

# **REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**

**SECTION 1: Planning Applications  
SECTION 2: Appeals**

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

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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.**

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

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

05/09/2017

Item 1.1

Ref. No. 9/2017/0657/NO

**Applicant:**  
Mrs Helen Dawkins  
c/o Miller Homes Ltd, Barratt & David  
Wilson Homes North Midlands and  
Taylor Wimpey North Midlands  
2 Centro Place  
Pride Park  
Derby  
DE24 8RF

**Agent:**  
Mrs Helen Dawkins  
C/O Miller Homes Ltd & Others  
2 Centro Place  
Pride Park  
Derby  
DE24 8RF

**Proposal:** THE ERECTION OF A COMMUNITY CENTRE AND ASSOCIATED PARKING AREA (RE-DESIGN OF COMMUNITY CENTRE APPROVED UNDER PLANNING PERMISSIONS 9/2011/0484 AND 9/2012/0039/RM) ON LAND OFF CHARTLEY ROAD STENSON FIELDS DERBY

**Ward:** Stenson

**Valid Date** 27/06/2017

#### **Reason for committee determination**

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

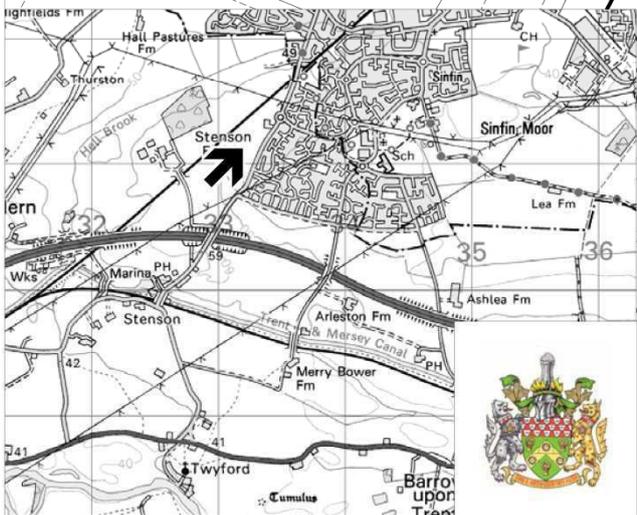
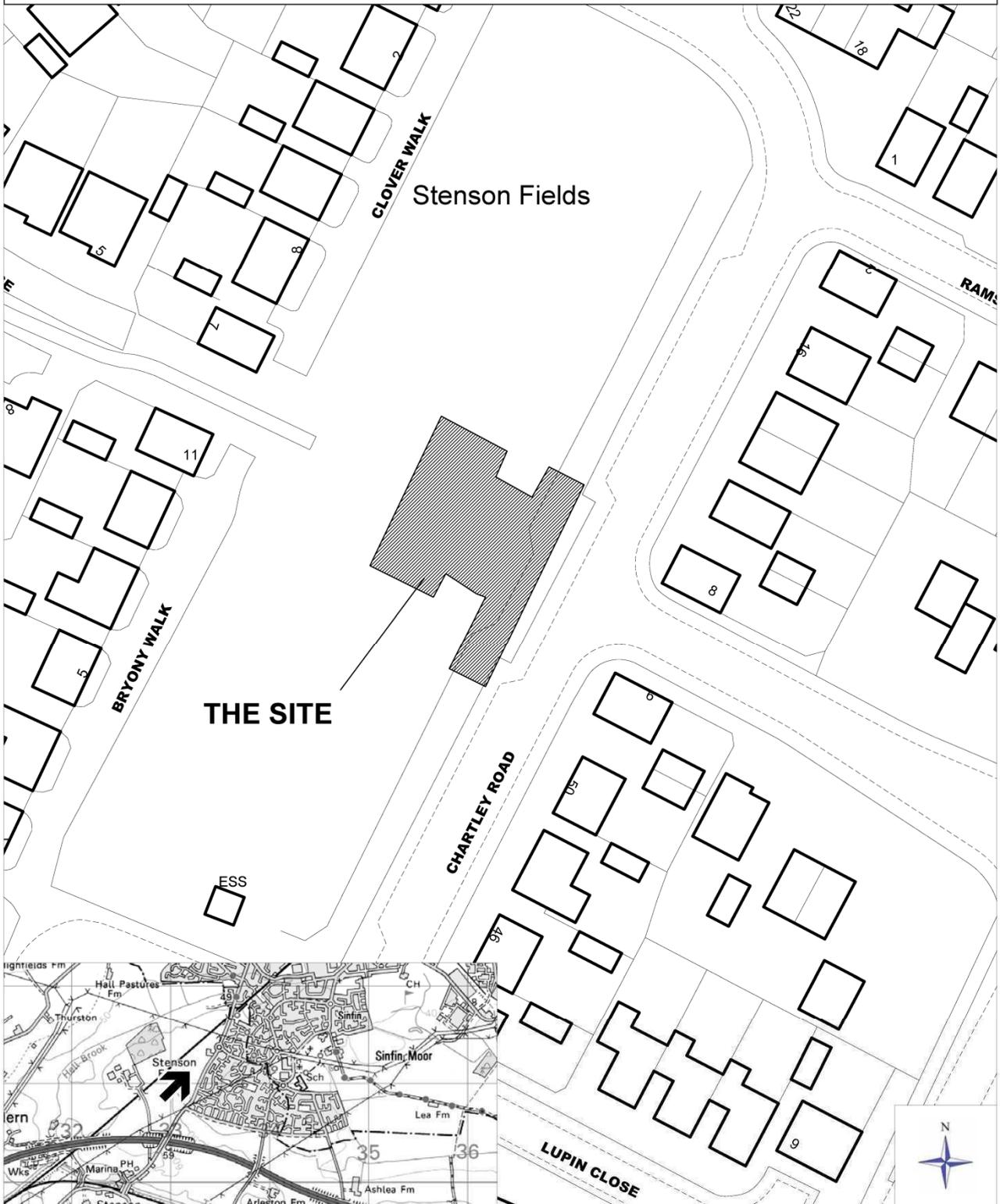
#### **Site Description**

The site comprises an area of ground within a central area of public open space provided as part of the recent Stenson Fields development, set aside for the provision of a community centre as part of the wider scheme. It is presently put to grass and appears as part of the open space. A play area is partially installed to the south whilst the remaining land is open with tree planting, although some attention is needed to these areas – a matter which is being followed up separately and not material to this application. The site is surrounded by estate roads and private drives onto which face residential properties created as part of the development.

#### **Proposal**

Whilst an extant permission exists for the erection of a community centre, pursuant to the requirements of the outline permission for the wider development; the proposal here is for a slightly larger and reconfigured community centre. The overall design and appearance has altered whilst the internal spaces now respond to experience garnered from operation of community centres elsewhere in the District. Parking provision would be broadly similar, although slightly improved in number.

9/2017/0657 - Land off Chartley Road, Stenson Fields DE24 3LZ



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**South Derbyshire District Council. LA 100019461. 2014**

The application is made in full, as a 'cookie cut' to the wider site, meaning that existing conditions on the outline and reserved matters permissions would not automatically carry forward.

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

A Community Centre Specification has been provided. This summarises the specification for the building and its curtilage:

- Substructure (foundations) - Reinforced concrete slab.
- Superstructure (frame) - Steel propped portal frame, cold rolled purlins to sports hall.
- Roof - Timber roof with concrete interlocking tiles, dark grey trim/fascia. Canopy over entrance.
- External Walls - Red/Orange coloured facing brick work and red/brown coloured brickwork. White self-coloured render.
- Windows and External Doors - Coloured UPVC. Glazed doors.
- Floor Finishes – Vinyl flooring, carpet tiling, sport vinyl flooring (to main hall only) and entrance matwell.
- Ceiling Finishes – Concealed grid plasterboard suspended ceilings, acoustic ceiling.
- Wall Finishes – plasterboard and emulsion. Ceramic wall tile splashback to WC areas.
- Fittings and Furnishings – Kitchen fitting; worktops and shelving. External signage.
- Sanitary Appliances –3 no. WC cubicles, 4no. vanity units, 2 no. urinals, 4no. wash hand basins and 1no. disabled toilet. Hot and cold water supply.
- Water Installations: Hot and cold water supply to WC and kitchen. Hot water electric heaters.
- Heating – LTHW radiators to ancillary (79m<sup>2</sup>), 3no. hot water electric heaters and gas fired strip heaters to sports hall (144sq.m).
- Ventilation – Toilet and kitchen extract and extract fans c/w controllers to sports hall.
- Security and Control Systems: Fire and intruder alarm, panic alarm buttons, disabled alarm and induction loop and CCTV (cabling only).
- Roads, Paths and Paving: Car park, footpath and patio, with landscaping.
- Planting and soft landscaping.
- Bollards, including mounted lighting.

### **Planning History**

9/2012/0039 Approval of reserved matters of 9/2011/0484 for the development of 487 dwellings, community building, roads and open space – Approved February 2013

9/2012/0555 Variation of conditions 24, 25, 29 & 30 of 9/2011/0484 relating to off-site highway works, site access, code for sustainable homes and on-site renewables – Approved February 2013

- 9/2011/0484 Application to extend the time limit for implementation of outline planning permission 9/2007/0020 – Approved December 2011
- 9/2007/0020 Outline application for residential development (all matters to be reserved) including the erection of a community building and the formation of roads and open space – Refused February 2007 and Allowed at Appeal January 2009

### **Responses to Consultations**

The County Highway Authority has no objections subject to conditions to secure access and parking arrangements.

Environmental Health Officer has no objections subject to an advisory that the operator may need to register as a food business a minimum of 28 days before the centre opens and that they can contact the commercial team for advice when fitting out the kitchen.

### **Responses to Publicity**

36 objections have been received, some from multiple persons at the same address, raising the following concerns/points:

- a) do not understand why the facility needs to be bigger without any proper study undertaken;
- b) the Council has not done a proper consultation with residents such that they are unable know how it will be used;
- c) there are plenty of existing sports and community facilities nearby in Sinfin and Littleover;
- d) existing community centre 5 minutes away which is always advertising as being available, and hence unused;
- e) erect a community centre on the Wragley Way site instead;
- f) when purchasing their dwelling, the housebuilder advised that a community centre would only be considered following extensive discussions with residents/support from residents;
- g) when purchasing their dwelling, the housebuilder advised that nothing would be built on the land and it would remain grassed;
- h) when purchasing their dwelling, the housebuilder advised that a community centre was possible but it is now considered to be an unnecessary expense;
- i) it seems few people have come forward to serve on the committee to run this facility, raising the question of whether it is desired and who will pay for the upkeep;
- j) use of finances towards a project like this, with it more appropriate to ask the households on the new estate how they want it to be invested;
- k) it appears to be idealism without full understanding of local residents' feelings;
- l) information on the proposed uses is inadequate;
- m) the new centre would detract from a well-used community space;
- n) the green is currently a shared space for all ages and encourages shared activities;

- o) already lost a reasonable size of the park to the playground;
- p) it would increase footfall along the street and a worsening of a trespassing issue which they are already struggling to control;
- q) it would attract increased traffic;
- r) on-street parking would be a hazard/obstruction;
- s) insufficient parking provision;
- t) double yellow lines would be necessary on the street;
- u) it would lead to increased pollution;
- v) there is no detail on the hours the building would be open or who it would be manned by;
- w) proximity to neighbouring dwellings and risk of disturbance from functions/events and anti-social behaviour, as well as concerns for personal safety;
- x) by encouraging more people onto the estate it would be increasingly difficult to keep watch over irregular and criminal activity;
- y) potential that the centre would be rarely used;
- z) doubts over the management of the building;
- aa) the building would be subject to neglect;
- bb) it would be an eyesore in the location proposed;
- cc) the design is not in-keeping with other buildings on the estate;
- dd) the building is out-of-scale and overbearing;
- ee) the estate is already looking 'tired' in certain areas, with damaged fencing, and neither the Council nor the housebuilders have sought to rectify these issues;
- ff) loss of quality of views;
- gg) effect on house value;

A representation in support comments that it's about time this happened, with the developers having taken their time and it is something needed in Stenson Fields.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), 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), INF6 (Community Facilities) and INF9 (Open Space, Sport and Recreation).

