

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

## **Section 1: Planning Applications**

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

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## 1. Planning Applications

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

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

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

## Glossary of terms

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

LP1	Local Plan Part 1
LP2	Local Plan Part 2
NP	Neighbourhood Plan
SPD	Supplementary Planning Document
SPG	Supplementary Planning Guidance
PPG	Planning Practice Guidance
NPPF	National Planning Policy Framework
NDG	National Design Guide
SHMA	Strategic Housing Market Assessment
SHELAA	Strategic Housing and Employment Land Availability Assessment
s106	Section 106 (Agreement)
CIL	Community Infrastructure Levy
EIA	Environmental Impact Assessment
AA	Appropriate Assessment (under the Habitat Regulations)
CPO	Compulsory Purchase Order
CACS	Conservation Area Character Statement
HER	Historic Environment Record
LCA	Landscape Character Area
LCT	Landscape Character Type
LNR	Local Nature Reserve
LWS	Local Wildlife Site (pLWS = Potential LWS)
SAC	Special Area of Conservation
SSSI	Site of Special Scientific Interest
TPO	Tree Preservation Order
BNG	Biodiversity Net Gain
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/2022/1547](#)  
**Valid date:** 12 December 2022  
**Applicant:** Mr & Mrs Warden **Agent:** GRT Architecture  
**Proposal:** Conversion of barn to residential accommodation including the reconstruction of existing stable block. Barn within land at SK 40868 31804, Broad Lane Thulston Derby.  
**Ward:** Aston

### **Reason for committee determination**

This item is presented to the Committee at Councillor Watson's request as local concern has been expressed about a particular issue. The application was deferred from the agenda on 28 November due to the need to advertise the application given the proposal to extend the barn in the Green Belt location.

### **Site Description**

The site is an existing field that has a stables and barn located in the north-west corner of the site. The site is located south of the residential dwellings of The Pinfold, outside of the Thulston settlement boundary within the countryside and the green belt. Access to the site is taken from Broad Lane. There are no existing trees at the site.

### **The proposal**

The application seeks consent to convert an existing barn to a 2 bedroomed dwelling and a small single storey extension to the barn is also proposed. This would create a link to the existing barn, and a modest area of walled formal garden space is directly in front of the dwelling.

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

The documents submitted with the application include;

Michael Evans & Associates LTD Structural Statement Job No. 23-206 (1 August 2023)  
ML-Ecology Preliminary Bat Survey Report (11 August 2023)  
GRT Architecture Design & Access Statement  
Proposed Site Plan Drawing No. 001  
Existing Site Plan Drawing No. DLB2214-01  
Existing Floor Plans Drawing No. DLB2214-02  
Existing Elevations Drawing No. DLB2214-03  
Existing Elevations (2) Drawing No. DLB2214-04  
Proposed Elevations Drawing No. 002  
Proposed Floor Plans Drawing No. 003

**DMPA/2022/1547 – Barn within land at SK 40868 31804, Broad Lane, Thulston, Derby**



**THE SITE**



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South Derbyshire District Council. LA 100019461.2020

## **Relevant planning history**

**9/2015/0232** – *proposed erection of stable and tack room at land at SK4031 9075 Broad Lane, Thulston Derby. Approved* (15.05.15)

**9//2000/0223** – *The erection of a stable on land at the rear of 15 The Pinfold, Thulston Derby. Approved* (06.06.00)

## **Responses to consultations and publicity**

Derbyshire County Council Highways: No objections subject to conditions relating to the provision, material and retention of off-road car parking spaces and storage for recycling of refuse to be contained within the site boundary.

### Derbyshire Wildlife Trust

No objections

### Public Representations

One letter of objection has been received by the Local Planning Authority in connection with this application. The representation objects on the following grounds:

- a) The barn was never intended for agricultural use,
- b) A house in this location would make access from the main road more hazardous with cars turning on a busy road.
- c) Approving this application may set a precedent of building on the field in which it sits.

## **Relevant policy, guidance and/or legislation**

### The relevant policies are:

2016 Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity & Environmental Quality), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport) and S8 (Greenbelt)

2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside) and H28 (Residential Conversions)

### The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

### The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

## **Planning considerations**

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

- The principle of development within the green belt and within the countryside.
- The effect of the design proposal on the visual amenity of the site and surrounding area;
- The effect on residential amenity;
- The effect on highway safety.

## **Planning assessment**

### The Principle of Development within the Green Belt

Development Plan Policy S8 states that development within the Green Belt will be assessed against national policy. Paragraph 147 of the NPPF states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 150(d) of the NPPF advises that the re-use of buildings, provided that they are of a permanent and substantial construction are not considered to be inappropriate development provided they preserve the Green Belt's openness. Additionally, paragraph 149(c) advises that the construction of new buildings is inappropriate within the Green Belt but extensions or alterations of a building provided that it does not result in disproportionate additions over and above the size of the original building would be an exception.

Paragraph 37 of the NPPF states that the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open. The barn and stable building are already in situ and the extension proposed would be minimal. Overall, the footprint of the proposed dwelling would be smaller than the existing buildings at the site and the curtilage of the dwelling appears modest to the front of the dwellinghouse, maintaining the open and spacious character of the area visually.

On balance it is considered that re-use of the existing barn and stable buildings at the site is considered acceptable in this location. The proposed extension given its scale, form and massing would not represent a disproportionate addition over and above the size of the original building and as such does not represent inappropriate development and overall, the proposal would have no greater impact upon the openness of the Green Belt than that which already exists. Consequently, it is considered that the proposal accords with national policy provided within the NPPF and Policy S8 and S2 of South Derbyshire Local Plan.

### The Principle of Development within the Countryside

The application site is located just outside of the Thulston settlement boundary. As defined in Policy SDT1, land outside of the settlement boundary will be considered as countryside. Policy BNE5 advises that planning permission will be granted in the countryside where it is appropriate for its location in the countryside and Policy H28 of the South Derbyshire Local Plan – Part 2, advises that that outside settlement boundaries the conversion of buildings to provide residential accommodation will be permitted provided that the buildings are of a permanent and substantial construction and suitable for conversion without extensive alterations and that any conversion would lead to the enhancement of the buildings immediate setting.

The existing barn building was erected in 2016 with the stable block built sometime before that, both of the existing buildings have formal planning consent from the local planning authority and as such have been considered to be appropriate forms of development within the countryside, in accordance with Policy BNE5. The applicant has submitted a structural survey to further demonstrate that the existing barn building is of a permanent and substantial construction and suitable for conversion without extensive alteration.

The existing barn is a two-storey structure with steel frame, a concrete ground floor with a brick plinth and a pitched roof. The existing stable building is single storey. The structural survey confirms that the barn is a substantial construction and suitable of conversion, in accordance with Policy H28. As the application is located outside of the settlement boundary, a modest amount of land surrounding the barn is proposed to be used for the residential curtilage of the dwelling, that would be used for garden space, bin storage and off-road vehicle parking. The area of land around the barn is considered to be sufficient to service the proposed dwelling adequately whilst being respectful of the countryside setting and not appearing out of place. The extension to the barn would be limited and similar in scale to the existing stable building it would replace. In principle the development is considered to comply with Policy H28, BNE5 and S2 of the South Derbyshire Local Plan.

Public representations have been received which object to the proposal on the grounds that the barn was supposedly never intended for agricultural use and that approving this application may set a precedent of building on the field in which it sits. Each application is assessed on its own merits against the current local and national policies. The granting of planning consent in this instance would not alter the local and national policy requirements necessary to be met for potential development to be considered within this location. There is a strong policy conflict with new dwellings (as opposed to conversions and extensions) in the green belt which the approval of this application will not change.

### Design

The existing two storey barn building is to house the majority of the proposed living space of the dwelling: providing a lounge, utility room and water closet at ground floor level and two bedrooms and a shower room at first floor. A kitchen-dinner is proposed within the single storey extension. A single garage would be located off the kitchen-dinner and a stable with space for two horses would be provided beyond the attached garage.

New habitable room windows are proposed at first floor level within the front elevation of the main dwelling house (former barn); as well as new habitable room windows in both the front and rear elevations to service the kitchen dinner.

The design seeks to replace the existing light green cladding on the barn with a corrugated metal sheet in a dark recessive colour. For the single storey extension, a timber board cladding is proposed with a shallow mono-pitched roof featuring a metal sheet covering to tie in with the cladding of the former barn. Both the dark metal and timber cladding are considered to be materials commonly used and seen within countryside development, and as such the choice of external materials are considered to have no undue detrimental impact on the visual amenity of the area or the character of the landscape.

Photo-voltaic panels are proposed on the east and west facing roof planes which are considered to compliment the dark metal sheeting to be used for the roofs.

Overall, the form and the massing of the existing agricultural buildings are to be mostly retained, with the loss of the existing stables and its replacement with an extension of similar scale. The choice of facing materials is considered to be appropriate within the rural landscape. Resultantly, the proposal is considered to be in accordance with Policies SD1, BNE1 and BNE4 of the South Derbyshire Local Plan.

#### Residential Amenity

New habitable room windows are to be located within both the front and rear elevations of the proposed dwelling house, however given the countryside setting of the application site there are no residential dwellings to the front or rear to be affected. Some overlooking could be experienced from the proposed first floor, habitable room windows, located within the front elevation of the dwelling to the rear gardens of No.9, 11 and 15 The Pinfold. Given that the neighbouring dwellings are sited on at a differing orientation to the proposed dwelling house any overlooking would be viewed from an obtuse angle and likely to be no greater than that which the properties already experience from the first-floor habitable windows of the existing neighbouring dwellings which are sited in closer proximity.

There is an existing first floor window within the barn that is to be retained and would service a bedroom. The northern side elevation within which the window is located would face the rear elevation of No. 15 The Pinfold. There is more than 20m between the side elevation of the barn and the rear elevation of No. 15 The Pinfold. A condition could be attached to any subsequent planning approval that requires this window to have obscured glazing to protect the amenity of the occupiers of both dwellings.

Resultantly it is considered that the proposed conversion and extension of the existing buildings to a residential dwelling would have no significantly detrimental impact on the residential amenity of the occupiers of the neighbouring dwelling. As such the proposal is considered to comply with Policies SD1 and BNE1 of the South Derbyshire Local Plan.

#### Highway safety

Public representation has been received which expresses concern that a house in this location would make access from the main road more hazardous with cars turning on a busy road. The Highway Authority has raised no concerns with regards to the proposal; the existing access to the site is to be retained and will continue to be taken from Broad Lane, which is of a good standard.

The area to the front of the dwelling is proposed to be used as its curtilage and can accommodate at least two off road vehicle parking spaces. The proposal would have no detrimental impact on the safety



of the highways network and as such is considered to accord with Policy INF2 of the development plan and guidance pertaining to Appendix A of the Council's Design SPD.

### Conclusion and Planning Balance

There will be some additional vehicle trips to this countryside location, there will be a change to the appearance of the building as a result of the conversion and extension works, the domestic curtilage will have some effect on altering the character of the rural environment and there is some impact on nearby residential amenity. These points are addressed in the main report and are considered to be within acceptable limits and are therefore consistent with policy on these issues.

The proposed conversion and extension of existing buildings to a residential dwelling is considered to be appropriate development within the Green Belt, with no greater harm to its openness than that which currently exists to the site. It is considered that the development would have no unacceptably detrimental impact on the local distinctiveness of the area, the residential amenity of nearby residential dwellings or on the safety of the local highway's networks.

Taking these main issues into account, the proposal would not result in a conflict with the policy requirements of the Local Plan and is considered to be acceptable. Therefore, the application is recommended for approval.

### **Recommendation**

**Approve** subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the plans/ drawings listed below 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.

Michael Evans & Associates LTD Structural Statement Job No. 23-206 (1 August 2023)  
ML-Ecology Preliminary Bat Survey Report (11 August 2023)  
GRT Architecture Design & Access Statement  
Proposed Site Plan Drawing No. 001  
Existing Site Plan Drawing No. DLB2214-01  
Existing Floor Plans Drawing No. DLB2214-02  
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Existing Elevations (2) Drawing No. DLB2214-04  
Proposed Elevations Drawing No. 002  
Proposed Floor Plans Drawing No. 003

Reason: For the avoidance of doubt.

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 garage/parking spaces to be provided in connection with the development shall not be used other than 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.

4. The development hereby permitted shall not be occupied until such time as the access drive has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 meters behind the highway boundary and, once provided shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highways safety and in accordance with the National Planning Policy Framework (2019).

5. No development shall take place until details of the provisions for the storage and recycling of refuse have been submitted to and approved in writing by the Local Planning Authority. Such provisions shall be made/constructed prior to the first occupation of the building and shall thereafter be made permanently available for the occupants of the building.

Reason: To ensure safe and suitable conditions are maintained on the public highway, in the interests of highways safety, and to ensure appropriate waste/refuse facilities are provided for the occupiers of the development.

6. The dwelling shall be constructed and fitted out so that the estimated consumption of wholesome water by persons occupying the dwelling will not exceed 110liters 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.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the dwelling hereby permitted shall not be enlarged, extended or altered, and no buildings, gates, walls, fences or other means of enclosure (except as authorised by this permission or allowed by any condition attached thereto) shall be erected or constructed 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 the size of the development, the proximity to existing features on or adjacent to the site, and the effect upon neighbouring properties and the street scene.

8. Except in an emergency, no demolition, site clearance, construction, site works or fitting out shall take place other than between 08:00 hours and 18:00 hours Monday to Friday, and between 08:00 hours and 13:00 hours on Saturdays There shall be no such activities whatsoever on Sundays, public holidays and bank holidays.

Reason: To safeguard the amenity of nearby occupiers.

9. No works to the existing barn shall take place between 1<sup>st</sup> March and 31<sup>st</sup> August inclusive, unless a survey to assess the nesting bird activity on site during this period has been undertaken by a competent ecologist not more than 48 hours prior to clearance has first been submitted to and approved in writing by the Local Planning Authority. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have

fledged. No works shall be undertaken within the exclusion zone(s) while nesting birds are present.

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

10. Prior to building works commencing, a Biodiversity Mitigation and Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. Measures shall include (but are not limited to) the following:
  - a. 2 x swallow cups/bespoke swallow nest boxes
  - b. 1x external universal nest box (avoiding southern elevations)
  - c. 1x external bat box (favouring southern elevations)

All approved measures shall be implemented in full and maintained in perpetuity.

Reason: In order to safeguard and enhance habitat on or adjacent to the site in order to secure an overall biodiversity gain.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the window hereby serving the first-floor bedroom in the northern side elevation shall be glazed in obscured glass and non-opening (except in an emergency) and permanently maintained thereafter as such.

Reason: To maintain control in the interest of the effect upon the neighbouring properties.

12. All external materials used in the development shall match in colour, coursing and texture the materials specified on the following approved plans/drawings: Proposed Elevations Drawing No. 002 and the Design and Access Statement; unless 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 and the surrounding area.

### Informatives

1. 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.

**Item No.** 1.2

**Ref. No.** [DMPA/2023/1362](#)

**Valid date:** 27/11/2023

**Applicant:** Mr & Mrs Baxter

**Agent:** Mr N Astle

**Proposal:** The demolition of part of existing dwelling and the erection of a dwelling with associated works at Land adjacent to 12 Colliery Lane, Linton, Swadlincote, Derbyshire, DE12 6PB

**Ward:** Linton

### **Reason for committee determination**

The application does not fully accord with the provisions of the Development Plan.

