the scheme).*
- vi) The offsetting scheme shall be implemented in accordance with the approved details.*

Reason: To overcome a residual adverse impact on biodiversity that would arise from the development, noting that even initial preparatory works could about this adverse impact.

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 6
DATE OF MEETING:	15 NOVEMBER 2022	CATEGORY: DELEGATED
REPORT FROM:	HEAD OF PLANNING AND STRATEGIC HOUSING	RESTRICTED
MEMBERS' CONTACT POINT:	SARAH BEEBY Sarah.beeby@southderbyshire.gov.uk	DOC:
SUBJECT:	SECTION 106 VARIATION – HENSHALL DRIVE, CHELLASTON	REF: DMPA/2021/0627
WARD(S) AFFECTED:	ASTON	TERMS OF REFERENCE:

1.0 Recommendations

- 1.1 That the Committee approves the request to amend the Section 106 Agreement (S106) by means of a DoV to include a standard Mortgagee in Possession (MiP) clause into the agreement.
- 1.2 That the Committee delegate authority to the Head of Planning and Strategic Housing to agree the finer detail and wording of the amendments to be secured under the DoV.

2.0 Purpose of Report

- 2.1 To inform the Committee of the proposed changes to the S106, the inclusion of a MiP clause.

3.0 Background

- 3.1 The site, known as Land off Henshall Drive, Chellaston was granted planning permission in May 2022 for 8 homes. The original S106 agreement called for a tenure mix of no less than 50% of the affordable homes provided as affordable rented homes and the remainder to be provided as intermediate (shared ownership) homes.
- 3.2 To date, the developer has not started construction yet on site.

4.0 Discussion

- 4.1 The Strategic Housing Team have been approached by the Affordable Housing Provider (AHP) who are in contact to purchase the affordable homes on the site. They would like to propose a variation to the formally agree affordable housing definitions across the site by means of a DoV.

- 4.2 The proposed change would include a standard MiP clause, which means that in the unlikely instance that the AHP defaults on their loan payments or mortgage terms, their lender can take control of their affordable housing assets against which the loan is secured.
- 4.3 In such instances, the clause offers protection and allows for another AHP, including the Council, to purchase the affordable homes within a specified time period, however, in circumstances where a buyer cannot be found, the lender is free to sell the homes without the affordable housing restrictions to allow them to regain some or all of the loan provided.
- 4.4 The Council now includes the MiP as a standard clause in all S106 agreements in order to allow an AHP to borrow money to purchase the S106 affordable homes on sites. This S106 agreement pre-dates the use of this clause, and therefore these changes seek to rectify this.

5.0 Financial Implications

- 5.1 There are no financial implications associated to the Council for this change as the costs of the DoV will be paid for by the AHP.

6.0 Corporate Implications

- 6.1 None.

7.0 Community Implications

- 7.1 There would be the same number of affordable homes delivered on the site.

8.0 Background Information

- a. Section 106 Agreement: [Planning Application: DMPA/2021/0627 \(force.com\)](#)