### **Emerging Development Plan Policies**

The relevant policies are:

- Submission Local Plan Part 2: SDT1 (Settlement Boundaries and Development).

## National Guidance

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

## Planning Considerations

Members may recall that a community building was proposed as part of the original outline application in 2007 which was refused and subsequently allowed in 2009 following the conjoined inquiry. The proposal should therefore not come as a surprise to any interested party, with the potential for the building shown on the sales particulars of all 3 developers involved in constructing the estate. In considering the following assessment, Members should also be conscious that the provision of a community centre is a legal requirement under the section 106 agreement.

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

- The principle of development;
- Layout, design and appearance (including parking provision); and
- Impact on amenities of neighbouring property.

## Planning Assessment

### Principle of Development

The starting point here is the conjoined inquiry for the Stenson Fields sites and others around the southern edge of Derby, and the resultant permission granted in 2009 and later varied under the 2012 permission. A community centre formed part of the proposals under the inquiry application and was assessed by the Inspector as part of the wider development. This community centre was included following prior engagement by the developer with local Ward Members, Parish Councils and the community. This originated from the recognition that the existing community at Stenson Fields was poorly served by suitable community facilities and that a new development would further compound this matter. As such facilities can generally only be delivered through significant grants or where there is wider development to sustain the finances of doing so, the Stenson Fields development (and the Willington Power Station housing proposal) proposed to facilitate such provision.

Any infrastructure secured by way of planning obligations under a section 106 agreement had to meet the (then) tests in terms of necessity, reasonableness and related in scale and kind. These tests still exist now in the form of the CIL Regulations and paragraph 204 of the NPPF. If the Inspector considered there was not a need for a community centre at Stenson, he could not have seen it secured in the section 106 agreement which now exists. The Inspector's report states *"In that the provisions of the S106 Planning Obligation Agreements are necessary, relevant to planning, directly relate to the development and would fairly and reasonably relate in scale and kind to the developments, I consider that they meet the tests of Circular 05/05 .... They should be accorded significant weight. I have had regard to the Planning Obligation Agreements as material considerations in my conclusions and*

*recommendations*". This is a significant position to note, and it ratified the need for the facility.

Since 2009, the need for the community centre has not changed. Whilst it is recognised that it would be provided on the Stenson Fields site, where 487 new dwellings have been created, it is not, and never was, intended solely for use by those residents. As noted above, the site and proposed development presented an opportunity to deliver a wider and much needed piece of infrastructure, in the same way that larger allocations in the Local Plan Part 1 would cater for the provision of local centres, sports facilities and schools to the benefit of the wider existing and prospective community. The issue of community facility provision in the Stenson area continues to be recognised in the South Derbyshire, Open Space, Sport and Community Facilities Strategy 2016-2028 (OSSCFS), with the north profile identifying working with partners, such as developers, to deliver community infrastructure to mitigate for new developments and address shortcomings.

As part of the Inspector's decision, a section 106 agreement secured the mechanisms for the delivery of the community centre. It is important to note that at this point, its provision became a legal requirement for the developer to adhere to. The subsequent reserved matters approval, also in 2012, secured the provision of a community centre and this permission remains extant and a material fallback – implementable so to accord with the legal requirement, irrespective of the outcome of this application. The obligations are summarised as (herein referred to as 'obligation 1, obligation 2, etc.):

1. Prior to first occupation of a dwelling, secure the written approval of a Community Facility Scheme (CFS) and a Marketing Strategy;
2. Carry out the approved Marketing Strategy for 12 months, and advise Council of any interest expressed;
3. In event of interest being expressed by a Community Entity (any local resident, parish, religious, social or other group seeking to utilise the community facility for community purposes) such as approved by the Council, progress that interest and construct the Community Facility prior to first occupation of the 250<sup>th</sup> Dwelling;
4. If no Community Entity expresses interest and enters into a commitment, the developer pays the Community Facility Contribution (£150,000, index linked)

The developers (a consortium of Miller Homes, Barratt Homes and Taylor Wimpey Homes) made a submission under obligation 1 above in April 2014. It was quickly determined that the submission did not constitute a CFS and Marketing Strategy – instead it was a report on interest shown to the selling agent over recent months. It was apparent that the developers had moved to obligation 2 without having secured the scope of the facility's specification and its marketing. At the same time, the first occupation of a dwelling had come and passed, and the development was progressing towards the 250<sup>th</sup> occupation. Officers entered into dialogue with the developers in order to initially address this breach, but at the same time one of the local Ward Members was liaising with the existing and emerging communities of Stenson Fields. The outcome of this liaison was that interest was shown and this was formalised in writing. Consequently, it was determined that pursuing compliance

with obligation 1 first would have only brought about further delay in delivering the community facility.

By this point in time, officers had also become aware of operational difficulties with community centres elsewhere in the District and sought to reconsider the design approach to the facility at Stenson Fields, so as to 'design out' shortcomings with the scheme already approved. This was a mutual position with the developers who had indicated their concerns regarding the same. Accordingly, a suitable model was chosen (Heatherton Community Hall) and developed in liaison with the Community Partnership Officer and Open Spaces & Facilities Manager. Crucially, the design was amended to provide for more flexible use of the facility so that multiple user groups would not have to share or cross a single space, and also scope for future changes was secured. This specification has been subsequently fed into the revised design of the building. Whilst initial designs proved to be beyond the scope of the budget set aside by the consortium for the delivery of the facility, further negotiation as well as greater financial commitment from the developers, along with revisions to the specification and design of the facility, has arrived at the proposal now before the Committee. This is considered to represent a building that, within financial constraints, is designed on the best practices identified from community facilities across the District, would result in a facility which can be used in a more efficient manner and one which has scope to adapt to changing needs in the future. The delivery of the facility remains as it always has done – a requirement for the developer to deliver at their expense.

When the facility is complete and ready for use, the Council has already resolved through other committees, to take on its ownership in the short term. This would allow for those interested community groups to establish the use and volunteer members to sit on a management committee. Experience shows that often it is necessary for there to be a focus first (i.e. the available facility) before further community groups 'buy in' to the responsibilities of managing it. Notwithstanding this, as noted above, there are already expressions of interest from community groups as to both the use of the facility and its management going forward. The local Ward Member taking a lead on this project has continued dialogue with the local population and this reaffirms the desire to use the centre. The recent governance changes now legitimise the involvement of Stenson Fields Parish Council, if they so wish. The Council therefore would act as the 'springboard' off which the use of the facility can develop. With time, it is intended that the Council then transfer the ownership of the facility to the Parish or management committee. The Community Partnership Officer would oversee this work, establishing parameters to ensure the facility is made available on an equal and fair basis to the whole of Stenson Fields, if not to groups further afield where appropriate.

The need for the community facility is therefore considered to be both soundly evidenced, and has been so since the position was confirmed by the Inspector. Going forward, the Wragley Way allocation provides further scope to provide similar facilities to primarily cater for that new population but enhance whilst diversifying the range of opportunities for community groups and activities. With the delivery of such facilities on that site likely some 10 or more years from now, it is considered this community facility remains a current necessity.

The original combined footprint of the community building and the area of associated car parking/patio areas was 564 sq m, whilst the proposed is 616 sq m. This results in the loss of 52 sq m of open space. However, this must be considered against the provision of 32,800 sq m of open space across the wider site. The loss therefore represents just 0.1% and is considered to be negligible when measured against that wider provision and the improvements to the usability of the proposed centre. It does not cause conflict with policy INF9. Meanwhile, policy INF6 of the Local Plan Part 1 lends direct support to the facility, as does the OSSCFS, and it is considered that the principle of development is wholly acceptable.

### Layout, design and appearance

As the period for a further submission of reserved matters has now passed, the proposed changes to the community centre have to be catered for by way of a full standalone application – ‘cookie cutting’ into the wider site. Notwithstanding this, the principle of the development is established as set out above, and assessment should turn on whether the changes to the design are appropriate and whether the small increase in floorspace brings about harmful effects above and beyond that which has been envisaged and considered acceptable to date.

The desire to alter the original design arises from recognition in operating other community buildings elsewhere in the District that internal configuration of spaces and the ability to use them effectively has a significant bearing on the suitability of the facility as a whole and its long term viability. For this reason, the original designs are considered to be unsatisfactory from an operational point of view. Moving forward from this point, those designs form an important financial ‘benchmark’ when seeking a revised and more suitable design, with it necessary to keep costs broadly the same so to recognise the developers’ capacity to deliver the building. The original design has been valued to current specifications and would cost the developers £487,000 to deliver. The revised proposal would cost £560,000 – an increase which the developer has confirmed they are willing to sustain. This goodwill should be recognised as it would assist in delivering a building which is fit for purpose going forward.

The changes to the design take the building away from a contemporary appearance to a more traditional approach. This is largely driven by the above costs consideration, with a contemporary equivalent much more expensive to deliver; but also again recognising future maintenance and anti-social behaviour issues which might have arisen with a different design. The scale and appearance is appropriate for this location, with materials chosen to harmonise with the wider estate and locale but at the same time to act as a landmark building. The position of the building is more or less identical to that previously approved, with relatively minor changes to its extent beyond that footprint. There will be a need to address the exact alignment of a footpath which crosses the adjacent open space, but this can be made subject to condition.

The level of parking provision must be considered with the capacity of the building and the end uses in mind, with good pedestrian links within and to the site reducing the preference for use of private vehicles. The parking provision would increase by a single space under the proposals, but the additional parking bays on Chartley Road

are also available and could accommodate a further 10 vehicles. Overall, this is comparable to the extant permission and it is not considered there are grounds for objection here. Indeed, the County Highway Authority does not object to the proposal.

#### Impact on amenities of neighbouring property

As outlined above, the principle of a community centre is not a new one with residents made aware prior to purchasing dwellings around the site. The building would also be managed by the Council initially, ensuring that its operation would not cause undue conflict with residents; whilst any subsequent operator could be bound by terms of the transfer from the Council. The licencing regime would also control the use of the premises for events, whilst other legislation can deal with any anti-social and criminal behaviour. With no objection raised by the Environmental Health Officer, there is not considered to be a concern in this respect.

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

#### **Recommendation**

**GRANT** permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of one year 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), recognising that the early delivery of the development is required in order to satisfy an existing planning obligation.

2. The development hereby permitted shall be carried out in accordance with plans/drawings P/241/01 Rev A and P/241/02 Rev E; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

3. No development shall commence until details of the realignment of the footpath from the play area through the open space towards the western boundary (as approved under permission ref: 9/2012/0039) has been submitted to and approved in writing by the Local Planning Authority. The approved details shall then be implemented in accordance with the provisions of the planning obligations contained within the section 106 agreement dated 21 February 2013 attached to planning permission ref: 9/2012/0555, or any subsequent Deed of Variation to that agreement.

Reason: In order to ensure the development does not prejudice the use and enjoyment of the adjacent open space.

4. No external hard surfaces shall be created until precise details, specifications and, where necessary, samples of the surfacing materials to be used in the construction of the car park and patio area have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: To safeguard the appearance of the locality generally.

5. Before any other operations are commenced, a new vehicular access shall be created to Chartley Road, laid out, constructed and provided with 2.4m x 43m visibility splays in both directions, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: In the interests of highway safety, recognising that safe and suitable access to the site is required during both the construction and operational phases.