### **Site Description**

12 Colliery Lane, Linton (the site) comprises of a semi-detached two-storey dwelling. It is situated at edge of settlement, with part of the site falling within and the other part outside the Linton settlement boundary. The land to the east of the site comprises other residential dwellings on the northern side of Colliery Lane. There are no dwellings directly opposite to the property, on the southern side of the application site. The nearest dwelling on the southern side of Colliery Lane is The Bungalow, c. 40m to the south-east. To the west are agricultural fields and open countryside. To the north is a parking area associated with Weathern Field. The site is located in the catchment area for the River Mease.

The dwelling has been subject to historic alterations and extensions and benefits from a number of planning permissions. The most recent of which is ref. DMPA/2022/0564 for the erection of a two storey side extension, which would project to the west (towards the rural area).

### **The proposal**

The proposal is for demolition of part of the existing dwelling and erection of a dwelling with associated works. The new dwelling would occupy the footprint of the previously approved extension (ref. DMPA/2022/0564) and a path would be incorporated in between this and the existing/altered dwelling. The new dwelling would have 4no. bedrooms on the first floor together with study and bathroom. The amended dwelling would have 3no. bedrooms. Boundary treatments would be installed to separate the existing/altered and new dwellings.

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

#### Planning Drawings

- Location Plan (19 October 2023)
- Proposed Plans (19 October 2023)
- Block Plan (22 November 2023)
- Existing Floor Plans (27 November 2023)
- Existing Buildings and Demolition Plan (27 November 2023)

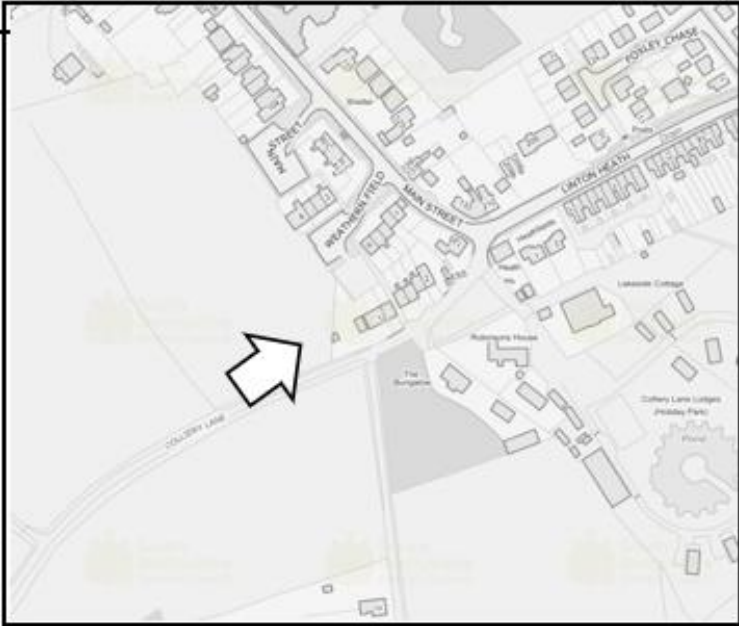
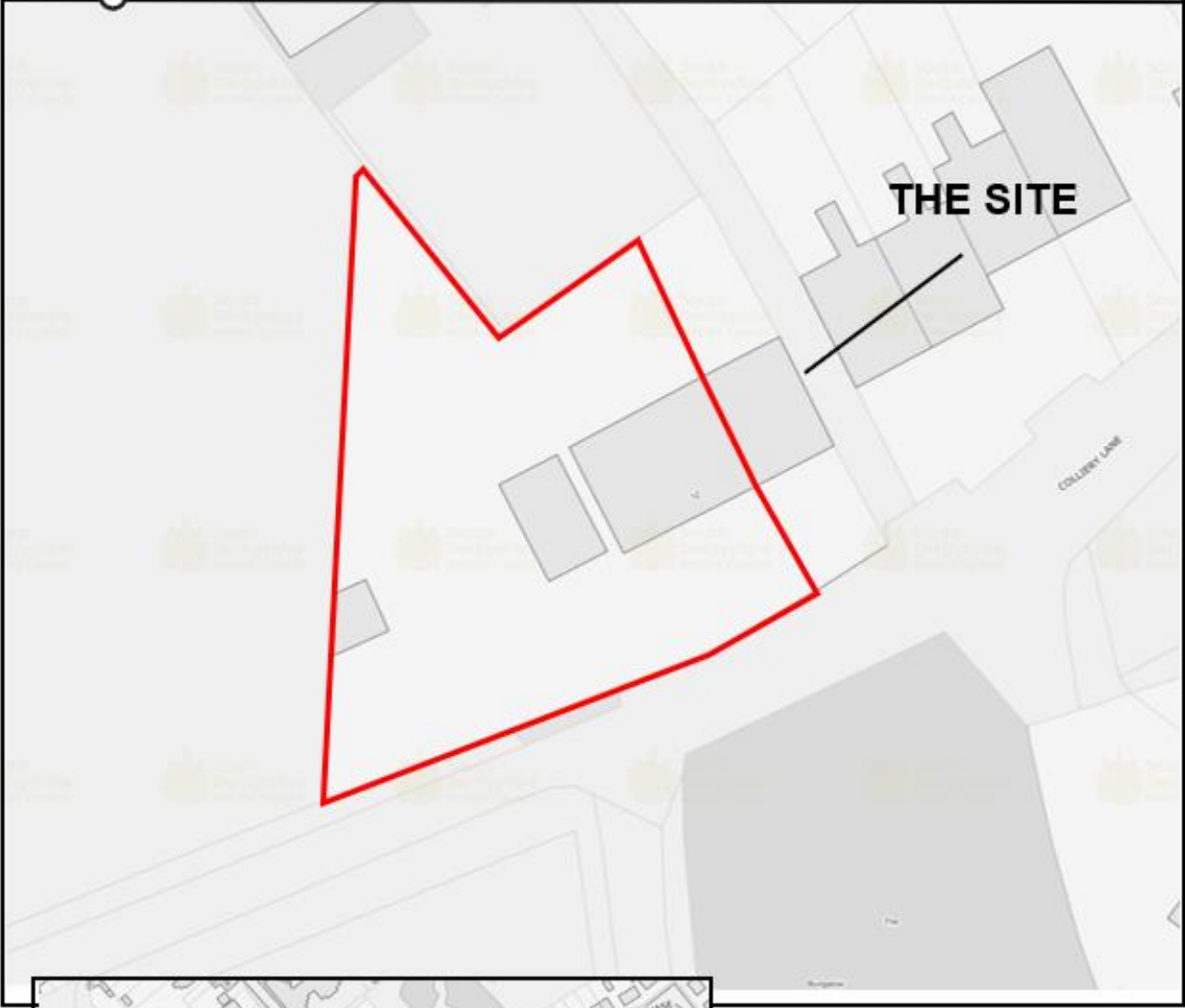
#### Design and Access Statement (22 November 2023)

A statement prepared by the applicant's planning agent that adds explanation to support the proposal.

### **Relevant planning history**

DMPA/2022/0564 Erection of a two-storey side extension – approved.

**DMPA/2023/1362 – Land adjacent to 12 Colliery Lane, Linton, Swadlincote,  
Derbyshire, DE12 6PB**



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9/2016/0244 - The erection of a garage (Amended application to that approved under 9/2015/0709) – approved.

9/2015/0709 - The erection of a garage – approved.

9/2003/0915 - The erection of a two storey extension – approved.

9/2003/0083 - The incorporation into domestic garden of land adjoining – approved.

## **Responses to consultations and publicity**

### Natural England

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on the designated site (outlined below) and has no objection. (09/01/2024)

### County Highways Authority

Having reviewed the submitted information there are no highway objections to the planning application. (15/12/2023)

### Environmental Health

No objections subject to the incorporation of conditions to control construction working hours and prevent burning of vegetation, waste etc. during site clearance. (12/12/2023)

No responses were received from the Parish Council or members of the local community.

## **Relevant policy, guidance and/or legislation**

The relevant Development Plan policies are:

(2016) Local Plan Part 1: H1 (Settlement Hierarchy); BNE1 (Design Excellence); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure)  
(2017) Local Plan Part 2: BNE5 (Development in Rural Areas).

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

## **Planning considerations**

The determining issues are as follows:

- Principle of the Development;
- Design and Impact on the Character of the Surrounding Area (including Residential Amenity);
- Access and Highway Safety;
- River Mease Special Area of Conservation (SAC);
- Other Matters

## **Planning assessment**

### Principle of the Development

The application site is located partly within the settlement boundary for Linton. Specifically, the existing dwelling falls within the settlement boundary, whilst the property's single storey garage outside the settlement boundary.

Linton is a Key Service Village within the Local Plan. Policy H1 states that development of all sizes will be considered appropriate within the settlement boundary. Outside the settlement boundaries, only limited infill and conversions would be supported as per Policies H1 and BNE5. The footprint of the new

dwelling would be half in and half out of the settlement boundary, and therefore would be contrary to the settlement hierarchy and unacceptable in the absence of a fallback position. The planning history for the site is however material in consideration of this case.

Planning application ref. DMPA/2022/0564 being consistent with policy allowing extensions to dwellings permitted a substantial two-storey extension in place of the existing single storey garage, which would push the built form of the dwelling overall over the settlement boundary and into the rural area. Whilst this previous planning permission has not been implemented, the extension would comprise a fallback permission in the context of the current application. Furthermore, it is acknowledged that if the applicant subsequently applied to subdivide the extended dwelling into two units, that this would be acceptable in principle. Taking all of this into account, it is considered unlikely the authority would be able to sustain a refusal of the current application due to the fallback position. The principle of the development considered acceptable on this basis.

#### Design and Impact on the Character of the Surrounding Area (including Residential Amenity)

Policy BNE1 sets out principles for design excellence, which is supported by the detail within the South Derbyshire Design Guide SPD and requires that new development create places with locally inspired character that responds to its context. Part h) requires that new development does not have an undue adverse effect on the privacy and amenity of existing nearby occupiers and that similarly, the occupiers of new development should not be unduly affected by neighbouring land uses. The Design Guide SPD, pages 68-69 sets out standards to guide the assessment of residential amenity.

The dwellings to the east of the site comprise semi-detached and short terrace rows presented in pairs with tiled cladding. The proposal would reinstate the footprint of the original dwelling at 12 Colliery Lane, which would serve to create symmetry with the adjoining half of the semi. The new dwelling to the west would be of a similar width and therefore scale compared to the neighbouring blocks, and would as such integrate within the streetscene. The new dwelling would have a gable roof design which would be in keeping with the prevalent architectural style. The additional gable on the front elevation would add architectural interest within the row. The application form states that materials would match the existing in colour and texture. The size of plot for 12 Colliery Lane would be similar to the neighbouring properties, and both the amended and new dwelling would have sufficient private amenity space. The existing boundary treatments would be retained and a new timber fence (1.8m to the rear and 1.5m to the front) would be incorporated to subdivide the two plots.

The proposal would be acceptable in terms of residential amenity, as the new dwelling would maintain the building line and the property would be sufficiently distanced from existing dwellings such that their amenity would not be affected.

Overall, the proposal is considered to comply with Policy BNE1 in relation to design and residential amenity. It is recommended that a condition is attached to any forthcoming planning permission to remove permitted development rights related to extensions or alterations to the new building, to ensure that any proposals for extension into the rural area are given due consideration by the planning authority.

#### Access and Highway Safety

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

The existing and proposed dwelling would use existing points of access from Colliery Lane. There is substantial area for parking located in front of both the new and altered dwelling, which would be sufficient to meet the recommended parking requirement of 2no. vehicles per dwelling in the Design Guide SPD. The application form states that the existing 6no. parking spaces would be retained overall.

The County Highway Authority was consulted on the planning application and raised no objections and

requested no conditions. Subject to standard conditions to ensure that the development is implemented in accordance with the proposed plans, it is considered that the proposal would comply with Policy INF2.

### River Mease

The proposed development lies within the catchment of the River Mease SAC, which is currently in an unfavourable condition and is failing its conservation objectives. This is a result of numerous factors, including high levels of phosphorous in the water. Any addition of phosphorous from foul water (including via mains Sewage Treatment Works) or pollutants from poorly treated surface water will contribute to the site's unfavourable condition and the failing of its conservation objectives. Policy SD3 of the Local Plan requires that all relevant developments within the River Mease catchment support the delivery of the River Mease Water Quality (Phosphate) Management Plan in order that the unmitigated addition of phosphorus does not lead to deterioration of the SAC.

Under the provisions of the Conservation of Habitats and Species Regulations 2017, the Local Planning Authority as the competent authority, must have further consideration, beyond the above planning policy matters, to the impact of development on the River Mease SAC. In this instance it is considered that there would be no adverse impact on the integrity of the River Mease SAC if the development were to proceed and Appropriate Assessment would not be required. This is primarily due to the direction of the mains sewer system, which in Linton is pumped to Coton Park treatment works, outside of the SAC catchment. Natural England was consulted on the Habitat Regulations screening exercise undertaken by the Local Planning Authority and raised no objection. The application would therefore comply with policy SD3 of the Local Plan.

### Other Matters

The Council's Environmental Health team was consulted as part of the planning process and raised no objections. The conditions related to construction working hours and to the prevention of burning during construction are reasonable and it would be recommended that these be attached to any forthcoming permission should Officers be minded to approve.

### Conclusion and Planning Balance

Section 38 (6) of the Planning and Compulsory Purchase Act (2004) sets out that the determination of applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise. In this case, the principle of the development would be contrary to the Development Plan with regard to part of the dwelling being outside of the settlement boundary and not amounting to infill development. However, the fallback position related to the previously approved extensions is a material consideration in this case which is given substantial weight to justify a recommendation to grant planning permission. None of the other material planning considerations related to access, design and the potential impact on the River Mease SAC have indicated that refusal of the application would be warranted. On balance, and taking into account the fallback position, the application is recommended for approval subject to conditions.

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

### **Recommendation**

**Approve** subject to the following conditions.

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



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

2. The development hereby permitted shall be carried out in accordance with the following approved plans/details: Location Plan (19 October 2023), Proposed Plans (19 October 2023), Block Plan (22 November 2023), Existing Floor Plans (27 November 2023), Existing Buildings and Demolition Plan (27 November 2023), unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

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

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

4. Except in an emergency, no demolition, site clearance, construction, site works or fitting out shall take place other than between 08:00 hours and 18:00 hours Mondays to Fridays, and between 08:00 hours and 13:00 hours on Saturdays. There shall be no such activities whatsoever on Sundays, public holidays and bank holidays.

Reason: To safeguard the amenity of nearby occupiers and in accordance with Policy BNE1.

5. During the period of construction there should be no clearance of vegetation by burning, or disposal of other materials by burning.

Reason: To protect the amenity of nearby occupiers and in accordance with Policy BNE1.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the dwellings hereby permitted shall not be enlarged, extended or altered, and no buildings (except as authorised by this permission or allowed by any condition attached thereto) shall be erected or constructed 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 preventing encroachment into the countryside in accordance with Policy BNE4.

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

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

**Item No.** 1.3

**Ref. No.** [DMPA/2024/0128](#)

**Valid date:** 24/01/2024

**Applicant:** Emily Billson

**Agent:** Elsigood Associates Limited

**Proposal:** Garage conversion, first floor front extension, detached garage with office space above, boundary fence with gated entrance to driveway

**Ward:** Repton

### **Reason for committee determination**

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

### **Site Description**

The 4 detached houses and 6 bungalows that make up Hollies Close were constructed in the 1960s.