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

Reason: In the interests of highway safety, recognising that safe and suitable access to the site is required during both the construction and operational phases.

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

Reason: In the interests of highway safety.

8. The access, the subject of condition 5 above, shall not be taken into use until 2m x 2m x 45° pedestrian intervisibility splays have been provided on either side of the access at the back of the footway, the splay area being maintained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.

Reason: In the interests of highway safety.

9. The premises, the subject of the application, shall not be taken into use until space has been provided within the application site in accordance with the approved drawings for the parking 7 vehicles and manoeuvring of visitors/staff/customers/service and delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

Informatives:

1. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and issues, suggesting amendments to improve the quality of the proposal, meetings and negotiations and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
2. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport and Communities at County Hall, Matlock regarding access works within the highway. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk), email [Highways.Hub@derbyshire.gov.uk](mailto:Highways.Hub@derbyshire.gov.uk) or telephone 01629 533190.
3. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
4. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.

Item 1.2

Ref. No. 9/2017/0401/NU

**Applicant:**  
**Mr B. J. Lees**  
**Little Acres**  
**Cote Bottom Lane**  
**Church Broughton**  
**Derby**  
**DE65 5AT**

**Agent:**  
**Alan Yarwood**  
**Roger Yarwood Planning Consultant**  
**Wheatley Barn**  
**Wheatley Road**  
**Two Dales**  
**Matlock**  
**Derbyshire**  
**DE4 2FF**

**Proposal: CONTINUED USE OF LAND AS SINGLE PITCH TRAVELLER SITE WITH ONE MOBILE HOME AND ONE TOURING CARAVAN AT LITTLE ACRES COTE BOTTOM LANE CHURCH BROUGHTON DERBY**

**Ward: Hilton**

**Valid Date 15/06/2017**

#### **Reason for committee determination**

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

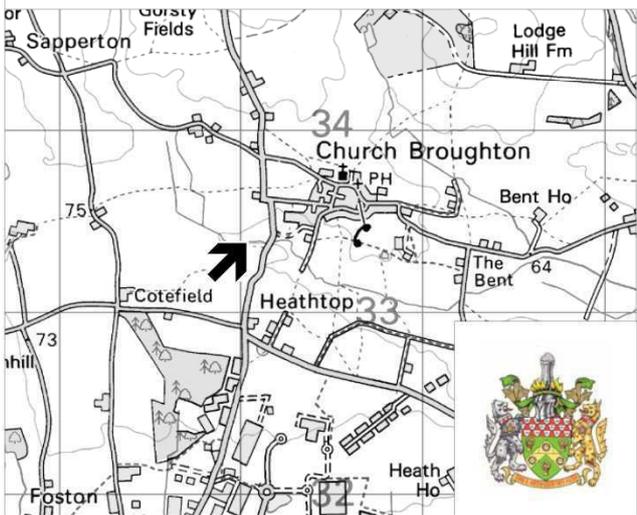
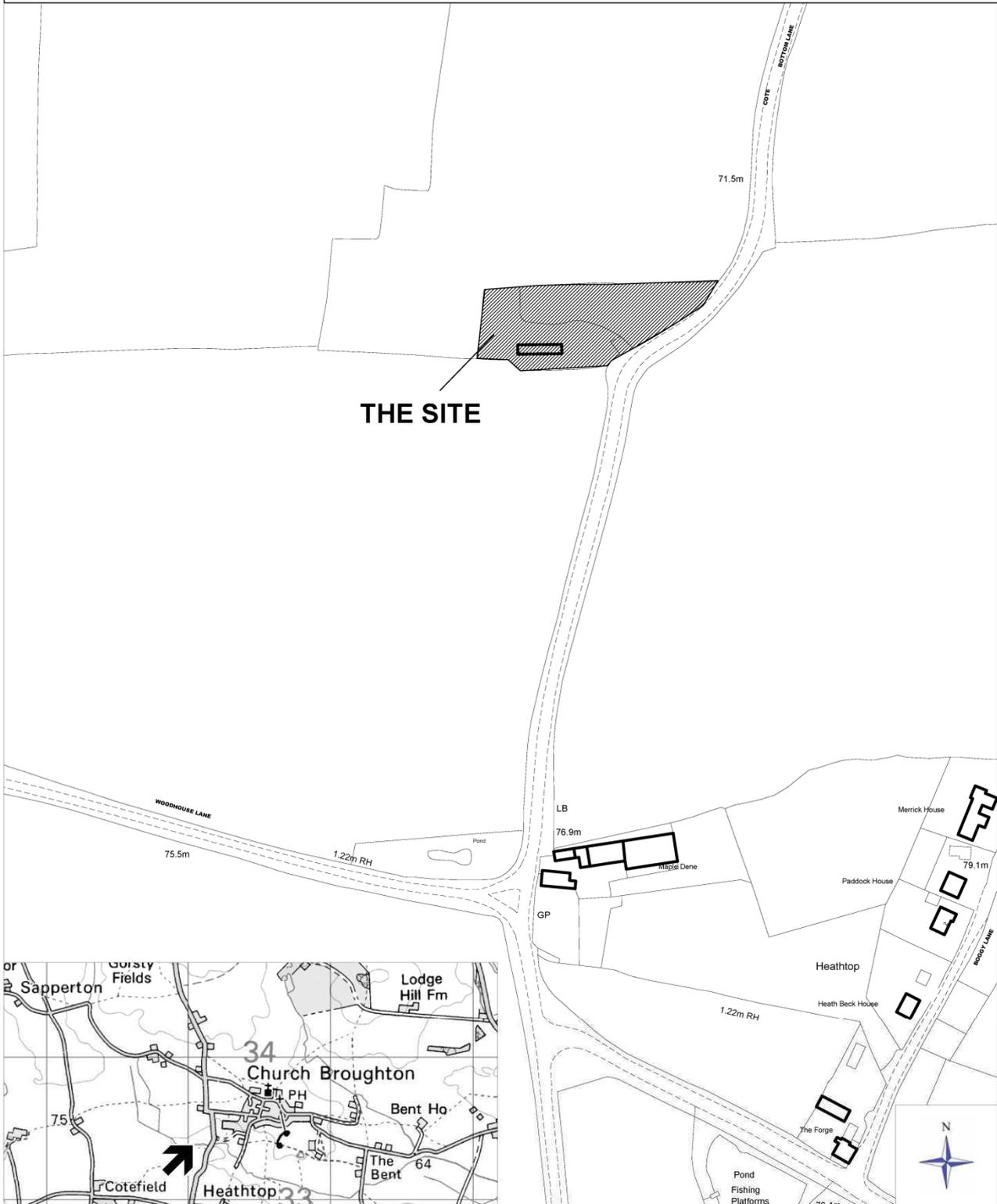
#### **Site Description**

The site is located on Cote Bottom Lane approximately 500m to the south west of Church Broughton. The access is off a bend and existing hedging and trees enclose the site. There is a chicken enclosure in the north western part of the site with the static caravan adjacent to the northern boundary and a touring caravan in the north western corner.

#### **Proposal**

Permission is sought for the retention of the use of the land as a single pitch Traveller site with one static caravan and one touring caravan with the current static caravan on site measuring approximately 14m x 3m.

9/2017/0401 - Little Acres, Cote Bottom Lane, Church Broughton DE65 5AT



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**South Derbyshire District Council. LA 100019461. 2014**

## **Applicant's supporting information**

The Supporting Design and Access Statement states that the site already has access and temporary permission for a caravan under planning reference 9/2015/1153. The single pitch would be occupied by the applicant and his family who have no permanent accommodation and have been moving from site to site. The applicant has two children that attend school at Hatton and are registered with a local doctor's surgery. It is confirmed that there would be no business operations on site. It states the site is well screened and would have no impact on the amenity of any residential property. Both the applicant and his wife comply with the definition of Traveller. The applicant comes from a Romany family and travels to work all over the country as a landscape gardener for a minimum of 16 weeks each year. He now requires a permanent base to facilitate the education and health of his children. The applicant's wife accompanies him when possible.

## **Planning History**

- 9/1991/1139 The siting of a mobile home for the private accommodation of one Gypsy family together with earth banking and the widening of the vehicular access – Refused May 1991 on the basis of intrusion into the countryside and landscape impact, and Dismissed at Appeal May 1992.
- 9/1993/0673 The siting of two residential caravans and the erection of a facility block – Refused January 1994 on the intrusion into the countryside, landscape impact and visibility at the access being substandard, and Dismissed at Appeal November 1994.
- 9/2011/0333 The use of land for the stationing of caravans for residential purposes for 2 gypsy pitches and retention of existing sheds and kennels together with the formation of additional hard standing and utility/dayrooms ancillary to that use – Refused June 2011 on the grounds that there was a sufficient supply of gypsy sites and intrusion into the open countryside.
- 9/2012/0072 The retention of chicken huts to be used for egg production – Approved June 2012.
- 9/2012/0758 The retention of a static caravan for use as overnight accommodation and daytime shelter – Approved November 2012 (temporary until November 2015).
- 9/2015/1153 The retention of a static caravan for use as overnight accommodation and daytime shelter – Approved March 2016 (temporary until November 2021).

## **Responses to Consultations**

Church Broughton Parish Council objects to the application on the following grounds:

- a) The site is for one pitch but this can increase and pitches can be split as in the Mount Pleasant site.
- b) There is a significant amount of Traveller sites in the vicinity which have vacant plots and thus there is no need.
- c) The site is located on an 'S' bend where visibility is restricted.
- d) The current owner has not complied with existing planning restrictions with the occupancy far exceeded those allowed.
- e) The Police have raided the site over recent years, which is a concern.
- f) A local resident has been told they may not live in a caravan on their land, however a Traveller may apply to use the land for a single pitch Traveller site.

## **Responses to Publicity**

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

- hh) Sufficient Traveller facilities are provided at Woodyard Lane, Sutton Lane, Uttoxeter Road and Derby Road which have vacancies and as such there is no need for further sites in the open countryside.
- ii) If approved it should be limited to one accommodation unit.
- jj) The Church Broughton Community Plan clearly indicates that there should be no further consents for mobile homes or Traveller sites.
- kk) The village lacks public amenities and transport and has limited road width access.
- ll) It would move the development boundary beyond the line of the village.
- mm) If this approved it is likely to increase in size as other Traveller sites have.
- nn) This proposal is unfair as a permanent home would be rejected.
- oo) The proposal would seriously devalue properties in the village.
- pp) Other sites fail to adhere to planning restrictions.
- qq) There has been no control by the Council of activity on the land prior to the application so there are no guarantees there will be control going forward.
- rr) There is an additional load on the resources available to the local settled community.
- ss) The site is in a rural location and is inappropriate.
- tt) The access is located on a dangerous 'S' bend where additional traffic generated would be dangerous.
- uu) There is no justification under Traveller policy and it is not sustainable and would lead to unplanned expansion.
- vv) Previous permission for temporary use was ignored as it was used as a permanent dwelling with the addition of a touring caravan.
- ww) Walking to the village of Church Broughton is dangerous with sharp bends and no pavement.
- xx) The applicant's children attend school at Hatton and therefore do not need to be within walking distance of Church Broughton.
- yy) The site will be in use for the applicant's business with the associated increase in vehicles using the access.
- zz) The application form states that works have been completed which includes the septic tank and this constitutes a flagrant disregard for planning rules.
- aaa) The applicant was living at the Traveller's site on Uttoxeter Road and has moved the static caravan on site prior to making the application.

- bbb) The occupancy of the caravan has far exceeded that allowed by the permission.
- ccc) An application for Travellers on site has been turned down at appeal and this sets a precedent.
- ddd) The site notice was obscured by trees and not displayed correctly.
- eee) Open burning of waste is being carried out.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LPP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H22 (Sites for Gypsies and Travellers and for Travelling Showpeople), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport).
- 1998 Local Plan (saved policies): EV9 (Protection of Trees and Woodland) and EV11 (Sites and Features of Natural History Interest).

### **Emerging Development Plan Policies**

The relevant policies are:

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

### **National Guidance**

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Planning Policy for Traveller Sites (PPTS)

### **Planning Considerations**

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

- The weight to be given to national and local planning policy;
- The need for Gypsy pitch provision;
- Access to services and impact on local infrastructure;
- Balance with the settled community;
- Surface water drainage and biodiversity;
- Foul drainage and contamination;
- Highway safety;
- Impact on neighbouring amenity; and
- Impact on character and visual amenity.

## Planning Assessment

### Weight given to national and local planning policy

The Development Plan forms the primary policy consideration for this application, although the NPPF, PPTS and emerging policy are material considerations carrying varying degrees of weight. LPP1 Policy H22 states:

*“...[in] determining planning applications for required potential sites, sites will be considered suitable provided they are of an appropriate scale and character and the following criteria are met:*

- i) development does not result in an unacceptable impact on the local environment, including biodiversity, heritage assets or conservation, the surrounding landscape (unless capable of sympathetic assimilation) and compatibility with surrounding land uses; and*
- ii) safe and convenient vehicular and pedestrian access to the public highway can be provided with no undue adverse impact on the highway network; and*
- iii) the movement of vehicles to and from the site will not cause undue disturbance or be inappropriate for the locality; and*
- iv) there is adequate space for parking, turning and servicing on site; and*
- v) the site is reasonably accessible to local services including health services, shops, education, public transport and other community facilities; and*
- vi) the site is not located in an area at undue risk of flooding; and*
- vii) suitable landscaping and boundary enclosures are provided to give privacy to both occupiers and local residents and minimise impact on the surrounding area; and*
- viii) the site provides a safe and acceptable living environment for occupiers with regard to noise impacts, adequate on site facilities for parking, storage, water supply and electricity supply, drainage and sanitation”.*

The site is within walking distance of Church Broughton which is a rural village as defined in the LPP1. This village has a primary school, church and public house. The Key Service Village of Hatton with wider range of facilities is approximately 3 miles to the south. The site is therefore relatively close to services and facilities required to support occupants of the site. The site is not at an undue risk of flooding, it does not have an impact on heritage assets, and water and electricity supplies are possible. The following discussion addresses the remaining criteria of the above policy and other material considerations raised during the publicity process.

### The need for Gypsy pitch provision

The Council's Gypsy and Traveller Accommodation Assessment (GTAA), published in June 2015, sets out a need for 14 pitches over 5 years from 1 April 2014 to 31 March 2019 and a subsequent need for 7, 8 and 9 pitches for each 5-year period thereafter respectively. In the interim to the adoption of a site allocations document, this need must be met by individual applications. Since April 2014 permission has

been granted for 13 pitches and hence it can be demonstrated that need is being met and delivered at the pace required by the GTAA, although still 1 pitch short of the identified need up to 30 March 2019. Notwithstanding the adequate delivery of pitches however, the Council does not currently have a supply of specific sites sufficient to provide a rolling 5 years' worth of sites against the GTAA targets moving forward, taking into account the lower rate of need in the next 5-year period.

#### Access to services and impact on local infrastructure

This site is located close to Church Broughton where there are a limited number of local services and facilities and is not too distant from Hatton which has a more comprehensive range of facilities. Vehicle movements generated by the proposal are unlikely to have a negative impact on the capacity of the wider highway network – notwithstanding representations made. The scale of development proposed falls below that which would normally command financial contributions to offset increased pressures arising from the proposal and there is no evidence that existing services could not cope with the additional demands placed upon them.

#### Balance with the settled community

The PPTS notes that sites in rural areas should not dominate the nearest settled community. It is noted that the site would extend the Gypsy community in the wider area, which already includes a number of established sites, but in this instance the addition of one pitch would represent a very small increase in the overall number of families in the area. In this vein, it is not considered that the settled community would be overwhelmed by the proposal.

#### Surface water drainage and biodiversity

The application form states that there are soakaways and there is no evidence to suggest that this would result in any adverse impacts in terms of surface water flows, and it should be noted that the site has existing hard surfaces thereon. In terms of biodiversity, the site has been in use for egg production since 2012 and is a gravelled area surrounding by hedging and trees. As such there is no evidence to suggest that the proposals would have an unacceptable impact on biodiversity.

#### Foul drainage and contamination

The foul water from the caravan would be directed to a septic tank on site, as has been the case historically with the recent use of the site, meaning that the foul drainage would be suitably dealt with. In terms of contamination it should be noted that no ground works are proposed which would lead to disturbance of the land to lead to any concerns in that regard.

#### Highway safety

Historically previous applications for Traveller pitches at this site were refused on highways grounds. However, those were some time ago and prior to the introduction of Manual for Streets which introduced new standards. Moreover, subsequent permissions have been given on the site. It is noted that the Highway Authority

raised no objection to the proposal for two pitches (9/2011/0333) and has no objection to this application subject to conditions. As such it is considered that the proposal would not adversely impact on highway safety to a point where which would reasonably justify refusal of the application.

#### Impact on neighbouring amenity

Policy H22 requires the movement of vehicles to and from the site not to cause undue disturbance whilst policy SD1 states that the Council will only support development that does not lead to adverse impacts on the environment or amenity of existing occupiers. The NPPF supports these provisions whilst the PPG sets out the recommended approach to dealing with noticeable and intrusive and/or disruptive impacts – pointing towards either tight use of conditions or avoiding the development altogether. In this case, due to the location of the site relative to nearby residential properties, there would be no undue adverse impacts on residential amenity.

#### Impact on character and visual amenity

Whilst it is noted that previous applications were refused permission on the basis of the intrusion into the countryside and landscape impact, the permissions in 2012 for the chicken huts and static caravan resulted in the development of the site as seen today, accepting the resulting impact on the character of the countryside. Whilst the current proposal is in a different from what has been approved previously, this current proposal does not result in such a significantly different impact on the countryside from those approvals to reasonably justify refusal on landscape impact grounds. The site is located in a bend in the road and is screened by existing hedgerows and trees. Limited views of the site are gained from the surrounding countryside and as such its impact on the character of the landscape is minimal. The access is set back 10m from the road which also limits its visual impact when viewed from the road. As such in terms of impact on the countryside the proposal is considered to be acceptable.

#### Summary

Whilst the concerns of local residents are noted the development of the site for a Traveller pitch would not result in any demonstrable adverse impacts which would render the development unacceptable. It must be recognised that significant weight needs to be given to the provision of 1 pitch which would help to meet identified needs for the District in terms of Traveller pitches, and the lack of a rolling 5 year supply adds to this weight.

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

#### **Recommendation**

**GRANT** permission subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with drawing L.17.01, unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended). For the avoidance of doubt, this permission does not authorise the erection of a toilet block as indicatively shown on the above referenced plan.

Reason: For the avoidance of doubt.

2. This permission does not authorise the use of the land as a caravan site by any persons other than Gypsies and Travellers as defined in Annex 1: Glossary of the Government's Planning Policy for Traveller Sites (August 2015), or any subsequent policy or guidance which replaces that definition.

Reason: To safeguard the site for occupation by Gypsies and Travellers.

3. There shall be no more than 1 pitch on the site within which no more than 2 caravans shall be stationed at any time, of which only 1 caravan shall be a static caravan.

Reason: For the avoidance of doubt and to ensure the site (along with any others in the vicinity) does not dominate the nearest settled community, in the interests of neighbouring and visual amenity, and to ensure occupiers of the wider site are afforded sufficient room for associated vehicles and amenity space.

4. The only caravans permitted to be stationed on the wider site shall be those which comply with the definition as set out in the Caravan Sites Act 1968.

Reason: To safeguard the visual amenity of the area.

5. No commercial activity or outside storage related to any trade or business shall take place on the site, and no commercial vehicles or machinery shall be brought to, parked or stored on the site.

Reason: To protect the visual and aural amenities of the locality.

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; no gates, walls, fences or other means of enclosure shall be erected on the site (except as authorised by this permission or required by any condition attached thereto) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: To ensure that parking and turning space is not compromised and any such structures are appropriate to the character and appearance of the building.

7. The hedgerows on all boundaries of the site shall be maintained at a height of at least 2 metres for the life of the development and if any part of the hedgerows within a period of 5 years from the date of this permission die or are damaged shall be replaced with similar size and species within the next planting season.

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

8. A parking and turning area for three vehicles shall be maintained throughout the life of the development clear of any obstruction to its designated use.

Reason: In the interests of highway safety.

9. Within 3 months of the date of this permission the existing access to Cote Bottom Lane shall be provided with 2.4m x 54m visibility sightlines in each direction. The area in advance of the sightlines being maintained clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

#### Informatives:

1. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through requesting further information to aid the assessment of the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
2. Having regard to the provisions set out under the Caravan Sites and Control of Development Act 1960, a Caravan Site Licence and supporting licence Conditions will be required. Please contact Environmental Services, South Derbyshire District Council, Civic Offices, Swadlincote, Derbyshire (01283 595950).
3. It is the responsibility of the applicant to ensure safe and satisfactory transfer of static caravans to the site. Any damage to the highway caused by the movement of caravans and associated traffic shall be rectified at the applicant's expense. The highway should be inspected with a Derbyshire County Council Highway Inspector before and after the caravans are delivered to site to agree the extent of any damage.
4. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.

**Item**            **1.3**

**Ref. No.**        **9/2016/1301/HR**

**Applicant:**  
**Mr Michael Stanton**  
**Ladyacre House**  
**Ingleby Lane**  
**Ticknall**  
**Derby**  
**DE73 7JQ**

**Agent:**  
**Mr Michael Stanton**  
**Ladyacre House**  
**Ingleby Lane**  
**Ticknall**  
**Derby**  
**Derbyshire**  
**DE73 7JQ**

**Proposal:**     **THE REMOVAL OF HEDGEROW IN SO FAR AS THE REMOVAL OF REMNANTS OF SCRUB AND SUBSEQUENT LEVELLING OF SOIL ON LAND AT SK3425 7450 LADYACRE HOUSE KNOWLE HILL FARM INGLEBY LANE DERBY**

**Ward:**           **Repton**

**Valid Date**    **20/12/2016**

**Reason for committee determination**

The item is presented to Committee as the applicant is Councillor Michael Stanton.

**Site Description**

The hedgerow is located to the north of Ladyacre House on a steep gradient. The piece of land in question has formed part of a historic boundary and is shown on the parish map of 1851, forming a boundary between the estate parkland to the east and the more regular enclosed fields to the west. The area of the hedgerow consists of mostly elder bushes with no features such as a ditches or watercourses. It has been speculated that historically there had been the planting of trees along this strip of land which demarcated the boundary and not a hedgerow, of which three of these trees remain along the boundary line with a tree stump.