7 Hollies Close (the Site) is a two storey detached dwelling constructed in brick, with some render to the front and rear elevations, and with a pitched tiled roof. A porch and single storey extension to the north side of the property were added in the 1980s. There is also a timber shed to the front of the side extension. The property is located in a corner position with the north/side facing the rear of properties on Blacksmiths Lane and the west/rear facing the rear of properties on Primavera which were developed in the early 2000s.

The Site is within the defined settlement boundary of Newton Solney as referred to in policy SDT1 and shown on the Settlement Boundary Maps in Appendix A to LP2.

### **The proposal**

Permission is sought for conversion of the existing integral garage, a first floor front extension, the erection of a detached garage with office space above to the front of the property and boundary fence with gated entrance to the driveway.

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

The applicant has submitted drawings for the proposals which have been amended during the course of the application. The plans to be considered are:

23-022-LMBP-RevA Location & Block Plans

23-022-EPPE-RevC Existing & Proposed House Plans & Elevations

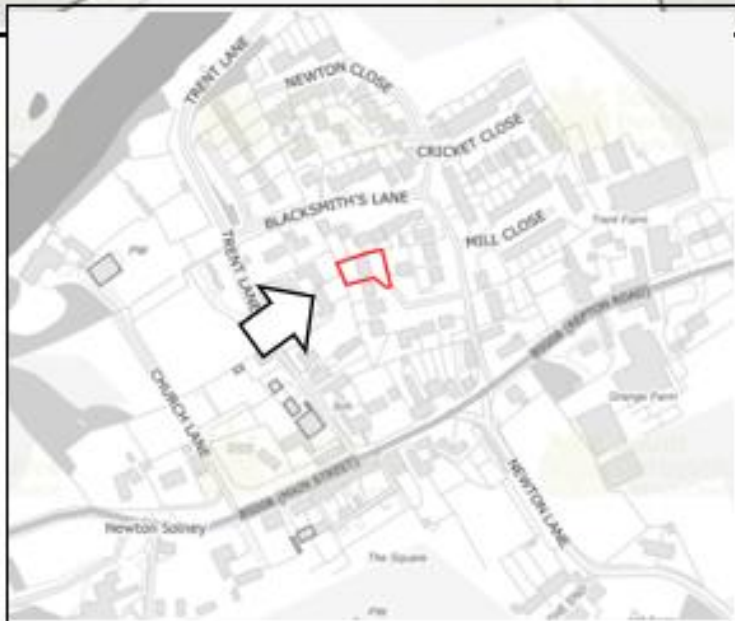
23-022-G-PPE-RevB Garage Plans & Elevations

### **Relevant planning history**

REP 965/33 4 detached houses and 6 bungalows - approved with conditions 10/02/1966

9/1179/1062 - extension and front porch - approved with conditions 23/01/1980

DMPA/2024/0128 – 7 Hollies Close, Newton Solney, Burton On Trent, DE15 0SB



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## Responses to consultations and publicity

Newton Solney Parish Council: Believe the proposed garage will be overbearing and intrusive to the properties behind it on Blacksmiths Lane resulting in a lack of privacy and a substantial loss of light.

Comments have been received from the occupants of 4 neighbouring properties. These can be summarised as follows:

- a) Concerns that the proposed garage will overshadow the bungalows on Blacksmiths Lane
  - b) Concerns regarding privacy for the residents of the bungalows on Blacksmiths Lane from the
  - c) top of the stairs to the upper floor of the proposed garage
  - d) The garage and fence/gates being out of keeping with the street scene
  - e) Concern that gates will encourage visitors to sit in the turning point if they cannot gain access i.e. delivery drivers, that could lead to the blocking of the driveways of neighbouring properties
- Privacy concerns regarding the proposed Juliette balcony to the rear elevation of the dwelling

Re-consultation has been carried out on amended plans submitted and these are open for further comments until 8th March 2024.

## Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

(2016) Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development); SD1 (Amenity and Environmental Quality); BNE1 (Design Excellence); INF2 Sustainable Transport 2017 (Local Plan Part 2 (LP2): SDT1 (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

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

- Impact upon the host dwelling, character and appearance of the area
- Residential amenity
- Adequacy of parking provision and highway safety

## Planning assessment

### Principle of the proposed development

Policies H27, SDT1, BNE1, and SD1 of the development plan support in principle householder development, where it does not harm the character and appearance of the host dwelling and the character of the area, is of an appropriate design quality and is not unduly detrimental to the living conditions of adjoining properties. The SPD reinforces policies H27, SDT1, BNE1 and SD1 by citing the importance of design, context, amenity and impact upon the host dwelling in the decision-making process.

### Impact upon the host dwelling, character and appearance of the area and residential amenity

Given their distance from the highway the proposed fence and gates would be considered permitted development. Regardless of this fallback position they are considered to be an acceptable addition to

the site as their set back position means they will not be overly prominent in the street scene.

Although none of the other garages on Hollies Close appear to have been converted, the principle of converting the existing integral garage into additional living space is acceptable as there is sufficient off street parking within the site and new garage space is to be proposed to be provided. Due to the orientation and corner position of the site the change in appearance from garage doors to windows will have minimal impact on the street scene.

The original proposals submitted for the first floor front extension resulted in a gable which was considered to be too wide and to create an unbalanced appearance to the property with the proposed window arrangements. Amended plans have been submitted to reduce the width of this element to be over the existing garage at ground floor level. The windows at first floor level will be in line with those at ground floor level to create a balanced elevation. The associated replacement of the existing porch with a timber structure with pent roof will break up the blank elevation on the side and create a focal feature entrance to the property. Due to sufficient separation distances, it is not considered that the relocation of the first floor windows will have any impact on the amenity of neighbouring properties.

To the rear of the property there are minor changes to ground floor windows including the installation of bi-fold doors and the extension of the flat roof on the previous single storey side extension to create a small canopy to the rear. As these changes are to the rear and at ground floor level they are not considered to have any impact on the character of the property, or area or amenity of neighbouring properties.

The proposed detached garage to the front of the property will sit in the corner of the plot. There will be an office space to the first floor of the structure accessed by an external staircase. The original orientation of the stairs did raise concerns over privacy for the properties to the rear of this structure on Blacksmiths Lane but these have since been amended to allow for the addition of a privacy screen to the landing at the top of the stairs which can be conditioned to be retained in perpetuity to protect the amenity of the residents to the rear. The proposed garage has been orientated so that its side elevation will be facing the properties on Blacksmiths Lane. The height to eaves of the structure will be 2.4m (400mm above a permitted development boundary treatment). Whilst the building has an overall height of 5.45m, the roof slopes up and away from the shared boundary with properties on Blacksmith Lane. Whilst there will be some impact to the occupants of 23 and 25 Blacksmiths Lane the garage has been positioned so it doesn't extend across either properties entire rear boundary and on balance, due to its design and positioning it is not considered that the structure will be unduly overbearing on the adjacent properties.

Overall, due to the layout and orientation of surrounding properties it is not considered that the proposed extension or detached garage would cause any undue overbearing effects, or lead to an unacceptable loss of privacy, overshadowing, or loss of sunlight to neighbouring properties.

#### Adequacy of parking provision and highway safety

Whilst the internal dimensions of the proposed garage are slightly below those in the Design SDP the difference is considered negligible and they are still considered to be of an adequate size to provide suitable parking provision. There is also ample parking provision within the remaining driveway area in excess of the aspirational provision set out in the Design Guide and there is thus no offence to Policy INF2.

The proposed gates are set back 9.6m from the rear edge of the highway which is in excess of the 5m advised by the County Highway Authority to allow for a vehicle to pull off the road to open the gates.

#### Representations from interested parties

Concerns were raised regarding privacy implications from the top of the stairs to the upper floor of the proposed garage on the bungalows on Blacksmiths Lane. Amended plans have been submitted that reverse the direction of the stairs to the upper floor of the proposed garage and add a full height screen

to the rear of the landing. These are considered to address any privacy concerns regarding the properties on Blacksmiths Lane to the rear of this element of the scheme.

Concerns have been raised regarding the proposed garage overshadowing the bungalows on Blacksmiths Lane have been raised. However, due to the orientation of the proposed garage the side facing the properties on Blacksmiths Lane will be a roof slope rather than a gable and will be approximately 8m from the rear of the adjacent properties at its closest point, increasing in height with additional distance. Overall it is not considered that this structure will be unduly overbearing on the adjacent properties.

Concerns have been raised that the erection of gates will encourage visitors to sit in the turning point if they cannot gain access i.e. delivery drivers, that could lead to the blocking of the driveways of neighbouring properties. The proposed gates are set back 9.6m from the rear edge of the highway which in excess of the 5m advised by the County Highway Authority to allow for a vehicle to pull off the road to open the gates.

It has been suggested that there may be a restrictive covenant within the deeds of the properties on Hollies Close prohibiting the erection of fences at the front of the properties. This would not be a planning consideration and given their distance from the highway the proposed fence and gates are considered to fall within the limits for householder permitted development rights.

Whilst there are no other detached garages within Hollies Close each application is considered on its own merits and given the corner location of number 7 it is considered that the proposed garage is acceptable.

A Juliette balcony has been removed from the scheme, thus removing any privacy concerns associated with this element of the original scheme.

### Conclusion and Planning Balance

Whilst the proposal will have some impact on the adjoining occupants on Blacksmiths Lane it is not considered that this impact would significantly affect their amenity through loss of privacy or any overbearing impact such that permission should not be granted. It is not considered that the proposals will have any adverse impact upon the host dwelling, character and appearance of the area, or adequacy of parking provision and therefore the accords with the aforementioned policies of the development 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**

**Approve** subject to the following conditions.

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

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

2. The development hereby permitted shall be carried out in accordance with the plans listed below 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.

23-022-LMBP-RevA Location & Block Plans

23-022-EPPE-RevC Existing & Proposed House Plans & Elevations

23-022-G-PPE-RevB Garage Plans & Elevations

Reason: For the avoidance of doubt and in the interests of achieving 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 garage stairs hereby approved shall not be brought into use until the screen to the rear of the landing has been installed in accordance with the submitted details. The screen shall thereafter be retained in situ and maintained as such in perpetuity.

Reason: To maintain control in the interest of the effect upon neighbouring properties.

4. The first floor windows in the side (north facing) side elevation shall be fitted with obscure glazing to Pilkington level 4 or 5 (or an equivalent to be first agreed in writing) and shall be retained as such in perpetuity.

Reason: To protect the privacy of neighbouring properties to the north in accordance with Policy BNE1 of the Local Plan Part 1.

**Item No.** 1.4

**Ref. No.** [DMPA/2023/1339](#)

**Valid date:** 03/11/2023

**Agent:** Planning by Design

**Applicant:** S. Stephens

**Proposal:** Change of use of site to a secure dog field on land at Stenson Road, Stenson, DE73 7HL

**Ward:** Stenson

### **Reason for committee determination**

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

### **Site Description**

The application site comprises a roughly rectangular piece of land to the south of Stenson. It is bordered by Stenson Road to the east, the railway line to the south, woodland to the west, and the Trent and Mersey Canal and footpath (a Public Right of Way) to the north. The site is located outside of the Conservation Area. There is an embankment that runs alongside the northern boundary of the site, and the majority of the application site is set broadly level with the railway line and is therefore lower than the canal to the north and Stenson Road to the east. The access to the site is positioned in between the railway bridge to the south and the Stenson Lock and Attached Bridge (Grade II) to the north. Cars were observed to be parking in the access point at the time of the Officer's site visit. Within the site the land is predominantly grass with some ruderal vegetation and a hedgerow along the embankment. There is a small timber shed in the north-eastern corner of the site.

### **The proposal**

The application seeks to change the use of the land to a secure dog field. A parking area would be established in the north-eastern corner of the site that would provide parking for up to 5no. vehicles. Fencing would be erected around the perimeter of the site, which would be 1.8m tall steel mesh with timber post and rails. The applicants intend to utilise a booking system, with just one to two dog walkers at the site at any given time. Bookings for use of the site would be made online via an appointment scheduler. Once paid and scheduled the person would be given a gate code for access and the rules of use for the site. Dog walkers would be encouraged to take the waste home for disposal, and would also provide bins and bags within the site that would be disposed of by a pet waste disposal company.

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

#### Application Plans

Location Plan (18 October 2023)

Existing Block Plan (01, 18 October 2023)

Proposed Block Plan (02, 18 October 2023)

Existing Site Plan (03, 18 October 2023)

Proposed Site Plan (04A, 16 November 2023)

Post and Rail Fence Details (05, 30 October 2023)

Visibility Splays (06B, 10 January 2024)

#### Design and Access Statement

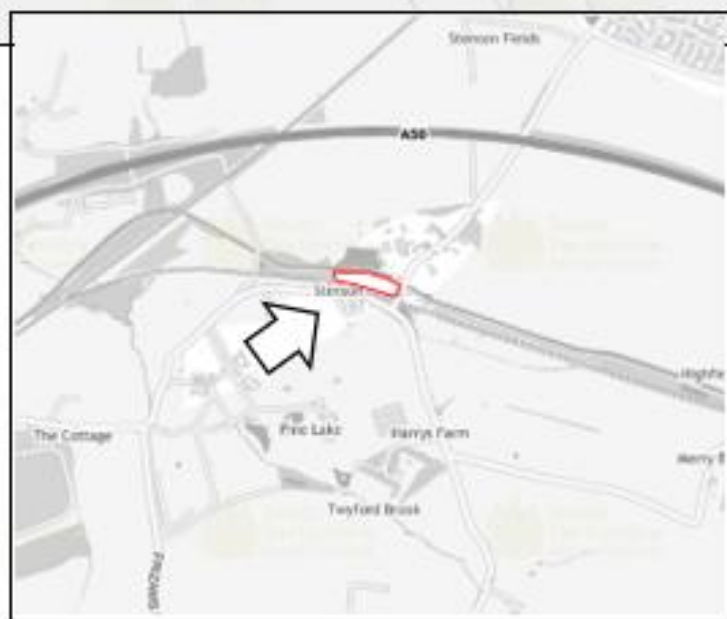
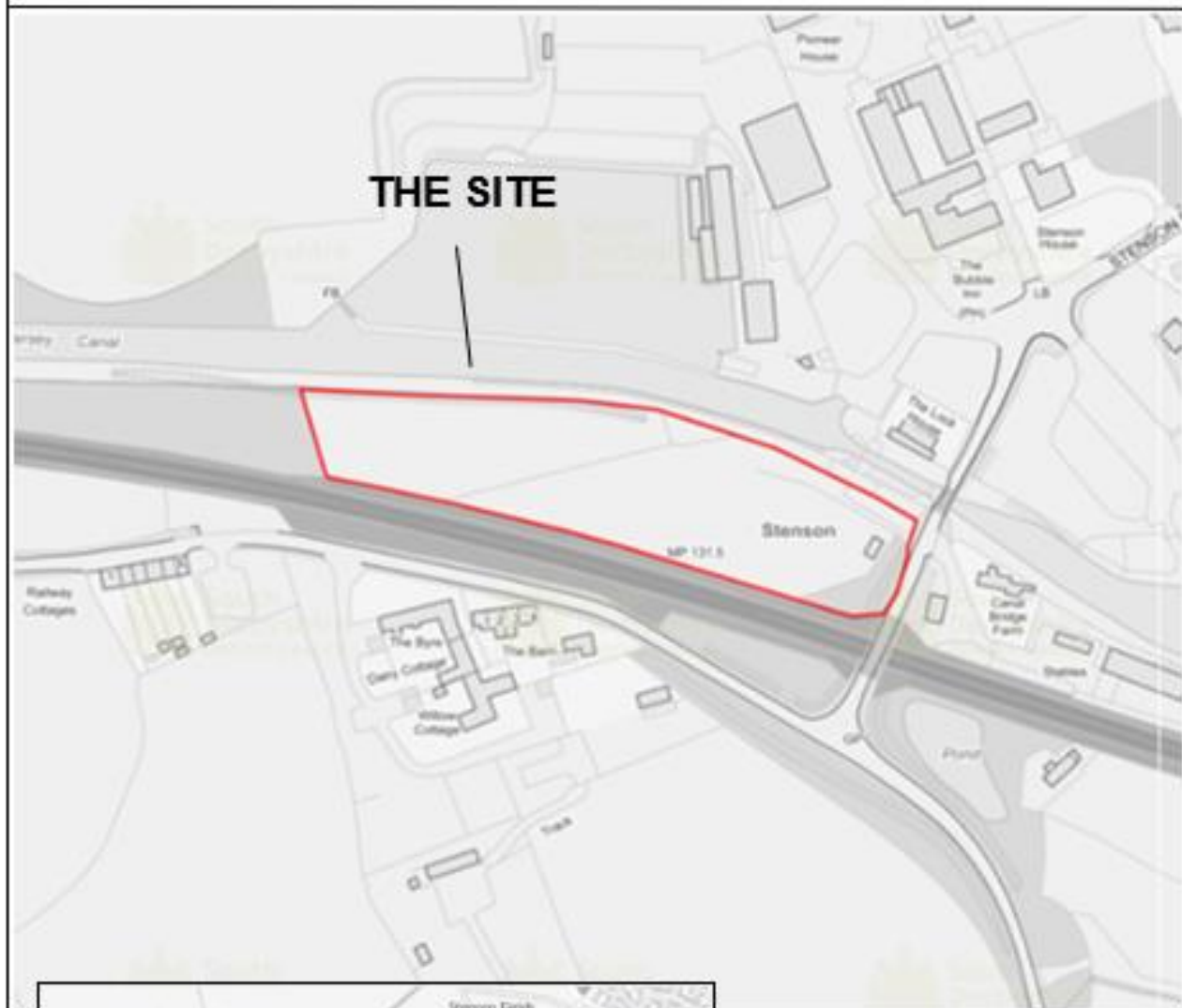
A statement that adds further explanation of the development and provides an assessment of the scheme in the local policy context that has been undertaken by the applicant's planning agent.