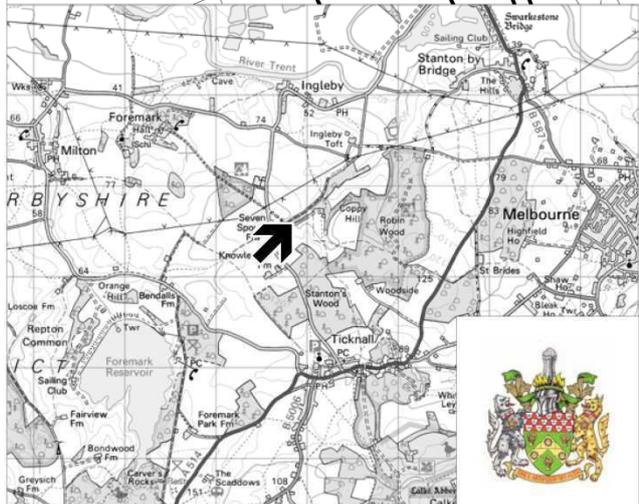
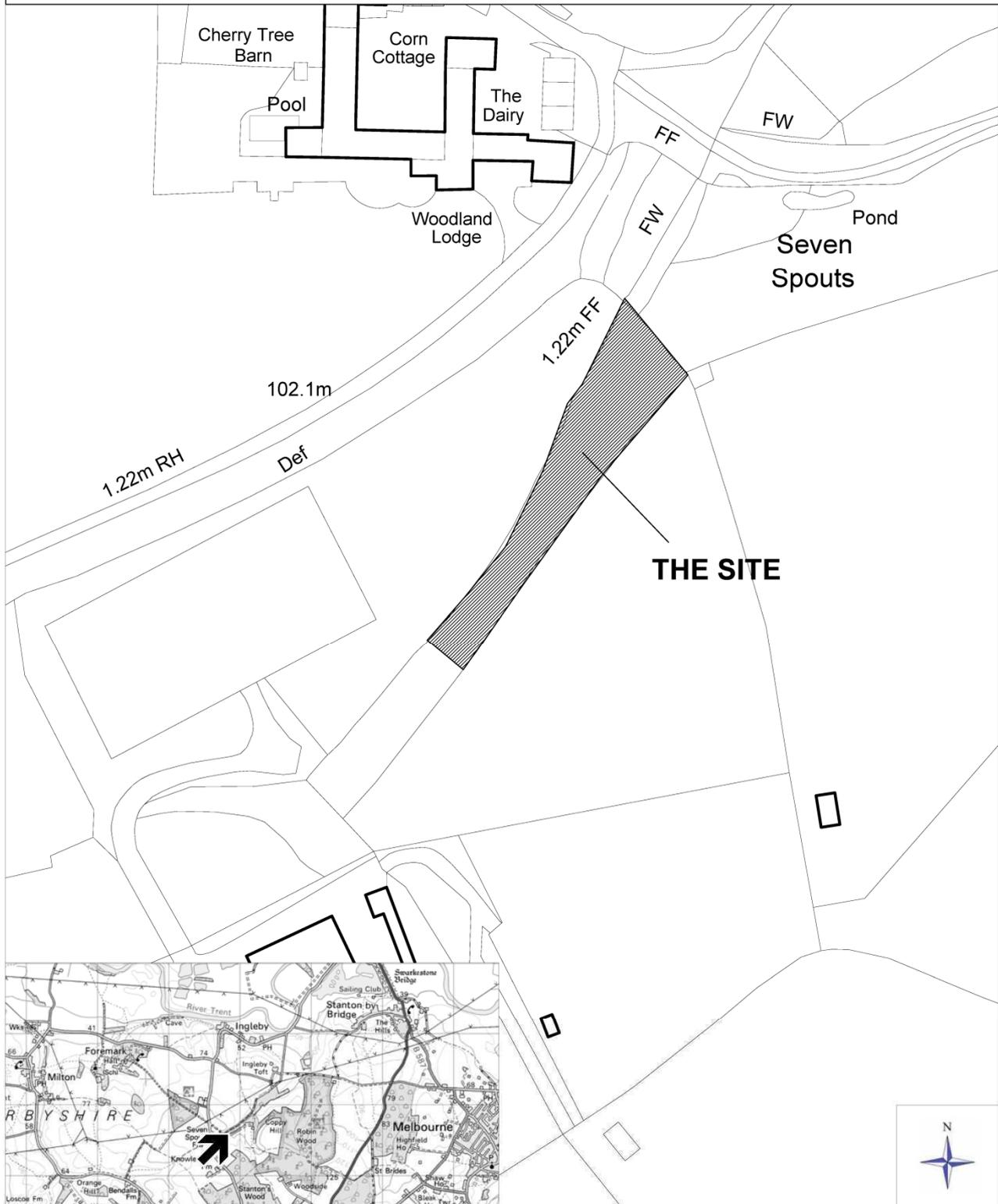
**Proposal**

Consent is sought for the removal of the existing hedgerow, with it subsequently intended to tidy up the land.

**Planning History**

There is no relevant planning history.

9/2016/1301 - Land at SK3425 7450 Knowle Hill Farm, Ingleby Lane DE73 7JQ



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## Responses to Consultations

The Development Control Archaeologist has confirmed that the hedgerow in question formed part of the former boundary to the estate land associated with Knowle Hill House, situated to the east. This is a site on the Derbyshire Historic Environment Record (HER) where a medieval mansion was replaced in the 16<sup>th</sup>-18<sup>th</sup> centuries by a house, of which only the servants' quarters still remains. The house was associated with landscape gardens (also on the HER) created by Walter Burdett in the early 18<sup>th</sup> century. The hedgerow and section of land in question is shown as the boundary of Sir Robert Burdett's estate at Knowle Hill on the Parish map of 1851, forming a boundary between the estate parkland to the east and the more regular enclosed fields to the west. It also appears on the 1<sup>st</sup> Edition Ordnance Survey of 1838. On this basis, the hedgerow therefore meets criterion 5a for historic 'importance' at Schedule 1 Part II of the Hedgerow Regulations (1997): it is an integral part of a field system pre-dating the Inclosure Acts (pre-dating 1845).

However, following a recent site visit, the recent elder growth does not have a historic significance and the historic boundary line appears to be demarcated by mature trees of which only one or two have survived.

It is commented that in historic terms a good outcome would be one that preserves a sense of the historic boundary – certainly keeping historic mature trees and perhaps also more recent self-set trees that contribute to a sense of this boundary, or replanting at intervals to replace the missing historic trees. There would be no objection to the landowner opening up the line to create access through as the historic mapping suggests that the boundary was permeable, rather than a continuous hedgerow. And removal of the elder scrub would probably be a benefit in purely historic terms. The Council would need to consider whether this is technically a case for the hedgerow regulations, or whether it would be better managed by use of a Tree Preservation Order.

Derbyshire Wildlife Trust identified that only the southernmost 35m length of woody vegetation had the characteristic appearance of a hedgerow (i.e. a continuous line of trees and shrubs), while the remaining 55m of vegetation essentially comprised a bank of scrub of between 9 to 18 metres in width. Irrespective of this, the Wildlife Trust considers that the vegetation would meet the strict definition of a hedgerow as set out in the Regulations, in that it has a continuous length of, or exceeding, 20m.

The Trust carried out an assessment based on the criteria for Wildlife and Landscape where, for the hedgerow to qualify as "important", the feature would need to contain a total of at least 7 native woody species throughout its length. The entire hedgerow was found to only contain five different native woody species dominated by Elder with Hawthorn, Silver Birch and Holly as rare components. Three standard mature Beech trees are present together with a standing dead stump. It is advised that the hedgerow does not qualify as an "important" hedgerow and do not object to its removal.

## **Responses to Publicity**

There have been no letters/emails of support or objection received for the proposed works.

## **Legislation**

- The Hedgerow Regulations 1997

## **National Guidance**

- Planning Practice Guidance (PPG)

## **Planning Considerations**

Assessment turns on whether the hedgerow is “important” as defined by the Regulations. These Regulations also make clear that the Council may not serve a Hedgerow Retention Notice (HRN) in respect of a hedgerow which is not important (i.e. it may not refuse consent unless the hedgerow can be substantiated as such). Where a hedgerow is deemed important, the Council shall issue a HRN unless it is satisfied that there are circumstances which justify the hedgerow’s removal.

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

- Ecological considerations; and
- Archaeological (historical) considerations

## **Planning Assessment**

For clarity, the trees and scrub are considered to constitute a hedgerow for the purposes of the Regulations. It is therefore appropriate to consider the proposal under this legislation.

### Ecological considerations

With Derbyshire Wildlife Trust confirming that there are only five native woody species present, the hedgerow is not considered “important” under the Wildlife and Landscape criteria of the Hedgerow Regulations. An HRN is not justified under these provisions.

### Archaeological considerations

The hedgerow and its alignment are considered historically important owing to the demarcation of the estate boundary. The mature trees are likely to be original features in this boundary, but on the balance of probability it is considered, with reference to advice from the Development Control Archaeologist, that the historic boundary was open and permeable with the trees simply marking the boundary. On this basis, the removal of the elder and other species would not have a harmful impact on the historic significance of the boundary, provided that the gradient of the site and the trees are retained. It has been confirmed by the applicant that they wish

to replant beech trees at intervals along the boundary which would seek to re-instate the historic boundary. Hence, whilst a HRN would normally be required here; there are circumstances which justify the removal. To ensure that the existing trees are retained as part of these works, the proposal description has been adjusted to that set out above.

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

## **Recommendation**

**GRANT** consent.

### Informatives:

1. That the hedgerows on the application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to July inclusive. If you are in doubt as to requirements of the law in this regard you should contact Natural England: 0300 060 3900.

**Item**            **1.4**

**Ref. No.**       **9/2017/0507/U**

**Applicant:**  
**Mr Adrian Dawson**  
**The Hill Lodge**  
**Deep Dale Lane**  
**Barrow On Trent**  
**Derby**  
**DE73 7NH**

**Agent:**  
**Mr Christopher Thorp**  
**Chris Thorp Planning**  
**20a Hazelwood Road**  
**Duffield**  
**Belper**  
**DE56 4DQ**

**Proposal:**    **CONTINUED USE OF A DOMESTIC OUTBUILDING FOR A SELF-CONTAINED RESIDENTIAL ANNEX TO THE HOST DWELLING AT THE HILL LODGE DEEP DALE LANE BARROW ON TRENT DERBY**

**Ward:**         **Aston**

**Valid Date**   **10/05/2017**

#### **Reason for committee determination**

The application is reported to Committee at the request of Councillor Watson because local concern has been raised about a particular issue and unusual site circumstances should be considered by the Committee.

#### **Site Description**

The Hill Lodge is situated in open countryside about 500m to the north of the village of Barrow on Trent. The site is located close to the bridge over the Trent and Mersey Canal, on Deep Dale Lane. The site contains the extended host dwelling, two detached outbuildings occupied as ancillary accommodation by members of the applicant's family, a building housing filtration equipment for a fish pond, a garage for a motor car, and an ancillary building undergoing partial demolition. In addition there is a large detached garage that has also been converted to living accommodation and which is the subject of this application.

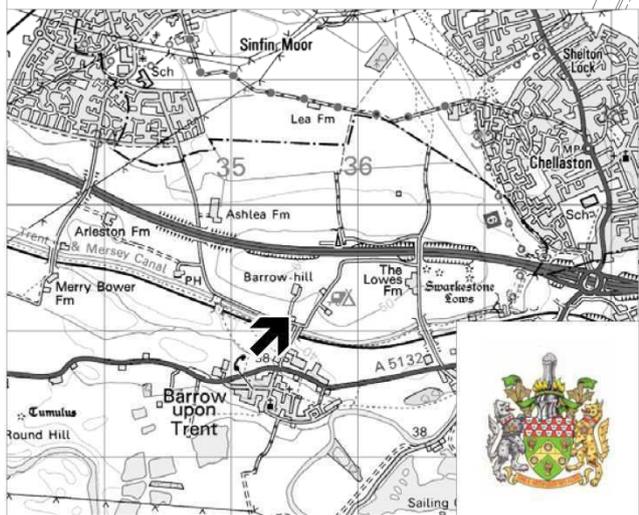
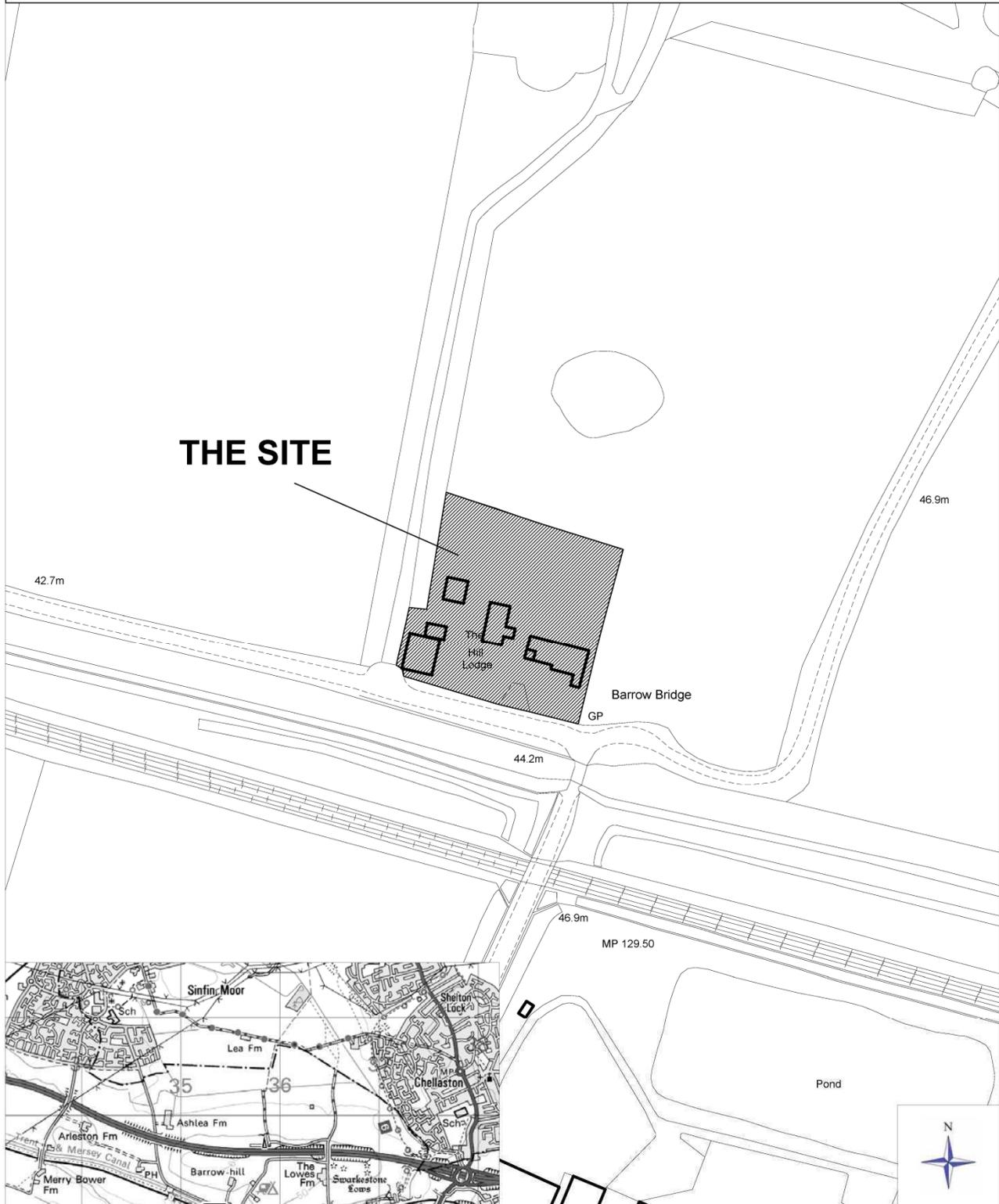
#### **Proposal**

The application seeks to retain, as self-contained but ancillary living accommodation, the use of the existing garage building. The application is accompanied by a draft Undertaking under Section 106 of the Town and Country Planning Act 1990 to secure the following:

- Not to sell any of the residential annexes separate from the main dwelling without the written consent of the Council.

9/2017/0507 - The Hill Lodge, Deep Dale Lane, Barrow on Trent DE73 7NH

THE SITE



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- Not to use any of the self-contained residential annexes otherwise than as ancillary to the residential use of the main dwelling.

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

The application is made with a view to bringing closure in respect of the applicant's building activities that have taken place during recent years. The applicant has recently taken action to comply with the requirements of the recent appeal decision, which provides for the demolition of approximately one half of the largest outbuilding on the site.

In order to enable the Council to exercise proper control over the site whilst affording the applicant the opportunity to resolve his own personal requirements for accommodation, the application is accompanied by a unilateral, legally binding obligation under Section 106 of the Planning Act to control the nature of the living accommodation. This would prevent the establishment or creation of any separate dwellinghouses within the grounds of the Hill Lodge.

The applicant seeks only to provide semi-independent living accommodation for each of his three sons, one of whom lives with his partner in one of the outbuildings. The Council has in the past agreed with the applicant that two of the outbuildings may be used for additional living accommodation without the need for planning permission provided that they remain part and parcel of The Hill Lodge as a single planning unit. The applicant has respected those constraints and has accordingly never made any attempt to create independent dwellinghouses.

The annex subject to the application is now occupied by the applicant's third son, who has been suffering for several years from degenerative kidney failure, and is now facing either a life on dialysis machines or, if a suitable donor can be found, a replacement kidney. In the meantime he is in need of living accommodation as close as possible to his parents should an emergency situation arise. Like the other two annexes, this one has been provided with the essential facilities of bathroom, kitchen, bedroom and living room sufficient for semi-independent occupation to take place.

There is adequate parking and garaging/storage space for the family on the site.

The proposal involves the simple internal conversion of an existing building without the need for any structural changes or additions. The planning policies of South Derbyshire District Council can support the provision of residential annexes where they remain part and parcel of the principal planning unit.

Normally, a local planning authority can, in principle, grant planning permission for the creation of an annex subject to an appropriate condition that complies with Government advice. However the undertaking provides control not only over the planning status of the outbuilding in question but also to control the status of the other two outbuildings for which planning permission has not previously been required. It would come into force in the event that planning permission is granted.

There is broad Government support and encouragement for planning permission to be granted so that all forms of housing provision can be brought forward in order to both meet strategic targets and to assist in addressing the country's the overall shortage of housing both nationally and locally. It is considered that the proposed development is acceptable in principle in land use terms because the site is located within a residential curtilage, does not involve the need for any new building works, and meets policy strategy objectives for sustainable development.

It is acknowledged that the application site has been the unfortunate source of contention in recent years. However, those issues are now being regularised, and in the meantime the applicant has a very real and pressing need to provide on-site accommodation for a highly dependent relative. The use of an appropriate planning condition combined with the legal undertaking would give the Local Planning Authority robust powers to ensure that the site will not be subdivided or separated to allow the creation of independent dwellinghouses.

### **Planning History**

- 9/0390/1320 Stable block – approved
- 9/2002/1020 Conservatory to dwelling – approved
- 9/2002/1038 Storage shed and revised plan for stables – approved
- 9/2002/1211 Hardstanding and access – approved
- 9/2003/0267 Erection of feed store and tack shed to be attached to stable – refused on the grounds of visual impact.
- 9/2003/0480 Conservatory to dwelling and garage – approved
- 9/2003/1026 Change of use and alterations to stables for office use – refused on the grounds of traffic and the visual impact of the proposed changes
- 9/2004/0534 The installation of a balcony to the dwelling, and alterations to previously approved shed – approved
- 9/2005/0194 Animal rearing shed – refused on the grounds of visual impact
- 9/2005/0040 Garage (revised elevations) – approved
- 9/2005/0807 Change of use of stable to office and retention of hardstanding – approved
- 9/2006/0423 Animal rearing shed – refused on the grounds of visual impact
- 9/2007/0076 Extension to office – refused on policy, visual impact and sustainability grounds, and appeal ref. 2046425 dismissed

- 9/2008/0579 Change of use of paddock to garden – approved, with permitted development rights removed by condition
- 9/2008/1059 Covered structure attached to garage – approved
- 9/2010/0674 Formation of vehicular access – approved
- 9/2011/0391 Retrospective application for the installation of dormer windows in garage roof – approved
- 9/2011/0389 Retrospective application for the erection of a garden store – refused and appeal ref. 2159044 (enforcement) dismissed
- 9/2012/0644 Extension to annexe – refused
- 9/2013/0408 Carp pond – approved
- 9/2013/0572 Conversion of building to holiday lets – refused and dismissed at appeal ref. 3130893 & 3130894 (enforcement)
- 9/2014/0225 Garage (refused and dismissed on appeal) and 3m high sleeper wall to frontage (refused but allowed on appeal)
- 9/2015/0371 Gates and boundary walls – approved
- 9/2016/0559 Partial demolition, reduction in height and retention of the remaining structure of an existing outbuilding for incidental use – refused – appeal allowed. The demolition element is required, as a condition, by 21 September 2017.

An Article 4 Direction precluding new 'permitted development' buildings was not confirmed by the Secretary of State.

### **Responses to Consultations**

The Highway Authority has no objection to ancillary living accommodation.

### **Responses to Publicity**

The Parish Council objects for the following reasons:

- a) The property is not connected to the main sewer as stated.
- b) The photo in the planning statement is of a different building.
- c) The building is not shown on the location plan.
- d) The use is not yet permitted.
- e) The applicant's reference to a disability is questioned as the building is two-storey.
- f) A site visit should be undertaken.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: Policies S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), SD1 (Amenity and Environmental Quality), H1 (Settlement Hierarchy), INF2 (Sustainable Transport)
- 1998 Local Plan (saved policies): Environment Policy 1 (EV1) and Housing Policy 7 (H7).

## **Emerging Development Plan Policies**

The relevant policies are:

- Submission Local Plan Part 2: H27 (Householder Development), H28 (Residential Conversions) and BNE5 (Development in the Countryside).

## **National Guidance**

- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (in particular, ID23 (Planning Obligations))

## **Planning Considerations**

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

- The principle of using an existing building for residential accommodation in a rural area;
- Impact on the character and appearance of the countryside;
- Benefits of a Unilateral Undertaking.

## **Planning Assessment**

The principle of using an existing building for residential accommodation in a rural area

Saved policy EV1 and emerging policy BNE5 require development in the countryside to be necessary in such a location. In previous appeals at this site it has been made clear by inspectors that the need for a building ancillary to the host dwelling is primarily a matter for the applicant. As the applicant argues a personal family related case for this proposal it could conform to the first requirement (necessity to a rural location) of saved policy EV1 and emerging policy BNE5. The policies also require acceptable impact on the character of the countryside, which will be discussed as a topic below.

Paragraph 55 of the NPPF seeks to avoid isolated new housing in the countryside. However it sets out various circumstances where new housing could be acceptable including the re-use of redundant or disused buildings where there would be an enhancement to the immediate setting. Policy H1 states that due to lack of services,

only limited infill development and conversions are acceptable in rural areas. Saved policy H7 favours conversion where a building is of bulk form and design in keeping with its surroundings, does not require extensive alteration and the conversion is in keeping with its surroundings. Emerging policy H27 favours new build residential annexes where they are not detrimental to the character of the area and H28 favours conversions applying similar criteria to the NPPF as described above.

Taken in isolation from other policies in the Local Plan, the use of a lawfully existing building for living accommodation carries a fair measure of support from the aforementioned policies. Nevertheless, Policy S6 also seeks to secure patterns of development that enable travelling distances to be minimised and that make best use of existing transport infrastructure and services. In the appeal against refusal of planning application 9/2013/0572 (for holiday lets) the Inspector observed that the site does not adjoin an urban area or key service village and there was no evidence that the site would be accessed by any means other than private car. Having regard to this assessment, the use of the building as a free-standing single dwellinghouse would be contrary to sustainable development objectives. However the applicant proposes, and is prepared to be legally tied, to occupation of the building by a member of the household of The Hill Lodge only. There is also an element of care involved, as described in the applicant's supporting information, and some policy support given by policy H27 of the emerging Plan. In these circumstances the particular merits of this case would bring the proposal into harmony with the sustainable development objectives of the Local Plan. Therefore the proposed use is acceptable in principle, subject to robust controls to avoid progression to a new separate house in the countryside.