#### Heritage Impact Statement

Assessment of the impact of the scheme on nearby heritage assets, prepared by the applicant's agent.



DMPA/2023/1339 – Land at Stenson Road, Stenson, DE73 7HL



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### Business Plan

A statement that provides additional information on the need for the development, approach to management of the business and proposed hours of opening.

### **Relevant planning history**

No relevant planning history.

### **Responses to consultations and publicity**

#### Economic Development

Our business advisor has taken a look at this case and has no concerns that there should be demand and that it should be a viable business. (26/01/2024)

#### Highway Authority

*Initial Response* – It should be noted that the access visibility splays should be in accordance with the following criteria in the interests of highway safety. Visibility splays should be provided from a point 0.6m above carriageway level at the centre of the access to the application site and 2.4m back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 35m in each direction measured along the nearside edge of the adjoining carriageway and offset a distance of 0.6m from the edge of the carriageway. These splays should be free of all obstructions to visibility over 0.6m in height above carriageway level. The applicant is requested to demonstrate that visibility splays can be achieved that are in accordance with the above. Upon receipt of the requested information further comments will be issued. (21/12/2023)

*Subsequent Response* - The applicant has provided this additional information and demonstrates that a visibility splay to the north of 2.4 x 20m can be achieved. To the south a visibility splay of 2.4 x 35m can be provided with some minor trimming of adjacent hedgerows. As this is an existing access, the traffic likely to be generated by the proposed development will be low and vehicle speeds on Stenson Road in the vicinity of the access will also be low it is considered that the proposed access is acceptable. The proposed parking and turning arrangements are also acceptable but it should be noted that the access gate should be relocated to a position at least 5m behind the highway boundary to ensure no blocking of Stenson Road as vehicles enter the site. A condition to this effect is requested. Taking the above into account the highway authority has no objections to the application subject to the conditions being imposed related to the provision of parking and placement of the access gates. (12/01/2024)

#### Environmental Health:

*Initial Comments* – no objections or comments (12/12/2023)

*Amended Comments* - in light of the proximity of the residential moorings and objections received.

We have no objections but would like to propose the following conditions:

- a) Use to be restricted to between 8am and 8pm daily.
- b) A two year temporary permission is granted to enable to impact of the new use to be monitored and ensure it does not have an adverse impact on the existing community.
- c) No work shall take place on the site until details of a management scheme for the site is submitted and agreed in writing by the Local Planning Authority. This should limit the number of dogs using the at one time to 2 and include details on the storage and disposal of animal waste. The management scheme shall be implemented upon first use of the development hereby approved and subsequently maintained. (23/01/2024)

#### Conservation Officer

Change of use of the land with minimal visual change to the existing boundaries. The existing boundaries will not form the compound for dog walking – a new inner fenced area will be installed, leaving the existing boundaries in place. There will be minimal change to the existing appearance of the field or its boundaries. Minimal visual impact to setting. No objection (06/12/2023)

#### Canal and Rivers Trust:

The application site is located adjacent to the Trent & Mersey Canal conservation area and just south of Stenson Lock (Lock 6) and Bridge 19 (which carries Stenson Road over the canal), both of which are Grade II listed structures. We consider that the proposed use itself should have little, if any, impact on these heritage assets, although we note that some new galvanised steel fencing is required to ensure that the site will be fully secure. In the interests of minimising the visual impact of this fencing we ask that it be painted green to allow it to blend in better with its surroundings. We request that a planning condition is imposed to require approval of details of the colour to ensure an appropriate shade is selected.

We note that some shrubs and bushes are suggested to possibly require removal to better facilitate access into the field from the new car parking area. We would comment that we would not wish to see views into the site opened up to any significant extent as the existing hedgerow alongside the towpath here makes a positive contribution to the character and setting of this section of the conservation area and the listed lock. We therefore ask that any vegetation removal is kept to a minimum. (21/12/2023)

Public Rights of Way:

No response received.

Public Responses: There have been a total of 34 responses of objection on the application, with key points summarised as follows:

- a) Concerns related to noise nuisance and barking, with particular reference to the impact on nearby moorings and nuisance already caused by a nearby kennels;
- b) Concerns related to the impact of the scheme on highway safety (particularly the conflict between vehicles and pedestrians), increase in traffic, parking (in an area already limited in parking spaces for the pub, swimming pool etc.) and visibility from the access point (due to location in between two bridges);
- c) Concern that there would be more than 5no. vehicles parking within the car park;
- d) It was noted that Stenson Road is subject to consultation for restricted parking and double yellow lines;
- e) Specifically, a comment questioned the visibility splays which were based on the gate open with the vehicle halfway in and out the site and plans indicating that the existing gates would be retained in place;
- f) The use of gravel for the car park is highlighted as unsuitable due to spill over onto the highway;
- g) The need for the facility was questioned with kennels and exercise facilities cited as in place at Findern, Weston on Trent, and Sinfin;
- h) Some ambiguity was raised related to the applicant's address and it was advised that the applicant's address should be 'Canal Side Farm Office' and the ownership of the site was queried.

One letter of support was received in response to the application which stated that 'a field would be extremely useful' for dog walking and owners.

**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), S6 (Sustainable Access), H1 (Settlement Hierarchy), E7 (Rural Development), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness).

(2017) Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas); INF2 (Sustainable Transport)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document

## **Planning considerations**

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

Principle of development

Highways

Residential Amenity

Impact on the Character and Appearance of the Area (including Heritage Assets)

## **Planning assessment**

### Principle of development

This application seeks a change of use of the land from agricultural use to a secure dog field including customer parking area. Stenson is located within the rural area outside of the defined settlements listed in Policy H1. In rural areas the principle of new development in the countryside is established by Policy BNE5, which supports development that is allowed for under Policy E7 provided it would not unduly impact landscape character and quality, biodiversity, best and most versatile agricultural land, and heritage assets.

Policy E7 of the Local Plan provides policy support for employment development in the rural area provided it is supported by a sound business case, the local highway network is capable of accommodating the traffic generated, the development will not give rise to any undue impacts on neighbouring land, it is well designed and of a scale commensurate with the proposed use, and visual intrusion and the impact on the character of the locality is minimised.

Policy E7 therefore offers support for a proposal of this nature in the rural area, provided it can demonstrate that that the proposal is for a business that can support the social and economic needs of rural communities, that is supported by a sound business case, and is acceptable within the context of the criteria stated (traffic, impacts on neighbouring land etc.) in the policy wording and also in Policy BNE5.

The applicant has provided a business case which highlights the need for this type of facility and appears sound in accordance with criterion (i) of Policy E7. Members of the local community questioned the need for the facilities, however the Council's Economic Development team confirmed that there would be demand and that the proposal should comprise a viable business. There would be limited visual intrusion or impact on the character of the locality as the site would remain visually open, with the mesh fencing having a transparent effect. There would be no built development and thus no permanent impact on agricultural land (Grade 3 in this case). Provided that the other criteria of Policies E7 and BNE5 of the Local Plan can be met (appraised below), it is considered that the proposed development would be acceptable in principle.

It is also noted that the nature of the proposals mean that a large area of private open space is required, which would not be possible within a settlement boundary. As such, it is accepted that the development would also be considered unavoidable outside settlement boundaries, and therefore, in accordance with limb iii) of Policy BNE5.

### Highways

The NPPF (Paragraph 115) states that: '*development should only be prevented or refused on highways ground if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*'

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

transport. As above, Policy E7 also requires consideration of whether the local highway network can accommodate the traffic generated.

The access for the site is located between the railway bridge and canal bridge. The Highway Authority was consulted on the application and requested visibility splays for the access, which were subsequently provided. The first set of visibility splays were obstructed by the canal bridge (a Grade II listed structure) to the north. The Highway Authority was reconsulted and advised that a lesser visibility splay would be acceptable in this location due to the slow speed of traffic movement and a 2.4 x 20m was instead requested to the north with 2.4 x 35m splay to the south. The applicant revised the visibility splays and demonstrated that the requested measurements could be achieved with minor trimming of the hedgerow as shown on the plan referenced 06B, 10 January 2024. The Highway Authority confirmed that this would be acceptable subject to a condition to reposition the gates 5m back from the highway and implementation of the scheme in accordance with the submitted plans.

There is a lot of concern in the local community about the suitability of the access and other matters related to highway safety as noted above. The site has been visited by Officers and the constraints of the bridges were noted. Given the nature of Stenson Road, the Highway Authority has advised that traffic would not be able to drive at high speeds, and the requisite visibility splays have been demonstrated. The Highway Authority raises no objection and confirms that the proposed access would be acceptable on the basis of the visibility splays provided, subject to conditions. It would not be reasonable to recommend refusal of the scheme on this basis under policy INF2.

Additionally, it is noted that traffic generation from the scheme is likely to be low as the Design and Access Statement states that the booking system would allow one to two dog walkers at the site at any given time, and the number of users could be restricted as part of the planning conditions. There would be 5–10-minute gaps in between bookings and the car park would have additional capacity in case of overlap. It is considered the local highway network would be able to accommodate the limited traffic expected to be generated as required by Policy E7, and the proposal would meet its own needs in terms of parking requirement and would not therefore impact on the surrounding parking provision (or be affected by the consultation for restricted parking and double yellow lines).

One member of the local community highlighted that the use of gravel for the car park would be unacceptable. The Highway Authority has recommended a condition to ensure the first 5m of the driveway would be constructed from tarmac, which would overcome this concern.

### Residential Amenity

Policy SD1 states that the Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments.

There are residential dwellings within 20-30m of the site and barges on the Trent and Mersey Canal. The Environmental Health Officer has been consulted on the planning application and initially raised no objections. Members of the local community however raised concern related to the potential for noise and disturbance from barking dogs within the field. In this respect it is noted that such disturbance could arise from walkers along the canal towpath where there would be no restrictions for use. Nonetheless, the EHO was reconsulted for further advice. In amended comments it was recommended that the hours of use of the field be restricted to between 0800 and 2000 daily, the number of dogs within the site be limited to 2 and a Management Scheme secured for the site. It was also recommended that a temporary permission be issued in the first instance to enable monitoring of any disturbance that may arise.

The latter proposal for a temporary permission is not recommended, as it would be reliant on the receipt of complaints from the public and difficult to distinguish noise from the field compared to the adjacent towpath. There would be merit in controlling the hours of use. The applicant proposed slightly longer hours of use in the summer (0700-2100) than the EHO has recommended (0800-2000). The EHO hours of use take into account the proximity of the nearby moorings and would be considered reasonable and necessary to ensure that amenity is protected. The proposal for a Management

Scheme is also considered reasonable, however the restriction to 2 dogs at any one time within the field is not, as many private individuals would have more than one or two dogs. It would also be unreasonable to prevent the use of the site by commercial dog walkers, and noted that such dog walkers would have their own restrictions on the number of animals to be walked through insurance requirements etc. The number of users would be limited to one or two walkers at the site at any given time, as set out in the Design and Access Statement. The provision of a Management Scheme, prior to first use, that incorporates site rules (including requirements for animal behaviour), sets out how users of the site would be made aware of the rules, how managers of the site would monitor users, and what penalties would be imposed on users should the rules be broken, should be sufficient to control any potential disturbance when taken together with the hours of use and number of users proposed. With these conditions in place it is considered that the proposal would comply with Policy SD1.

### Impact on the Character and Appearance of the Area (including Heritage Assets)

Policy BNE1 sets out principles for design excellence, which is supported by the detail within the South Derbyshire Design Guide SPD and requires that new development create places with locally inspired character that responds to its context. Policy BNE4 requires developers to retain key valued landscape components (such as mature trees) and states that development which has an unacceptable impact on landscape character, visual amenity and sensitivity and cannot be satisfactorily be mitigated, will not be permitted. Local Plan policies BNE2 and BNE10 make provisions to protect, conserve and enhance South Derbyshire's heritage assets.

The application is primarily a proposal for the change of use of the land. Built development is limited to provision of the security perimeter fencing and creation of the car parking area, which would result in the removal of some vegetation. The Council's Conservation Officer and Canal and Rivers Trust have been consulted on the application and raised no objections. Both consultees commented that the proposal would have limited, if any, impact on the nearby heritage assets. The fencing would be wire mesh, which would have a transparent appearance. The Canal and Rivers Trust has requested that the colour of the fencing be controlled by suitably worded planning condition, which is reasonable. It is considered that the loss of vegetation in the car parking area could be compensated through submission of landscaping details, secured by planning condition. The proposal is considered to have limited visual impact and would comply with the above policies, and also the requirement of Policy E7.

### Other Matters

Some ambiguity was raised related to the applicant's address and it was advised that the applicant's address should be 'Canal Side Farm Office' and the ownership of the site was queried. This point was raised with the applicant and following some clarifications the Application Form was updated confirming that Certificate B had been served.