#### Impact on the character and appearance of the countryside

The relevant policies seek to minimise impact upon and to protect the countryside. In this case the building already exists and benefits from planning permission. No further external changes are proposed, so the impact on the countryside would remain unchanged.

#### Benefits of a Unilateral Undertaking

An application of this type would normally be controlled by a condition to ensure that the accommodation is not occupied by persons unrelated to the host dwelling (The Hill Lodge). However in this case, acknowledging previous contention, the applicant has volunteered, through a Unilateral Undertaking, to accept control not only over the planning status of the outbuilding in question but also the other two outbuildings for which planning permission has not previously been required. It would come into force in the event that this application is permitted.

This is considered to be of considerable benefit to the objective of retaining control over the use of the site in the future. The undertaking would preclude incremental change to the nature of the occupation of the annex buildings such that it could otherwise be argued they had assumed legal status as independent dwellings.

## Conclusion

The proposal would cause minimal harm per se and the Unilateral Undertaking would introduce certainty to the local planning authority's ability to control residential units in the countryside into the foreseeable future at this site.

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

## **Recommendation**

- A. That the Committee delegates authority to the Planning Services Manager to conclude the Section 106 Unilateral Undertaking in pursuit of the provisions as set out in the planning assessment above;
- B. Subject to A, **GRANT** permission subject to the following conditions:
  - 1. The living accommodation hereby permitted shall be occupied solely by members of the household of The Hill Lodge, Deepdale Lane, Barrow-on Trent, DE73 7NH or by domestic staff, and shall not be severed from the main house as a separate and unconnected dwelling.

Reason: Although the use of the outbuilding to provide additional accommodation to be used in conjunction with the existing dwelling is acceptable, the Council would not normally be inclined to allow the formation of a separate residential unit in this locality. Since the building includes all the domestic facilities necessary for the establishment of a separate self-contained unit, the Council hereby seeks to make it clear that separate occupation is not authorised by this permission.

## Informatives:

- 1. This permission is the subject of a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990.
- 2. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions and seeking to resolve planning objections and issues. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

05/09/2017

**Item**            **1.5**

**Ref. No.**        **9/2017/0530/NO**

**Applicant:**  
**Mr Phil Lenton**  
**South Derbyshire District Council**  
**Civic Offices**  
**Civic Way**  
**Swadlincote**  
**DE11 0AH**

**Agent:**  
**Mr Phil Lenton**  
**South Derbyshire District Council**  
**Civic Offices**  
**Civic Way**  
**Swadlincote**  
**Derbyshire**  
**DE11 0AH**

**Proposal:**     **ERECTION OF A STEEL FABRICATED 'FAMILY SILHOUETTE CYCLE' DISPLAY ON VACANT GRASSED AREA ON ENTRANCE TO GREENBANK LEISURE CENTRE CIVIC WAY SWADLINCOTE**

**Ward:**           **Swadlincote**

**Valid Date**    **15/05/2017**

**Reason for committee determination**

The item is presented to Committee under Regulation 3 as the Council are applying for the proposed works and are the applicant.

**Site Description**

The site is located on a grassed area outside of the Greenbank Leisure Centre entrance and facing out onto Civic Way.

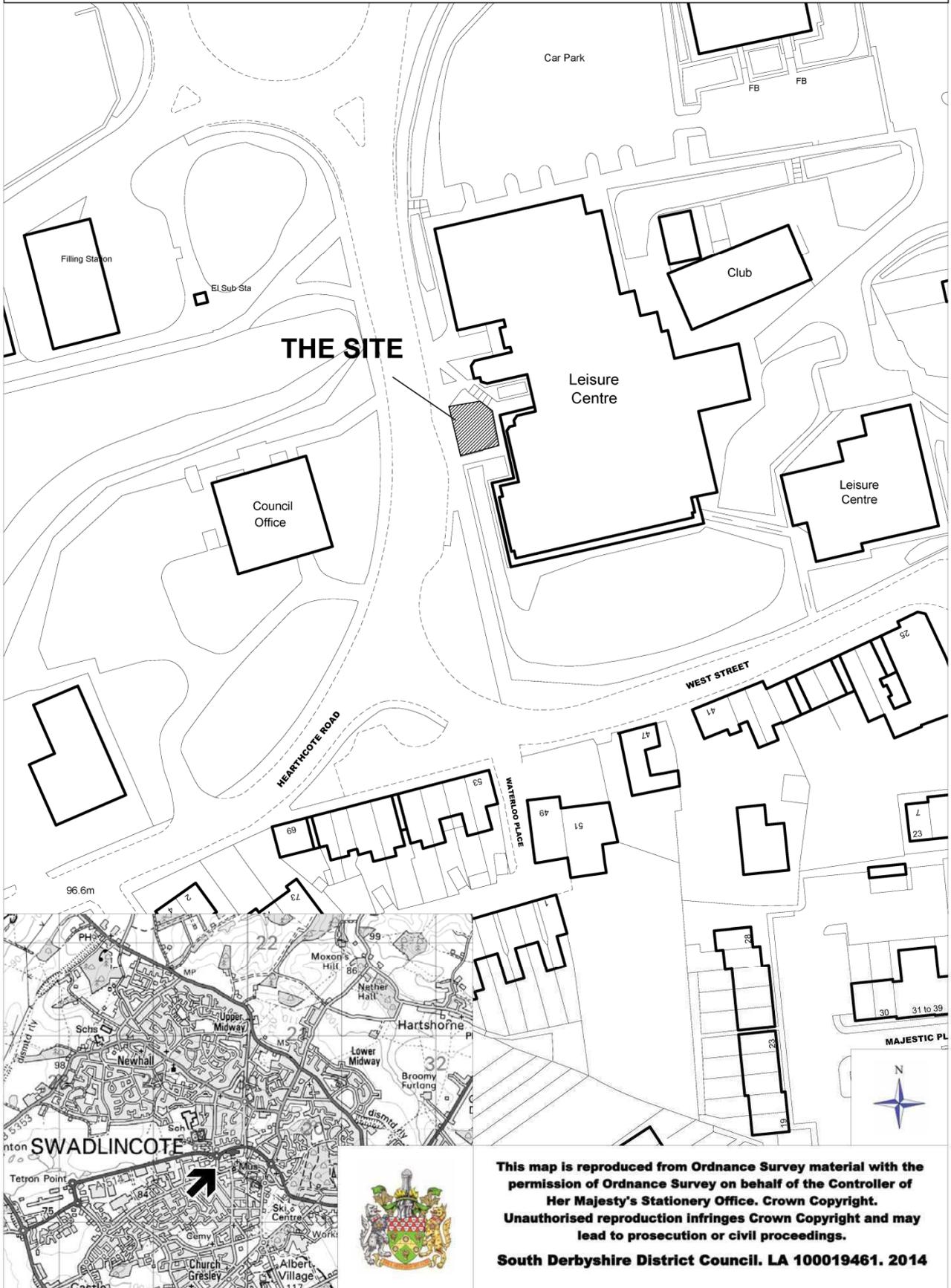
**Proposal**

Consent is sought for the erection of a cycle display that would depict the image of a man, a woman and two children cycling in a line. The structure would consist of four separate components for each character and would be positioned on concrete pads and would be screwed into place. The structure would be displayed as a piece of public furniture and art outside of the leisure centre.

**Planning History**

There is no relevant planning history.

9/2017/0530 - Greenbank Leisure Centre, Civic Way, Swadlincote DE11 0AD



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## **Responses to Consultations**

The County Highway Authority has no objections to the proposal subject to a condition that any illumination should be shielded, so that it would not dazzle drivers.

The Coal Authority has no objection to the proposal.

The Conservation Officer has no objections to the proposed development. However, it would be necessary for a condition to be added for any illumination details to be submitted and discharged as a condition prior to being implemented, to ensure that the details would be suitable.

## **Responses to Publicity**

There have been no representations made in support of or against the proposal.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets) and INF2 (Sustainable Transport).
- 1998 Local Plan (saved policies): EV12 (Conservation Areas).

## **Emerging Development Plan Policies**

The relevant policies are:

- Submission Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE9 (Advertisements and Visual Pollution) and BNE10 (Heritage).

## **National Guidance**

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

## **Planning Considerations**

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

- Impact on visual amenity, and
- Impact on highway safety.

## **Planning Assessment**

### Impact on visual amenity

The structure is of a size and design that would be in keeping with the character and setting of the surrounding area and would not result in an adverse visual impact. It would be set back from the highway and would be positioned on an open section of grass and would not give rise to the appearance of clutter in the street scene. The proposal would therefore comply with policy BNE1 and emerging policy BNE9.

The site is located within the Swadlincote Conservation Area and it is considered that the proposed structure is of a design and nature which would preserve and enhance the wider appearance and character of the Area, subject to control over illumination. On this basis, it is considered that the proposal would comply with the principles of policies BNE2 and EV12, and emerging policy BNE10.

#### Impact on highway safety

The proposal would not encroach onto the footway or interfere with pedestrian or vehicular movements. However, the County Highway Authority has requested that any illumination that would form part of the structure be shielded in order to minimise glare to drivers using Civic Way. This would be reasonable and appropriately controlled through a condition. The proposal would therefore comply with policy INF2 and emerging policy BNE9.

#### Other matters

As the structure would be screwed onto small concrete pad, there would be no intrusive ground works as part of the application. There is thus no concern over ground stability and the principles of policy SD4 are satisfied.

#### Conclusion

On the basis of the information that has been submitted, it is considered that the proposal would make a positive contribution to the surrounding area and would not have a harmful impact on public safety. None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

#### **Recommendation**

**GRANT** permission under Regulation 3 subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the Layout Plan, the Cycle Image and the Concrete Pad Details/Images, all received on 13th May 2017; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material

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

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

3. No illumination shall be incorporated into the development until precise details of the type of lighting, intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The illumination and lighting shall be implemented in accordance with the approved details and shall be retained in conformity with them.

Reason: To preserve the character of the conservation area and to prevent danger to road users.

Informatives:

1. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
2. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority). Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com).

05/09/2017

**Item**            **1.6**

**Ref. No.**        **9/2017/0629/FO**

**Applicant:**  
**Executors Of Peter Jackson Deceased**  
**230 Station Road**  
**Melbourne**  
**Derby**  
**DE73 8BQ**

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

**Proposal:**    **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS AND LAYOUT TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF 3 DWELLINGS AT 230 STATION ROAD MELBOURNE DERBY**

**Ward:**            **Melbourne**

**Valid Date**    **12/06/2017**

#### **Reason for committee determination**

The item is presented to Committee as the proposed development is contrary to the Development Plan and the previous application for the re-development of the site was considered by this Committee prior to its withdrawal.

#### **Site Description**

The application site extends to approximately 0.27 hectares, located to the north east of Melbourne and to the south of Station Road. The site was formerly a nursery commercially growing and packing flowers and vegetables. There is an extensive range of green houses and more substantial portal framed agricultural buildings within the application site.