### Conclusion and Planning Balance

The principle of rural economic/employment development is supported by Policy E7. The key material considerations in determination of the case relate to highway safety, the impact of the proposal on residential amenity and the impact on the character and appearance of the area. It is acknowledged that significant concerns have been raised by member of the community in these regards, but it is also considered that these concerns can be adequately addressed through appropriate planning conditions as recommended. Taking all of the above into consideration, the application would comply with the requirements of the Development Plan and is therefore recommended for approval subject to conditions.

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

Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

## **Recommendation**

**Approve** subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the submitted plans and details: Existing Block Plan (01, 18 October 2023), Proposed Block Plan (02, 18 October 2023), Existing Site Plan (03, 18 October 2023), Proposed Site Plan (04A, 16 November 2023), Post and Rail Fence Details (05, 30 October 2023), Visibility Splays (06B, 10 January 2024), unless 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 use of the facility shall be for the purpose of dog walking only and shall exclude other dog related activities (such as shows, competitions, or dog agility).

Reason: To safeguard the amenities of nearby occupiers and the public highway in accordance with Policies SD1 and INF2.

4. The use of the facility shall be restricted to within the hours 0800 to 2000 only.

Reason: To safeguard the amenities of nearby occupiers and in accordance with Policy SD1.

5. In accordance with the Design and Access Statement submitted in support of the application, the facility shall only be used by a maximum of two customers at any one time. Customers shall pre-book use of the facility and a diary, which shall be available for inspection at the request of the Local Planning Authority, shall be kept showing customer booking details.

Reason: To safeguard the amenities of nearby occupiers and the public highway in accordance with Policies SD1 and INF2.

6. Prior to any first use of the site, a Management Plan should be submitted to and approved by the Local Planning Authority. The Management Plan should provide details of the site rules (including requirements for animal behaviour), how users of the site would be made aware of the rules, how managers of the site would monitor users, and what penalties would be imposed on users should the rules be broken. Once approved, the Management Plan shall be adhered to for the lifetime of the development.

Reason: To safeguard the amenities of nearby occupiers and the public highway in accordance with Policies SD1 and INF2 of the Local Plan.

7. The Development hereby approved shall not be brought into use until the access, parking and turning facilities have been provided as shown on the approved drawings.

Reason: In the interests of highway safety and in accordance with Policy INF2 of the Local Plan.

8. The development hereby approved shall not be brought into use until the access gates have been set back 5 metres from the adjoining carriageway edge and made to open inwards only.

Reason: In the interests of highway safety and in accordance with Policy INF2 of the Local Plan.

9. The development hereby permitted shall not be brought into use until such time as the access has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with Policy INF2 of the Local Plan.

10. A detailed scheme of hard and soft landscaping for the car parking area shall be submitted to and approved in writing by the Local Planning Authority. The hard landscaping should incorporate details of proposed surfacing. The soft landscaping should evidence the proposed locations of each tree species, the size of each type of tree (standard, select standard, or heavy standard with girth dimensions), the mix of any proposed grass areas, and the proposed locations and sizes of any ornamental shrubs (in litre pots). The works shall be undertaken in accordance with the agreed details prior to first use of the development. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the date of this decision; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

Reason: In the visual interest of the area and in accordance with Policies BNE1 and BNE4 of the Local Plan.

11. Prior to the installation of any external lighting a detailed lighting strategy (designed in accordance with the guidelines issued by the Institute of Lighting Engineers, or any equivalent guidelines which may supersede such guidelines) which shall include precise details of the position, height, intensity, angling and shielding of lighting, as well as the area of spread/spill of such lighting, shall be submitted to and approved in writing by the Local Planning Authority. All lighting shall be installed in accordance with the approved strategy and thereafter retained in conformity with it.

Reason: In the visual interest of the area and in accordance with Policies BNE1 and BNE4 of the Local Plan.

12. The Post and Rail fence shall be 1.8m high with timber colour posts and grey or green steel meshing.

Reason: In the visual interest of the area and in accordance with Policies BNE1 and BNE4 of the Local Plan.

#### Informatives

The application site is abutted by a Public Rights of Way Footpath No. 11 as shown on the Derbyshire Definitive Map. The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further information can be obtained from the Rights of Way Duty Officer in the Economy, Transport and Environment Department at County Hall, Matlock or by emailing [ETC.PROW@derbyshire.gov.uk](mailto:ETC.PROW@derbyshire.gov.uk).



**Item No.** 1.5

**Ref. No.** [DMPA/2020/0599](#)

**Valid date:** 23/04/2021

**Applicant:** Mr Pickstock

**Agent:** Mr Porritt

**Proposal:** **Demolition of ground floor store and extensions to the existing abattoir building and erection of extensions to form enclosed stock pens, enclosed storage areas, new water tanks and a covered stock entrance with widening of access to Coal Lane, additional access, the erection and retention of new boundary treatments and associated land grading and engineering works and installation of hardstanding at Pickstock Abattoir, 2 Coal Lane, Hartshorne, Swadlincote, DE11 7FN.**

**Ward:** Woodville Ward

### **Reason for committee determination**

This planning submission is being reported to Planning Committee as it is a major application and due to comments of concern/ objection received. The application was deferred from the meeting on 6 February due to neighbour concern about the time to provide responses to the application.

### **Site Description**

The application site is addressed as Pickstock Abattoir, 2 Coal Lane, Hartshorne, Swadlincote, DE11 7FN. The site under consideration currently hosts an existing industrial abattoir business which facilitates meat production and associated activities. The site is situated to the south of Coal Lane, and close to the junction between Coal Lane and Ticknall Road in Hartshorne. The surrounding locality is predominantly rural in nature. The site is located outside of any settlement boundary and is therefore considered to be within the rural part of the district. The site is not situated within the Green Belt, does not comprise of any Listed Buildings, and is not situated within a Conservation Area. The site under consideration does not comprise of any Tree Preservation Orders. The application site is however situated within the National Forest. The site falls within Flood Zone 1.

### **The Proposal**

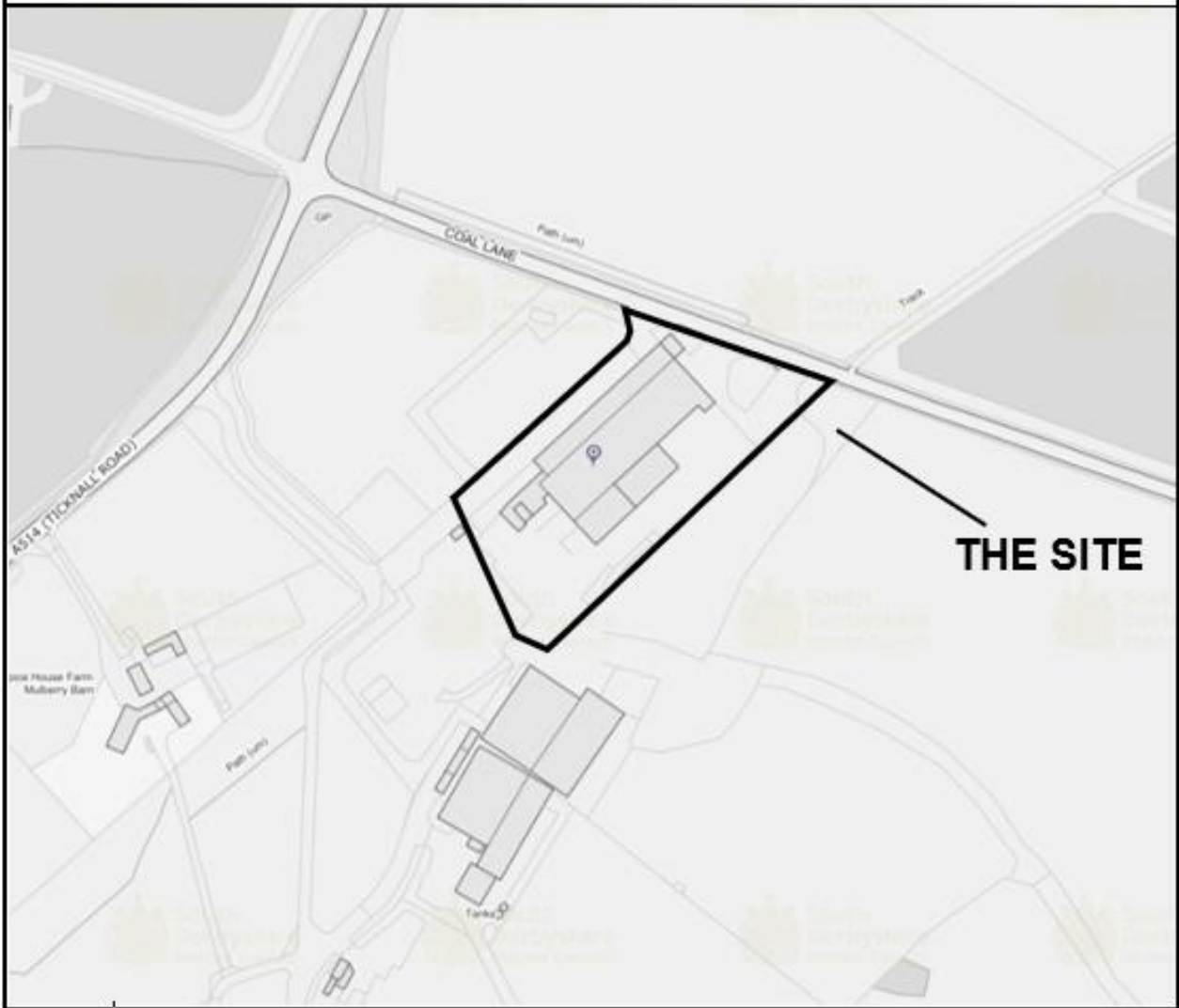
The applicant is seeking planning permission for the proposed demolition of ground floor store and extensions to the existing abattoir building and erection of extensions to form enclosed stock pens, enclosed storage areas, new water tanks and a covered stock entrance with widening of access to Coal Lane, additional access, the erection and retention of new boundary treatments and associated land grading and engineering works and installation of hardstanding at Pickstock Abattoir, 2 Coal Lane, Hartshorne, Swadlincote, DE11 7FN.

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

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

- Proposed Site Layout Plan (ref: 20/10485/108 Rev E)
- Proposed Elevations (ref: 20/10485/107 Rev B)

**DMPA/2020/0599– Pickstock Abattoir, 2 Coal Lane, Hartshorne, Swadlincote, DE11 7FN**



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South Derbyshire District Council. LA 100019461.2020

- Proposed Ground Floor Plan (ref: 20/10485/105 Rev A)
- Proposed First Floor Plan (ref: 20/10485/106 Rev A)
- Proposed Site Layout Plan (ref: 20/10485/108 Rev B)

### **Recent relevant planning history**

9/2012/0592 - The erection of extensions and alterations at Pickstocks Meats Ltd, Ticknall Road, Hartshorne, Swadlincote - Approved 21 September 2012.

### **Responses to consultations and publicity**

Natural England: No objection. The proposed development will not have significant adverse impact on designated sites.

Lead Local Flood Authority: The LLFA initially objected to the proposed. However, following receipt of additional information on 25<sup>th</sup> April 2023, the LLFA has no objection to the proposals in principle.

Environmental Health: No objection subject to a condition requiring a detailed light strategy to be submitted prior to the installation of any external lighting.

DCC County Highways: No objection subject to a series of conditions in the interests of highway safety.

National Forest Company: The National Forest Company have provided a response seeking the provision of National Forest Planting as part of the development proposals.

Hartshorne Parish Council: The Parish Council object to the proposed development with reference to concerns regarding additional traffic, discharge of waste material, visual impact on the area, impact on public right of way network.

DCC Rights of Way Officer: The PROW Officer has highlighted that Hartshorne Public Footpath No.24 runs through the site and advised on the appropriate diversion of the footpath.

A total of 9 public responses have been received on the application that object to the proposed development:

- The time offered for residents to consider the proposal and respond is considered to be unreasonable.
- Requested a site visit with officers, with no positive response has been received.
- The application information is considered to be incomplete and out of date.
- Concerns regarding impacts on the public rights of way, drainage and tree loss.
- Concerns regarding further development of the site making the drainage report, site plans and any proposals to improve appearance obsolete.
- The solution is considered to be for planning staff to address the development of the site in its entirety to date.

Since the deferral of the application from the February committee, additional comments have been received with reference to impacts on nearby neighbours and suggested potential locations for a site visit to adequately consider their concerns.

## **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) and Planning Practice Guidance (PPG), together with the South Derbyshire Design Guide Supplementary Planning Document (SPD).

The relevant Development Plan policies are:

-Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), E3 (Existing Employment Areas), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF7 (Green Infrastructure), INF8 (The National Forest).

-Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas), BNE7 (Trees, Woodland and Hedgerows).

The relevant national policy and guidance is:

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

Additional local guidance is provided within the following:

-South Derbyshire Design Guide Supplementary Planning Document.

## **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 is/are:

-Principle of development;  
-Design and amenity;  
-Access and highways;  
-Drainage; and  
-Other considerations.

## **Planning assessment**

### Principle of development

The application seeks planning permission for an extension to the existing abattoir building at Pickstock Abattoir, 2 Coal Lane, Hartshorne, Swadlincote, DE11 7FN. The proposals also includes the widening of the existing access to Coal Lane, as well as the formation of a new car parking area to the south east of the building. In addition, the proposed development also includes the associated works necessary to facilitate the development including new landscaping and infrastructure works.

The application site is located outside of any defined settlement boundary, and is therefore, considered to be within the rural part of the District. In this location, development is governed by Policy BNE5 of the Local Plan Part 2, which enables development that is allowed for by other policies in the plan. This includes Policy E7 that states that development proposals which diversify and expand the range of sustainable employment activities on land outside of settlement boundaries will be supported by the

Council where development is i). supported by a sound business case, ii). the local highway network is capable of accommodating the traffic generated, iii). development does not give rise to any undue impacts on neighbouring land; iv). it is well designed and of a scale commensurate with the proposed use, and v) visual intrusion and the impact on the character of the locality is minimised.

The application proposals are made in direct response to requirement stipulated by the Food Standards Agency, who have stated that additional built development is required at the site to ensure compliance with health and safety guidance. It is therefore understood that the works are business critical and have therefore already commenced. Whilst a specific business case has not been provided to give additional justification beyond the Food Standards Agency requirements, it is accepted that the proposals are needed to ensure the business can continue to operate to the required regulatory standards, which is considered to be sufficient to meet the required of limb i) of Policy E7. The accordance with the proposal with the other elements of Policy E7 are considered below.

In addition to the above, it should also be noted that the expansion of an existing industrial business is supported by Policy E2 of the Local Plan Part 1.

Planning permission was also granted in 2012 for a substantial expansion and re-organisation of the abattoir. The principle of expanding the facility has, therefore, previously been considered acceptable by the Council. This expansion was not however implemented. The extensions proposed as part of this application present a much smaller extension in comparison, and therefore, would be considered appropriate in this location.

The principle of development is, therefore, considered to be acceptable and in accordance with Policy E2 and Policy E7 of the Local Plan Part 1, and Policy BNE5 of the Local Plan Part 2.

### Design and amenity

The proposed development comprises of a number of extensions to the building that occupies the northern extents of the site adjacent to Coal Lane. This includes the addition of a single storey covered animal entrance on the northern elevation, and extension to lairage pens and provision of a water tank on the eastern elevation. It also includes the provision of a two-storey extension on the eastern elevation to provide additional open plan storage.

The proposed extensions are considered to be proportionate additions to the existing building to meet the operation requirements of the abattoir. The extensions are considered to be of an appropriate scale that is in keeping with the existing building. The extensions have also been constructed using the exact same material as that of the existing building. The extensions, therefore, effectively integrate into the existing built form on site, and are not considered to result in any unnecessary visual impact on the surrounding countryside. The extensions ensure that the existing building retains the appearance of an agricultural building, which is appropriate in the countryside location. Given the above and that the extensions have been made in direct response to the regulatory requirements of food production facilities, it is considered that the extensions are commensurate to the proposed use.

In terms of amenity, it is considered that on the basis that this is an established abattoir, set within a large site and that the extension are relatively minor, the proposed development would not result in an unacceptable impact on neighbouring amenity above that which is already established at the site. A number of conditions are recommended in relation to lighting, drainage and planting.

The applicants have proposed details of landscaping which is considered adequate to assimilate the building as extended in the rural landscape, with adequate planting proposed.

### Access and highways

Policy INF2 of the Local Plan Part 1 states planning permission will be granted for development where the travel generated by the proposed development has no undue impact upon local amenity, the environment, highway safety and the efficiency of transport infrastructure. Additionally, development

will be granted where appropriate provision is made for safe and convenient access to and within the development for pedestrians, cyclists, public transport users and the private car.

The application proposals seeks to widen the existing vehicular access into the site taken from Coal Lane. In addition, the proposals include the creation of a new car parking area to the south east of the building.

The Highway Authority have reviewed the planning application and raise no objection on highway terms. A series of conditions are however recommended in respect of highway safety, which relate to the provision and implementation of the site access, parking arrangements and maintenance of visibility splays. The Highway Authority have not raised any concerns with regard to the impact of the proposed development on the local highway network in terms of increase in traffic.

Overall, it is considered that the proposals would lead to an improvement to the existing access and parking arrangements at the site, which is a significant benefit in favour of the proposed development.

Additionally, it is noted that the application proposals would prevent the need for some food processing operations to be undertaken offsite. As such, the proposals will result in an increase in the sustainability of the business through the reduction in the number of vehicles travelling to and from the site.

Subject to the proposed development proceeding in accordance with the proposed conditions, it is considered that it would be acceptable and in accordance with Policy INF2 of the Local Plan Part 1.

#### Drainage

Policy SD3 of the Local Plan Part 1 states that the Council will seek to ensure that adequate water supply, sewerage and drainage infrastructure is delivered in tandem with identified growth.

Following an initial holding objection from the LLFA, the applicant submitted further information regarding the proposed surface drainage strategy and water quality impacts associated with the proposed development. This information highlights that the surface water drainage system is “no worse” than prior to the redevelopment and does provide a degree of betterment in terms of areas drained and run off from the site. Additionally, improvements are made in water quality run-off as virtually all of the hardstanding areas now drain to the foul system and Severn Trent Foul sewer under licences. On the basis of the above, the LLFA have removed their holding objection.

The proposed development is, therefore, considered to be acceptable and in accordance with Policy SD3.

#### Other considerations - Public Rights of Way

Representations have raised the requirement for Hartshorne Public Footpath No.24, which runs through the application site, to be diverted. Whilst this process itself is independent to the planning assessment of the application, provisions have been made within the proposed plans to appropriately divert the footpath. Rerouting around the application site’s perimeter is considered to be a reasonable and deliverable diversion, without significant impact on users.

The application has been progressed by the Council’s consultants at Planning and Design Group and as a result a meeting has recently been held between some residents, the Head of Planning and Strategic Housing and one of the Directors and Planning and Design Group. At this meeting the concerns of neighbours were discussed.

Following the earlier deferral neighbours requested a member site visit.

#### Conclusion and Planning Balance

The proposals subject to this planning application do result in some additional impact on the character and appearance of the area, neighbour amenity, and highway safety. It is considered that these points can be successfully addressed with the recommended conditions and that the application will result in positive benefits of job creation and supporting an existing business to expand.

## **Recommendation**

Approve with 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.

## **Proposed conditions**

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

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

2. The development hereby permitted shall be carried out in accordance with the Proposed Site Layout Plan (ref: 20/10485/108 Rev E), Proposed Elevations (ref: 20/10485/107 Rev B), Proposed Ground Floor Plan (ref: 20/10485/105 Rev A), Proposed First Floor Plan (ref: 20/10485/106 Rev A), 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. Prior to the installation of any external lighting a detailed lighting strategy (designed in accordance with the guidelines issued by the Institute of Lighting Engineers, or any equivalent guidelines which may supersede such guidelines) which shall include precise details of the position, height, intensity, angling and shielding of lighting, as well as the area of spread/spill of such lighting, has been submitted to and approved in writing by the Local Planning Authority. All lighting shall be installed in accordance with the approved strategy and thereafter retained in conformity with them.

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

4. Prior to the premises hereby permitted first being taken into use, the accesses to the site shall be modified in accordance with application drawing 20/10485/108 Rev B, laid out and surfaced in a solid bound material for at least the first 10m into the site from the highway boundary.

Reason: In the interests of highway safety.

5. Prior to the premises hereby permitted first being taken into use, the entire frontage of the site shall be cleared of any obstruction exceeding 600mm in height relative to the nearside carriageway edge for a distance of 2.4m back from the carriageway edge in order to maximise the visibility available to drivers emerging from within the site onto the public highway.

Reason: In the interests of highway safety.

6. Prior to the premises hereby permitted first being taken into use, the redundant accesses shall be permanently closed in accordance with the application drawing (20/10485/108 Rev B) and the

vehicular crossover reinstated as verge in accordance with a scheme first submitted to and approved in writing with the local Planning Authority.

Reason: In the interests of highway safety.

7. Prior to the premises hereby permitted first being taken into use, the car parking and manoeuvring space shall be laid out generally in accordance with the application drawing (20/10485/108 Rev B), however, notwithstanding the submitted details, each space shall measure at least 2.4m x 5.5m and be provided with 6m manoeuvring space. Thereafter, the parking and manoeuvring area shall be maintained throughout the lifetime of the development, free from any impediment to its designated use.

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

8. All planting, seeding or turfing comprised in the approved details of soft landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the buildings 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 phase die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

Reason: to ensure adequate landscaping arrangements.

9. The development hereby permitted shall be carried out in complete accordance with the Drainage Strategy '22-017 996' as received by the Local Planning Authority on 17 March 2023.

Reason: To ensure adequate drainage arrangements.

#### Informatives

- 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 strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk) email [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk) or telephone 01629 533190.
- b) Pursuant to Section 127 of the Highways Act 1980, no works may commence within the limits of the public highway to reinstate the footway/verge and redundant vehicular access without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 127 Agreements may be obtained by contacting the County Council via email – [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 127 Agreement.
- c) 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.
- d) The application site is affected by a Public Right of Way, Footpath 24 as shown on the Derbyshire Definitive Map. The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place - please note that the granting of planning permission is not consent to divert or obstruct a public right of way. If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Contact 01629 533190 or e-mail [ete.prow@derbyshire.gov.uk](mailto:ete.prow@derbyshire.gov.uk) for further information and an application form. However, if a right of way is required to be permanently diverted then the Council that



determines the planning application i.e., Planning Authority, has the necessary powers to make a diversion order. Any development insofar as it will permanently affect a public right of way must not commence until a diversion order been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.

- e) Nuisance: The granting of this planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of part III of the Environmental Protection Act 1990 be received. For further information please contact the Environmental Health Service.

**Item No.** 1.6

**Ref. No.** [DMPA/2022/0350](#)

**Valid date:** 27/04/2022

**Applicant:** Trident Housing Group **Agent:** Nicol Thomas

**Proposal:** Application seeking full planning permission for demolition of existing outbuildings and redevelopment of site to provide 12no. 4 bedroom houses with associated access and landscaping at Land off Brunt Lane, Woodville, Swadlincote, DE11 7HX

**Ward:** Woodville

### **Reason for committee determination**

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

### **Site Description**

The site is located at the end of Brunt Lane, which runs off the A511 in the Woodville area of Swadlincote. Brunt Lane is a small spur lane which feeds a relatively recent residential development, and which is a private road. There is currently no access from Brunt Lane to the site, instead legal access to the site is understood to be from Fairfield Terrace off the A511. Fairfield Terrace is a small lane which splits dwellings from their primary amenity. Given this and the scale, Fairfield Terrace is predominantly pedestrian.

The redline site is roughly square in shape but skewed and includes Brunt Lane up to the A511 for access. The site comprises 0.45hectares with various out buildings and sheds, which are in a poor state, and wider grassland. Several mature trees are established on the south and north east of the site. The site generally falls 3m from south west to north east.

The site sits within a residential area, however commercial uses flank the A511. The surrounding residential properties are predominantly two storey mixed. The vernacular is typical semi- and detached mid 20<sup>th</sup> century onwards and the more modern development around Brunt Lane. Given the area is a suburb of Swadlincote there are a range of styles and building types especially along the A511, but with a strong theme of red/stock brick.

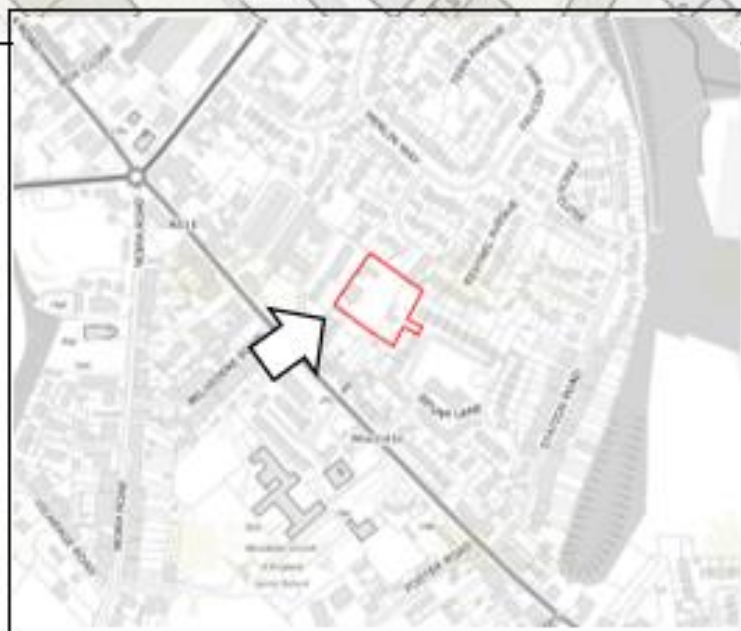
The site is bound to the north west by the rear gardens of semi detached properties fronting Blacksmith's Lane; the site is bound to the north east by the rear gardens of Plover Avenue; the site is proposed to be accessed from the south east via Brunt Lane, and is bound by residential properties flanking this access; and the site is bound to the south west by mature trees, and properties flanking Fairfield Terrace.

The site is within the Swadlincote settlement boundary which encompasses Swadlincote as set out by Policy SDT1 of the Local Plan Part 2 and confirms it as the main urban area of South Derbyshire District, where development should be focussed. The site has no heritage considerations, no flood risk concerns and no ecological or wildlife designations. None of the trees are covered by TPO's. The site is located within areas designated for Coal – High Risk Area, Contaminated Land potential risk and the National Forest.

DMPA/2022/0350 – Land off Brunt Lane, Woodville, Swadlincote, DE11 7HX



**THE SITE**



**MAPS ARE NOT TO SCALE**

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South Derbyshire District Council

South Derbyshire District Council, LA 100019461 2020

## **The proposal**

The proposal is for full planning permission for the demolition of the existing structures on site and residential development consisting of 12no. 4 bedroom houses with a newly formed access from Brunt Lane, landscaping and ecological area for on-site BNG.

The development description is as follows:

Application seeking full planning permission for demolition of existing outbuildings and redevelopment of site to provide 12no.4 bedroom houses with associated access and landscaping

The proposed development has been considerably amended since its first submission. Previously, the development sought 21 no. affordable dwellings across a range of typologies in solely affordable rented tenure. This proposal was accepted as overly dense and not reflecting the affordable needs for the specific area. On this basis, the applicant revised the scheme removing 9 units.

The proposal now is for 12. no dwellings arranged around a private spur road and turning head in a horse shoe arrangement. Three trees in the middle of the site will be removed. Each dwelling is served by front and rear gardens for amenity space. Trees are proposed in each front garden. Bin space and cycle space is also provided within each demise.

The proposed access into the site will be via a new access from Brunt Lane – the spur road a continuation of the private network. The approach to the site will be through the existing development served by Brunt Lane to the A511.

Each dwelling will be served by parking via driveway and/or garage amounting to 3spaces which reflects the Design SPD advice for parking standards. Two unit's garages will be detached. Each dwelling will also have passive provision for EV charging.

There are private surface water and foul sewer easements running through the site. The layout respects these easements to the north west and north east.

All dwellings are two storeys in height to reflect the adjacent developments. Building form varies according to the location to reduce blank elevations. Long section elevations are broken down by the detached nature and levelling to follow topography.

The elevational design is fairly traditional with pitched roof, artstone cills and heads to front elevations. The brick colour is red to reflect adjacent development and vernacular.

## **Applicant's supporting information**

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

6974.01 - Landscaping Layout

1047.4 BIA - Biological Impact Assessment

Phase 1 Ecological Assessment -Fair01213\_PEA

M4621.PL.10B - Proposed Site Plan

M4621.PL.11A - Proposed Floor Plans

M4621.PL.12A - Proposed Street scenes

M4621.PL.13A - Proposed Elevations Sheet 1

M4621.PL.14A - Proposed Elevations Sheet 2

M4621.PL.15 - Proposed Roof Plans

M4621 Rev:C – Design & Access Statement

BLW-LE-GEN-XX-DR-CE-005 Rev:A – Preliminary Levels

BLW-LE-GEN-XX-RP-CE-FRA01 – Flood Risk assessment dated February 2023

FRA Appendix A: Woodville Proposed Site Layout

FRA Appendix B: Existing Boundary Details

FRA Appendix C: STW Easement e-mail  
FRA Appendix C: STW Sewage supply connections guidance note  
FRA Appendix C: STW Sewer Records  
FRA Appendix C: STW Correspondence e-mail  
FRA Appendix C: STW Correspondence letter  
FRA Appendix D: Greenfield Runoff calculations  
FRA Appendix E: Micro drainage surface water calculations  
FRA Appendix E: Drainage Strategy  
FRA Appendix E: Drainage Catchment Area  
Fairfield Terrace Tree Report 2023  
Phase 1 Site Investigation – KCD/30092 Part 1 of 2  
Phase 1 Site Investigation – KCD/30092 Part 2 of 2  
Phase 2 Site Investigation – KCD/30092/2  
37390-T – Topographical Survey  
Phase 1 Preliminary Ecological Appraisal Fair0123\_PEA January 2023  
Applicant Letter Confirming acceptance S106 Contributions  
M4621.PL.10 Rev D Proposed Site Layout  
Landscape and Ecological Enhancement Scheme 1277 Dwg1 Rev 0

### **Relevant planning history**

There is no registered planning history on file for this site.

The proposal seeks access via the adjacent development situated on a previous engineering works – Mason Cash / MCC Realisations.

The adjacent development was permitted via the following permissions:

9/2004/0106 – Outline application (all matters to be reserved except for means of access) for a residential development - Approved 2004.

9/2005/0025 – The approval of reserved matters of planning permission 9/2004/0106/M for the erection of 75 dwellings - Approved 2005.

9/2005/0738 – The approval of reserved matters of planning permission 9/2004/0106/M for the erection of 75 dwellings without complying with condition 6 of reserved matters approval 9/2005/0025DM (plot levels) - Approved 2005.

On review of the decision notices and supporting legal agreements under S106 of the Town and Country Planning Act 1990 (as amended) there was no explicit condition or legal obligation that prevented the use of the access or other infrastructure permitted by the permissions above by adjacent developments, third parties or non-residents.

### **Responses to consultations and publicity**

The application was publicised via two rounds of consultation running from 10<sup>th</sup> May until 3<sup>rd</sup> June 2022, 28<sup>th</sup> February until the 10<sup>th</sup> March 2023 during which letters were sent to neighbours and a site notice and press notices publicised the application.

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

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

- Amendment of redline to follow and include Brunt Lane to A511 (up to the adopted highway)

- Reduction in dwellings from 21 no. to 12 no. and change in tenure from affordable to market tenure
- Further information regarding the private nature of the Brunt Lane, access arrangements and maintenance going forward
- Revised information relating to the reduced number of dwellings
- Further information regarding S106 contributions and BNG delivery on site

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

Woodville Councillors – No response

Woodville Parish Council – Objection

Detrimental impact on residents amenities. Increased comings and goings. Highway impact, increased traffic on High Street.

SDDC Environmental Health Officer (EHO) – No objection subject to conditions related to contaminated land.

SDDC Arboricultural Officer – No objection to the removal of trees

*6 individual trees were assessed on site and concluded as having little amenity value and score a TEMPO value of 6 and do not merit a TPO.*

The proposed landscaping includes planting a mixture of 6 half standard apple trees and 9 heavy standard native broadleaved trees silver birch, rowan and lime. The native hedge species are hawthorn, hazel, holly, field rose and dog rose. Further planting is also a good habitat for insects. The proposed landscaping would in time mitigate the loss of amenity and biodiversity should the existing trees, shrubs and the 2 hedges be removed to undertake the development.

SDDC Strategic Housing – Objection to the previous affordable housing proposed due to lack of need in the immediate area.

Derbyshire County Council (DCC) Highways – No objection subject to conditions related to construction management and parking.

Brunt lane was constructed to adopted highway standards and the reason it was not adopted was drainage issues. Once the drainage issue had been resolved the developer decided against adoption and preferred to retain Brunt Lane as a private road.

Taking this into account it is considered that the means of access to the proposed development is satisfactory and will not have a material impact on the operation of the local road network or on road and pedestrian safety.

Whilst the proposed parking provision is satisfactory the size of the proposed parking spaces must be shown. Parking spaces should be a minimum of 2.5 x 5m but with an additional 0.5m if bounded by a wall, fence, hedge, line of trees or other obstructions on one side, and add 1m if bounded on both sides. The applicant is requested to ensure that the site layout is in accordance with the above criteria and to show the parking space dimensions.

Secure By Design – No objection

DCC Archeology – No objection / No issues

The site is unlikely to contain any buried archaeology and no occupation of the site other than for a relatively modern Ice Cream factory is attested. I would advise therefore that there will be no impact from development and no need to attach a condition to deal with the archaeology to the decision.

DCC Local Lead Flood Authority – No objection subject to conditions related to surface water drainage.

Derbyshire NHS – No objections or requests for S106 contributions.

National Forest – No objection subject to financial contribution and LEMP (managing trees)  
*As required by Policy INF8, 0.1ha of the site should be National Forest planting. In this case, the NFC considers that a financial contribution of £3,500 towards the cost of creating off-site National Forest sites, planting and associated development works would be the most appropriate way to meet the National Forest planting requirement. Consideration as to how the trees shown in the landscaping scheme will be maintained long term is required.*

Forestry Commission – No comments

SDDC Landscape – Comments

*With the increase in the development of the site, we have the following comments.*

- A. Increase fruit tree planting to plots 9,10,11 and 12.*
- B. Native species hedgerow mix to be 70% Hawthorn.*
- C. All boundary fencing to show hedgehog access and the frequency of.*
- D. Provide a Landscape and Ecology Maintenance Plan for 5 years.*

*We require enhancement of the biodiversity, that will mitigate for the increased development of the site. With the use of native species, with consideration to improving local biodiversity including hedgehogs, birds, bats, and bees etc.*

Open Spaces Society – No objection

Coal Authority – No objection subject to conditions

Past shallow coal mining activity poses a potential stability risk to development at the site and that remedial measures are required in order to ensure the safety and stability of the development.

Derbyshire Wildlife Trust – No objection / Site will deliver BNG on site subject to conditions  
The new proposals set out in the Biodiversity metric Rev 3 should ensure that a net gain is achieved for habitats and for the hedgerows. There is a small gain for habitats, mainly achieved through new gardens, 24 small urban trees and the creation of a small area of other neutral grassland within the development. This grassland area is only 0.04 ha in size and will be vulnerable to disturbance, so consideration needs to be given to how to protect the grassland from accidental amenity use including trampling and tipping. Ideally the grassland should be created on subsoils or at least low fertility or nutrient soils. Top soil should not be used in the area where the grassland is to be created. The proposed new hedgerows should more than address the loss of the 10m stretch of native hedgerow on-site.

The application received 41 responses in objection to the proposal. The following issues were raised as grounds for objection:

- a) Increased pressure on local schools and services
- b) Brunt Lane does not have the capacity to take any further parking
- c) Brunt Lane is private and existing residences pay for its upkeep and maintenance – will this charge be applicable to the new properties being built?
- d) Brunt Lane is managed by Centrick Property Services who charge a service charge to existing residents on Brunt Lane will this be applied to the new properties?
- e) Brunt Lane experiences inconsiderate parking from parents associated with the nearby schools meaning it isn't suitable to cater for new trips
- f) Issue with consultation and missing letters
- g) Access to Brunt Lane estate should not be allowed to anyone not living on the estate – current issues with anti social behaviour from teenagers on common space in middle of estate
- h) Construction would lead to significant disruption to neighbouring dwellings

- i) Access is tight due to school pick up and drop off and unregulated on street parking – construction and operation would exacerbate these issues
- j) New residents should be liable to pay for additional use of road and common open space
- k) Road is not designed for construction traffic
- l) Given the level difference running south, properties along Brunt Lane will be affected by surface water drainage
- m) Adjacent driveways to properties on Brunt Lane would lead to vehicles running late at night and doors slamming
- n) Is an additional 21 dwellings needed in the area
- o) Additional traffic passing through a busy access route
- p) Lack of parking causes existing residents to park on the roads around the estate which reduces the width of the road
- q) Additional noise arising from the increased traffic on Brunt Lane
- r) There is Japanese knotweed on site and around the proposed access from Brunt Lane – it was not fully remediated by the developer of the Brunt Lane houses
- s) The current access from Fairfield Terrace is unadopted and maintained by the adjacent residents – it is not suitable for construction traffic
- t) The development of Brunt Lane caused significant disruption to Fairfield Terrace
- u) No access or parking along Fairfield Terrace should arise from the construction of the development
- v) Increased traffic from proposed development would make the junction with the A511 unsafe
- w) The junction is opposite an infant school which increase AM and PM peak use
- x) Parking proposed is insufficient on site
- y) The development will give rise to air pollution – some residents have long Covid which would be unduly impacted
- z) Brunt Lane was not designed to cater for HGVs
- aa) Construction would impact air quality and make Brunt Lane dirty with debris from the construction impacting amenity
- bb) Swept path analysis for construction vehicles should be provided to ensure against driving on kerbs/green areas
- cc) Overlooking to 3 Fairfield Terrace and access to 3 Fairfield Terrace
- dd) Once parking is used on the site for dwellings any further parking will take place on Brunt Lane causing issue
- ee) Presence of bats on site – there needs to be a full survey undertaken
- ff) Presence of Japanese Knotweed on site

The application received no responses in support of the application.

### **Relevant policy, guidance and/or legislation**

The relevant Development Plan policies are:

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

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

The relevant local guidance is:



The relevant national policy and guidance is:  
National Planning Policy Framework (NPPF) (as updated)  
Planning Practice Guidance (NPPG)

### **Planning considerations**

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

- Principle of development and housing delivery
- Design, Layout and Density
- Access, highway capacity and parking
- Trees, Biodiversity and ecology
- Cultural Heritage
- Drainage
- Section 106 obligations
- Other matters; and,
- Conclusion and Planning Balance

### **Planning assessment**

#### Principle of development and housing delivery

The proposal seeks residential development of 12 no. dwellings (Use Class C3) and demolition of the existing buildings. The site is located within the settlement boundary of Swadlincote, which is categorised as an 'Urban Area' in LP1 policy H1 as such it is the principal area of development in South Derbyshire District Council.

On this basis, the Local Plan seeks to guide housing development principally to this location given it is deemed to have the largest range of services and facilities in SDDC.

Policy H1 notes that *the level of development for each settlement will be of a scale appropriate to the size and role of that settlement. As planning applications are received the merits of each individual site will be assessed through the Development Management process.*

The existing buildings are vacant and in a poor state of repair. The LPA understands that one building was once at one time an ice cream factory but there is no planning history for this use or buildings. However, it is not listed or locally listed, or within a conservation area or setting of an asset. Historic England would not be required to comment on this application. On this basis, the demolition raises no issues in principle.

It is noted that all the units proposed are all 4 bed dwellings. Whilst there may be a slight conflict with the strict reading of policy H20, a consideration is the wider make up of the housing market in Woodville which is understood to have a majority of 2 and 3 bed properties. On this basis, it is accepted that the delivery of a small amount of 4 beds to help readdress the balance and offer more variety in the existing housing market is welcomed in this instance and seen in wider alignment with H20.

The amended proposal seeks 12 dwellings which falls below the threshold for affordable housing to as required as set out in Policy H21 of LP1.

In conclusion then, it is considered there is a presumption in favour of housing development on this site; indeed 12 no. dwellings would contribute to meeting the housing need across SDDC within the settlement boundary taking pressure off areas beyond. It is not considered 12 dwellings is out of scale for the settlement and therefore the principle of residential development is considered to be acceptable

in accordance with policy H1, SDT1 and the material benefit of maintaining SDDCs housing supply using land within the main identified settlement.

#### Design, Layout and Density

LP1 policy BNE1 requires all new development to be well designed, to embrace the principles of sustainable development, to encourage healthy lifestyles and enhance people's quality of life by adhering to design principles relating to community safety, street design, movement and legibility, diversity and community cohesion, ease of use, local character and pride, visual attractiveness, neighbouring uses and amenity, healthy lifestyles and resource use. The Council's Design SPD also provides helpful guidance on a range of further design and amenity issues.

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

It is considered that as per consultation comments the initial proposal for 21 no dwellings was overdevelopment. Now the development is for 12 dwellings the density is 27 per hectare which is considered to reflect the surrounding densities within the immediate area of Woodville.

The layout of the development is around the proposed extension of Brunt Lane and turning head forming a horse shoe of dwellings. The arrangement means that front elevations face onto the street scene activating the space.

The layout allows for existing easements setting development away from its northern boundary and dwellings along Plover Avenue to the north. Severn Trent have confirmed as part of the submission the easements arrangements and that the proposal is inline with them. Gables ends with no obtrusive windows serving habitable rooms are placed adjacent to immediate dwellings along Brunt Lane. In addition, given garden depths and layout it is considered there are no impacts on amenity of adjacent dwellings. On this basis, the proposal is inline with the Design SPD in terms of overlooking and privacy.

Parking is provided off street, with driveways and provision of garages. 8 no properties accommodate integral garages. Detached garaging is provided on site for a further 2 no plots. Each dwelling benefits from front and rear private amenity space. The units are to be built to nationally described space standards (NDSS). The standards are accepted as providing acceptable sized housing. Space is allowed for cycle parking, bin store and off street charging for each unit. Furthermore, the layout provides for BNG provision, tree planting, log piles and bird and bat boxes. All of which suggests well spaced development of a suitable density allowing for features to support modern functional dwellings. The arrangement of dwellings along with associated amenity space ensure that the development is inline with BNE1.

Officers consider that the general aesthetic of the development respects the existing heritage of the immediate area. The elevational design is fairly traditional with pitched roofs, white fascia and soffits and artstone cills and heads to front elevations. The proposed development seeks a mixture of external materials across the development, but the main facing materials is proposed as red brick which is in-keeping in the area and detailing has taken cues from existing residential properties around Brunt Lane. Overall, the materials and design approach has been accepted by the design officer subject to conditions seeking samples and details of key elements.

For the reasons set out above it is considered that the development is inline with policy BNE1, BNE4 and the Design SPD.

#### Access, highway capacity and parking

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

The proposed access into the site will be via a new access from Brunt Lane. This approach to the site will connect the new development to the existing carriageway at the A511. Fairfield Terrace access will be restricted by condition and unfeasible given the proposed layout.

Officers note that Brunt Lane is a private road and not adopted public highway. It is understood Brunt Lane is maintained via a management company to which residents of the adjacent development around Brunt Lane serves pay a fee to.

It has been confirmed by the applicant that they have legal access over Brunt Lane for the development. Submitted documents confirm this. As set out above in the planning history, there is nothing explicit on review of the planning permissions that would stop this approach. Further to this, it has been confirmed by the applicant that the extension to Brunt Lane serving this development will also remain private and residents of the proposed dwellings will also pay a fee to maintain the entire Brunt Lane, but this would be ultra vires to control.

Through consultation with DCC Highways it has confirmed that Brunt Lane was constructed to adoptable highway standards and the reason it was not adopted was arrangements with the statutory drainage operator. Once the drainage issue had been resolved the developer decided against adoption and preferred to retain Brunt Lane as a private road, with maintenance undertaken by a management company. This approach is not uncommon.

Submitted documents include swept path analysis showing vehicle access through Brunt Lane for servicing and emergency access. DCC Highway Authority confirmed that the means of access to the proposed development was satisfactory and would not have a material impact on the operation of the adopted local road network or on road and pedestrian safety.

Further to this, each dwelling will be served by parking via driveway and/or garage amounting to three spaces which reflects the Design SPD advice for parking standards. Each dwelling will also have passive provision for EV charging and space for cycle parking in the private amenity supporting sustainable means of travel. DCC have accepted this level of parking as sufficient for the proposed dwellings.

Public consultation comments have raised that the trips generated by the development will make the A511 junction and Brunt Lane unsafe; that Brunt Lane is subject to on street parking currently which will be exacerbated by the proposal; and that it is unfair on existing residents given they pay a sum towards the upkeep of the road.

Given that this is a private road and the applicant has a legal right for vehicle access through Brunt Lane; that DCC Highways have not objected and conclude that the access is satisfactory and would not materially impact on the operation of the adopted network; and that control of the private road is beyond the remit of planning it is considered that the proposal would not result in any severe highway safety impacts and is in accordance with Policy.

The existing parking issues on Brunt Lane are again a private matter and to address the management company should be contacted. Notwithstanding this, the proposed development is considered to provide sufficient parking for the size of houses proposed. On this basis, it is concluded that the development would not lead to on street parking on Brunt Lane. The satisfaction of the construction management condition may require greater control and comfort around on street parking not leading to traffic backing up onto the adopted network but this will be considered at that time.

Lastly, again the management of Brunt Lane is a private matter. A condition for the details of ongoing management of the extension into the proposal will be attached to the decision. It is likely a private management company will again manage the private road for the proposal. Any relationship between users, liability to maintain and fairness is a private matter.

The private road and use is a private matter, officers are satisfied that the applicant has legal access. DCC Highways has confirmed that the access, levels of parking and impact on the network is acceptable. Whilst Officers can accept that its use may be perceived as unfair by existing home owners it is not a material planning consideration.

Drawing the above together, it is considered there is no reason for refusal in this regard and the application is considered acceptable in terms of access and highway capacity/safety.

#### Trees, Biodiversity and ecology

The Phase 1 Ecology Report confirms that the site is of 'low ecological value' consisting primarily of amenity grassland, buildings and some landscaped trees. Further details are shown within the reports Ref: Fair0123\_PEA – which was update following comments from DWT. In relation to this with regards to comments that the site supported bats, this updated PEA provided for a Bat Survey undertaken in line with Bat Surveys for Professional Ecologists (3rd Edition), BCT (2016) and the conclusion was that no further bat surveys are recommended. DWT's response is below.

The tree report supplementing the application details trees for removal and retention. Trees referenced in the report as T1, T2, T3 and H1 are located off and outside of the site boundary. Fencing is proposed in lieu of hedging as dictated in the report to provide additional security and privacy to householders. Trees T7, T8 and T9 are to be removed in line with the report recommendations and the proposed landscaping scheme submitted provides a range of tree planting to mitigate against this loss, improve the public realm and enhance the ecology and biodiversity on site.

SDDC's Tree Officer does not raise an objection to the proposed loss of trees and the further tree schedule works set out in the landscaping scheme to facilitate the development. It was noted that the 6 individual trees ( 2 sycamore, 2 apple trees, a goat willow and a Lawson cypress tree) have little amenity value and score a TEMPO value of 6 and do not merit a TPO, and it has been concluded that the proposed landscape scheme would in time mitigate the loss of amenity and biodiversity should the existing trees, shrubs and the 2 hedges be removed to undertake the development.

On this basis, the proposed additional planting is accepted as sufficient mitigation inline with BNE4. As set out in the Tree Survey any retained trees must have their root protection area (RPA) protected with fencing in accordance with BS5837 and this will be conditioned.

With regards to ecology and biodiversity the applicant provided updated and further material in response to initial responses to comments made by Derbyshire Wildlife Trust (DWT), in addition in amending the scheme space on site was found to be put towards biodiversity net gain. Overall, the post development proposals include vegetated gardens, urban trees and 0.04 ha of other neutral grassland (a moderately diverse grassland type suitable to neutral soils). The proposals also include the creation of 70m of native species hedgerow in c.12 sections through the development.

The baseline habitats are comprised of modified grassland, urban trees, and a small area of developed land. The baseline value is 0.84 habitat units (HU) and 0.04 hedgerow units. Post development these values are 0.87 HU and 0.27 hedgerow units. This equates to a 3.56% gain for habitats and a 575.5% increase for hedgerow on-site. DWT seek more detail within a written document such as a Landscape and Biodiversity Enhancement Plan to address methods for tree planting, grassland creation and bird and bat box provision as well as management prescriptions and timescales. Further to this DWT seek a condition relating to Construction and Environmental Management Plan to address any potential risks and impacts to protected species or species of conservation concern that might be affected.

Subject to the conditions noted above DWT do not raise any objection and conclude the proposed development would be able to provide a net gain in line with the NPPF and no further surveys or assessments are required, agreeing with the conclusions of the bat survey. Indeed if bats or badgers are found during construction existing legislation would protect them accordingly, but no further assessment or consideration is needed as part of this application.

In conclusion, there is an accepted approach to securing BNG through the provision of a landscaping scheme, ecological features, tree planting and enhancement area in the north of the site. Derbyshire Wildlife Trust (DWT) has considered the supporting Ecological Impact Assessment and approach to securing Biodiversity Net Gain and raises no objection subject to conditions which will adequately protect the site during construction and secure the LEMP delivering the net gain with periodic monitoring.

It should be noted that whilst the Environment Act is now in place, this does not apply to existing major applications and there are no grounds to retrospectively seek 10% on major applications. Local Plan policy seeks an enhancement in biodiversity and this proposal will deliver a 3.56% gain.

On this basis, no objection is raised by DWT in terms of approach or gain and it is considered that the proposed development from an ecology perspective would be in accordance with LPP1 Policy BNE3, BNE4, LPP2 Policy BNE7 and paragraph 174 of the NPPF.

#### Cultural heritage

There are no heritage assets within the application site, nor is it considered that the development would impact any heritage settings given there are none considered to be within the vicinity of the development.

The application has been consulted on with the Derbyshire County Council (DCC) Archaeologist who has confirmed no likely impact to heritage assets..

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

#### Drainage

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

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

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

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

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

No objection has been raised by the LLFA in consultation subject to conditions which will control the detailed delivery of the flood risk strategy, how additional surface water *run-off from the site will be avoided during the construction phase, and prior to occupation a verification report of the drainage strategy.*

On this basis, the proposed development subject to conditions is considered not at significant flood risk given a suitable drainage strategy can be implemented. The proposed development therefore accords

with LPP1 Policies SD2 and SD3 and Section 14 of the NPPF and reflects the concerns raised in the RNP.

#### Section 106 obligations

The application was consulted on with statutory consultees which are service providers in the area. No contributions were sought with regards to education or libraries by Derbyshire County Council, or contributions towards healthcare provision by the NHS.

Contributions were sought by the National Forest Company and SDDC officers as follows:

Built Form contribution of £145.02 per bed space therefore in total £6, 960. 96

Outdoor Sports contribution of £275.29 per bed space therefore in total £13, 213. 92

Open Space contribution of £1, 412. 22 per bed space therefore in total £67, 786. 44

National Forest contribution of £3, 500.00

In total therefore a contribution of £91, 461.32.

The applicant has agreed to these contributions.

On this basis, the development will accord with policies INF1 and INF9 of the Local Plan.

#### Other matters

It is noted that the area is in an area designated for high risk due to historic coal mining. Subject to conditions the Coal Authority raise no objection and such conditions will be attached.

During the application the presence of Japanese Knotwood was highlighted to the planning authority. The matter is primarily that of Environmental Health who raised no objection, however given the invasiveness and potential impact of the species Officers feel it is justified to attach a condition seeking method statements for its removal as part of the development, if found on site.

#### Conclusion and Planning Balance

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

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

The site is located within the settlement boundary of Woodville and is not designated for any use or value which would restrict its development. No issue to the loss of the existing buildings has been concluded, nor is there a restrictive policy or material consideration to require retention given the context.

The proposal would follow the presumption in favour of development within settlement boundaries as per policies H1 and SDT1 and on this basis is acceptable. It is acknowledged that objections have been received with a high number of objections relating to highways and amenity issues. The proposed dwellings are considered to be of high quality meeting national space standards, have front and rear private amenity and do not give rise to any unacceptable impacts on adjacent amenity. Overall, they are considered high quality units that will support SDDCs housing supply in an area with a presumption in favour. This weighs in favour of the application.

The site is considered sustainable and accessible given its location within the settlement boundary. The access is via Brunt Lane which is private but overall Derbyshire County Council as Highway Authority raise no objection to access and highways impacts. Matters raised during public consultation are considered to be acceptably addressed with the inclusion of appropriate planning conditions and S106 contributions. Overall, the application is considered to be acceptable regarding highways and access.

The proposal will result in financial contributions to local infrastructure and the national forest in line with policy. Heritage and technical matters such as drainage, coal risk, contamination are all acceptable subject to conditions as set out above.

On the basis of the above, for the reasons set out the proposed development is considered sufficiently compliant with the local plan..

### Equality Implications

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. **Approve** subject to the following conditions below.

B. ALLOW for delegated powers to the Head of Strategic Planning to resolve a legal agreement under S106 of the Town and Country Planning Act 1990 (as amended) following the contributions as set out in this report.

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:

6974.01 - Landscaping Layout

1047.4 BIA - Biological Impact Assessment

Phase 1 Ecological Assessment -Fair01213\_PEA

M4621.PL.10B - Proposed Site Plan

M4621.PL.11A - Proposed Floor Plans

M4621.PL.12A - Proposed Street scenes

M4621.PL.13A - Proposed Elevations Sheet 1

M4621.PL.14A - Proposed Elevations Sheet 2

M4621.PL.15 - Proposed Roof Plans

M4621 Rev:C – Design & Access Statement

BLW-LE-GEN-XX-DR-CE-005 Rev:A – Preliminary Levels

BLW-LE-GEN-XX-RP-CE-FRA01 – Flood Risk assessment dated February 2023

FRA Appendix A: Woodville Proposed Site Layout

FRA Appendix B: Existing Boundary Details

FRA Appendix C: STW Easement e-mail

FRA Appendix C: STW Sewage supply connections guidance note

FRA Appendix C: STW Sewer Records

FRA Appendix C: STW Correspondence e-mail

FRA Appendix C: STW Correspondence letter

FRA Appendix D: Greenfield Runoff calculations

FRA Appendix E: Micro drainage surface water calculations

FRA Appendix E: Drainage Strategy

FRA Appendix E: Drainage Catchment Area

Fairfield Terrace Tree Report 2023

Phase 1 Site Investigation – KCD/30092 Part 1 of 2  
Phase 1 Site Investigation – KCD/30092 Part 2 of 2  
Phase 2 Site Investigation – KCD/30092/2  
37390-T – Topographical Survey  
Phase 1 Preliminary Ecological Appraisal Fair0123\_PEA January 2023  
Applicant Letter Confirming acceptance S106 Contributions  
M4621.PL.10 Rev D Proposed Site Layout  
Landscape and Ecological Enhancement Scheme 1277 Dwg1 Rev 0

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

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

3. Following demolition but prior to any ground works hereby approved a contaminated land site investigation shall be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation shall be submitted to the local planning authority for approval.

Reason: To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water.

4. Before the commencement of the development hereby approved:

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

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

Reason: To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water.

5. No dwellings hereby approved shall be occupied until:

a) The approved remediation works required by 2 above have been carried out in full in compliance with the approved methodology and best practice.

b) If during the construction and/or demolition works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in 1b to 2 above and satisfy 3a above.

c) Upon completion of the remediation works required by 2 and 3a above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality



Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

Reason: To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water.

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

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

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

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

7. The parking spaces and/or garages shown on the submitted plan shall be constructed and be available for use prior to the occupation of the dwellings to which they relate, and thereafter the approved facilities together with the means of access thereto shall be maintained as approved, and be reserved for the benefit of the development hereby permitted.

Reason: To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway(s) and to ensure that the facilities provided are reserved for the benefit of the development for which they are specifically required.

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

Reason: To promote travel by sustainable modes in accordance with the National Planning Policy Framework (2023).

9. 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. Link Engineering. February 2021. Flood Risk Assessment. Version One. 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.

10. Prior to commencement of the development, the applicant shall submit for approval to the Local Planning Authority 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 Local Planning Authority, 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.

11. 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.

12. No development shall commence (excluding the demolition of existing structures and site clearance works) until remedial treatment works to address land instability arising from shallow coal mining legacy have been carried out in full in order to ensure that the site is made safe and stable for the development proposed. The remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: To ensure a safe development and manage the risk posed by legacy Coal Mining in the area

13. Prior to the first occupation of the development, a signed statement or declaration prepared by a suitably competent person confirming that the site 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 completion of the remedial works and any mitigatory measures necessary to address the risks posed by past coal mining activity.

Reason: To ensure a safe development and manage the risk posed by legacy Coal Mining in the area

14. No development, other than demolition site clearance and site compound set up, until a method statement for the control of Japanese Knotweed if identified on site has been submitted to and approved in writing by the Local Planning Authority. The mitigation measures shall be implemented in accordance with the approved details prior to any further works on site.

Reason: To prevent the spread of Japanese Knotweed which is an invasive plant species.

15. No development shall take place (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The precautions should be detailed in the CEMP and should include the following:

- All retained trees should be protected from damage during construction by the erection of adequate temporary fencing, in line with BS5837, prior to the commencement of groundworks. This fencing should remain in place for the duration of construction.
- Working practices including pollution/dust prevention to avoid impacts on the retained woodland and trees.
- Construction lighting should avoid introduction of light onto the retained woodland and retained trees particularly those which contain bat boxes.

- Precautions and timing of site clearance including removal of shrub, scrub and brash piles in order to avoid disturbance to fauna specifically hedgehogs
- Any excavations shall be covered overnight or have an escape ramp to prevent entrapment of wildlife.
- All pipework greater than 150 mm shall be blanked off at the end of the day.
- Chemicals, oils or fuel shall be stored securely.

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

16. Prior to their incorporation into the buildings hereby approved, key details such as but not limited to:

- Windows
- Doors
- Verges
- RWG and Meter Boxes

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

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

17. The boundary treatments hereby approved shall be completed before the respective dwelling(s) to which they serve is/are first occupied and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no further boundary treatments shall thereafter be erected between those approved and the highway or public open space(s)

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

18. No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:

- a statement setting out the design objectives and how these will be delivered;
- earthworks showing existing and proposed finished levels or contours;
- means of enclosure and retaining structures;
- boundary treatment[s];
- hedgehog access points;
- soft planting schedules promoting native species;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials;
- minor artefacts and structures [e.g. furniture, play equipment, refuse or other storage units, signs, etc.];
- proposed and existing functional services above and below ground [e.g. drainage, power, communications cables, pipelines etc. indicating alignments, levels, access points, supports as relevant];
- lighting, floodlighting and CCTV;
- water features;
- an implementation programme, [including phasing of work where relevant].

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

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

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

19. A Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the LBEMP is to provide details for the creation, enhancement and management of habitats and species on the site post development, in accordance with the proposals set out in the submitted Biodiversity Metric Rev 3 (Taylor Land Associates) and the Landscape and Biodiversity Enhancement Scheme (Drg. No. 1277/1 Rev 0 DJOGS Ltd). The LBEMP 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, as per the approved biodiversity metric.
- b) Location and type of bird and bat box x 12.
- c) Hedgehog fencing gaps 130mm x 130mm between gardens to maintain connectivity for hedgehogs.
- d) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
- e) Appropriate management methods and practices to achieve aims and objectives.
- f) Prescriptions for management actions.
- g) Preparation of a work schedule (including a 10-year work plan capable of being rolled forward in perpetuity).
- h) Details of the body or organization responsible for implementation of the plan.
- i) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 3, 5, 10, 20 and 30 years.
- j) Monitoring reports to be sent to the Council at each of the intervals above.
- k) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- l) Requirement for a statement of compliance upon completion of planting and enhancement works.

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

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

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

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

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

Reason: In the interests of highway safety.

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

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

22. Prior to any installation of lighting fixtures, a detailed lighting strategy should be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations, and any mitigating features such as dimmers, PIR sensors and timers. Guidelines can be found in Guidance Note 08/23 - Bats and Artificial Lighting in the UK (BCT and ILP, 2023). Such approved measures will be implemented in full. Any lighting scheme on site should avoid the introduction of light to site boundaries and adjacent habitats, the retained woodland and trees including those which have bat boxes already attached. In addition, no light should be introduced within the vicinity of the new bat and bird boxes which will be provided as biodiversity enhancement including the flight paths to these features.

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

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

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

24. 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 Brunt Lane and the public highway.

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

25. During the period of construction, no ground, construction or fitting out works shall take place and no deliveries shall be taken at or dispatched from the site other than between 0800 and 1700 hours Monday to Friday and 0800 and 1300 hours on Saturdays. There shall be no construction works (except for works to address an emergency) or deliveries on Sundays or Bank Holidays.

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

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

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

27. The site shall not be accessed from Fairfield Terrace for either construction or operational traffic.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers, and given Fairfield Terrace is considered unsuitable to support such traffic.

## Informatives:

### Highways

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

### Drainage

- 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](mailto: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