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

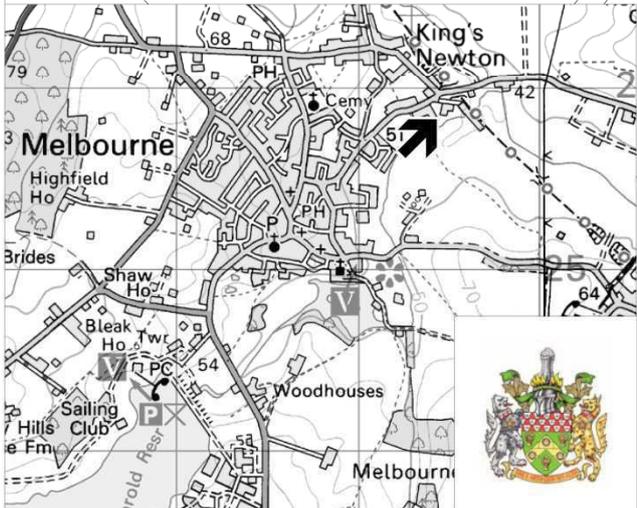
Since the last application was considered, part of the site now benefits from permission under permitted development provisions for 149 sq.m of B8 floorspace, along with permission for the conversion of three of the existing buildings on the site for residential use under similar provisions. The remainder of the site is considered to be greenfield (being in agricultural use) and the site is located within the countryside.

9/2017/0629 - 230 Station Road, Melbourne DE73 8BQ



**THE SITE**

Nursery  
Movable Greenhouses



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**South Derbyshire District Council. LA 100019461. 2014**

## **Proposal**

The application seeks outline planning permission for the residential development of the site for 3 dwellings with all matters except for access and layout reserved for future approval. Vehicular access to the site is proposed from Station Road, and would require the demolition of the existing detached double garage of No. 230.

The layout submitted details the provision of 3 new dwellings, provided in a linked 'L' shaped formation akin to a traditional farm barn complex. The buildings are set out running parallel to the driveway then forming a small complex of buildings around a block paved courtyard.

## **Applicant's supporting information**

The Design and Access Statement sets the physical, social and economic context of the site. The benefits of the development are outlined in the context of the NPPF, PPG and the local plan. The statement highlights the support that the proposal would give to the services of Melbourne in close proximity, the development's contribution to housing supply, and the previously developed nature of the site. The 'fall back' position in relation to the recently approved prior approvals is noted giving the site the benefit of a B8 use and permission for a single dwelling on the site.

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

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

## **Planning History**

- 9/2017/0170 Outline application (all matters except for access and layout to be reserved) for the demolition of existing buildings and the erection of 6 dwellings – Resolved to refuse but Withdrawn before a decision was issued.
- 9/2017/0544 Change of use of an agricultural building to storage and distribution use – Approved 14 July 2017.
- 9/2017/0617 Prior approval for change of use of agricultural buildings to one dwelling house and incidental buildings along with associated operational development – Approved 2 August 2017

## Responses to Consultations

The Highway Authority has no objections in principle subject to conditions relating to the provision of a construction access, a Construction Management Plan (including wheel washing facilities), completion of the site access and parking areas, and details of bin storage and collection.

The Lead Local Flood Authority has no comments on the proposed development.

Severn Trent Water has no objection to the proposal subject to the inclusion of notes on any permission.

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

The Contaminated Land Officer has no objection or comments to make.

Derbyshire Wildlife Trust considers that the surveys undertaken are adequate in order for the application to be determined. The mitigation measures outlined in the submitted report are supported and an ecological enhancement scheme should be conditioned as part of any approval.

Melbourne Parish Council has no objections.

Melbourne Civic Society comment that the development of the site was always going to be a difficult task, and the current application is better than the previous, but the following comments are made:

- i) *The proposed houses will be lower than Station Road sewers, so presumably some pumping arrangement will be needed – we do not see any mention of this in the application;*
- ii) *The proposed open space looks very attractive but it's not clear whether this will remain a private space, or will be adopted by SDDC. Who will maintain this? Will there be a management committee of the three new houses, or will SDDC manage it?*
- iii) *We request that the Local Authority requires the creation of a Public Right of Way (not permissive) along the Carr Brook as a condition of planning consent to connect with Melbourne FP12 which skirts the site.*
- iv) *The application argues that the footprint of buildings is smaller than existing, but says nothing about hard surfaces, so we expect that the hard surface area will increase. With the overall flooding problem in Melbourne, we think that permeable drives and hardstanding should be adopted as a standard for all new development in Melbourne including this one.*

## Responses to Publicity

1 letter of objection has been received, raising the following comments:

- a) the previous application was refused (as it was outside the settlement confine for Melbourne and the backland nature of the development).
- b) existing rights to pass over the existing access to the site (in-between 222 and 224 Station Road) and the legalities of the development;
- c) potential restrictions for access to the parking area for 224 Station Road;
- d) a previous application for a dwelling to the rear of 226 Station Road was refused due to the site's location in the countryside;
- e) limited weight given to the fall-back position for permitted development applications;
- f) the development of a cul-de-sac would be at odds with the prevailing character of the area;
- g) impact on outlook;
- h) the need for levels to be agreed; and
- i) concerns about drainage.

It should be noted that at the time of writing, the notification period is still open and further representations could be received. This period will not expire until after the Committee meeting such that delegated authority is sought to handle any representations received.

### **Development Plan Policies**

The relevant policies are:

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

### **Emerging Development Plan Policies**

The relevant policies are:

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

### **National Guidance**

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

## Local Guidance

- Housing Design and Layout Supplementary Planning Guidance (SPG)

## Planning Assessment

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

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

## Planning Assessment

### The principle of the development

Policy H1 of the Local Plan Part 1 (LP1) sets the settlement hierarchy and identifies Melbourne as a Key Service Village (KSV) (the nearest settlement to the application site) where development outside the settlement boundary is not supported unless development is adjacent to the settlement boundary and constitutes an exception or cross subsidy site (i.e. an affordable dwelling led scheme of not greater than 25 dwellings as assessed against policy H21). The site is located outside the settlement boundary for Melbourne and the proposal is not an exception or cross subsidy site. It is therefore not supported in principle by policy H1. This contention is mirrored under saved policy H5 of the 1998 Local Plan (LP98) which seeks to restrict new housing development to existing village confines. Saved policy EV1 and emerging policy BNE5 also seek to restrict new development outside settlement boundaries unless it is essential to a rural based activity or unavoidable in the countryside. It can therefore be concluded that the proposal would be contrary to the strategic thrust of the Development Plan for housing development.

It therefore falls for the proposal to be considered against the other material considerations relevant in this case, of which there are a number. These need to be weighed in the balance when assessing whether the development of this site for residential purposes contrary to the Development Plan is acceptable. The material considerations relate to the recent planning history on the site which has established alternative (non-agricultural) uses on the site, and the environmental improvements that would result from through the removal of the existing dilapidated buildings, the comprehensive re-development and the reduction in use of the existing substandard access to the agricultural buildings.

The applicant has established and/or secured two alternative uses on the site following the cessation of the horticultural use. These have been established under relatively recent permitted development provisions. These are detailed within the planning history section above and comprise of two elements: 140.5 sq. m of former agricultural floor space has permission for use for B8 purposes, whilst permission has been granted for the change of use of three of the buildings within the site to form a dwelling and ancillary accommodation.

Inspectors have been faced with similar material considerations in appeals previously, and it is necessary to not just consider whether the alternative development could be achieved (i.e. whether permission exists), but whether it would be achieved (i.e. the alternative development represents a feasible and likely fallback in the event of a refusal of the desired scheme). In the case of the B8 storage, this has already commenced and can therefore be given weight as a 'trade-in'. The dwelling permission however is less clear cut. There is some considerable doubt as to the likelihood of that permission being implemented in the event of a refusal here, and this limits the weight which may be afforded to that permission as a trade-in.

Nonetheless, there are other material considerations. It is worthwhile noting that, whilst a horticultural use, the remainder of the buildings could be used for their previous purposes for the growing and packing of flowers and vegetables which would bring about associated noise, disturbance and vehicle movements. The removal of the B8 use from a site which is in close proximity to other residential dwellings and accessed in-between 222 and 224 Station Road would facilitate a betterment and could in fact be operated on a much more intensive basis. Permission here would also see all existing buildings removed in their entirety, excluding the possibility of further creep towards further commercial uses. In terms of the approved residential conversion, this would see the conversion of modern agricultural buildings to form the accommodation. In this instance the permanent retention of these unsympathetic buildings in the landscape would result in a contrived development of little merit to the character of the area.

The balance for Members to consider is whether these latter material considerations are individually or collectively enough, in the absence of sufficient evidence to confirm the implementation of the residential conversion, to outweigh the conflict with the development plan. Would the removal of these uses and buildings result in such an improvement that would warrant the re-development of the site for three dwellings? It is considered that as the site is located in close proximity to existing dwellings, the redevelopment of the site for the same purposes (including preventing a potential intensive use of the existing vehicular access) would be of benefit to the amenities of local residents and would result in an improvement to the character, appearance and amenity of the area. Hence, in these specific circumstances it is considered that there are sufficient material considerations that would outweigh the planning policy objections outlined above and that the development can be supported.

### Landscape and visual impacts

There are a number of policies which are relevant to this assessment. Indeed the objectives of the LP1 and the LP98 are clear that new developments need to protect and enhance the countryside and the quality of the landscape, and preserve the identity, character and environmental quality of South Derbyshire's villages and rural settlements. Policy S1 highlights that "*it is essential that the District's heritage assets, landscape and rural character are protected, conserved and enhanced*". Policy BNE1 seeks, amongst other objectives, to ensure that new developments create places with locally inspired character that responds to their context and have regard to valued landscapes, townscape, and heritage characteristics. With new developments expected to be visually attractive, appropriate, which respect

important landscape, townscape and historic views and vistas. Landscape character and local distinctiveness considerations are further set out in policy BNE4. This policy seeks to protect the character, local distinctiveness and quality of the District's landscape through careful design and the sensitive implementation of new development. In addition, and aside from the principle of development, policies EV1 and BNE5 require new development in the countryside to safeguard and protect the character of the countryside, landscape quality, wildlife and historic features. The policy goes on to state that where development is permitted it should be designed and located so as to create as little impact as practicable on the countryside.

The site is generally visually contained to the north by the existing linear development along Station Road with limited views of the site. The site is occupied by a variety of redundant agricultural buildings which appear to have been disused for a number of years and are in a poor state of repair. The buildings directly to the south-east of 230 Station Road are primarily lightweight glass houses of modest height, with a number of portal framed agricultural style buildings to the south-west. In their current state of repair, these buildings are not attractive features of the landscape, and if left to further deteriorate could be a further burden on it.

The application seeks approval of the proposed layout as part of this outline submission. The layout proposes the formation of a small courtyard style of development akin to the creation of a traditional farmyard, with each of the dwellings linked together. A dwelling fronts the access road to the side of 230 and 228 Station Road, with garaging provided for 230 Station Road close to its rear boundary. The courtyard extends to the rear of the site providing two dwellings linked with garaging forming a courtyard centred around a paved area. Overall layout of the site provides for a well-conceived development, which will reflect the traditional farm style development prevalent across the District.

The re-development of the site provides for a significant overall reduction in built footprint of approximately 61%. The proposal draws the built form away from the north and south eastern boundaries of the site where private amenity space is proposed behind a hedgerow and brick wall, which would provide a visual screen to the proposed domestic curtilages at the edge of the development. The proposal also includes the provision of a planted wildflower meadow and parkland oak tree planting to the field to the south and west of the site, which would provide for the restoration of this currently farmed field to reflect the Landscape Character Area typography for Melbourne Parklands, and provide for a visual improvement in this area along the Carr Brook - acting as a buffer and further screening the proposed development. Appropriate management of this area can be secured though reserved matters.

The proposed development would facilitate significant environmental improvements to the site, including a reduction in overall built form on the site, the removal of the existing dilapidated buildings on the site and the provision of a layout which would enhance the appearance of the area. This is considered to weigh significantly in favour of the proposal, further adding to the material considerations outlined above.

## Highway safety

Vehicular access to the site is proposed from Station Road in-between numbers 230 and 228 and would involve the demolition of the existing detached garage serving no. 230. The existing access would be realigned and widened to provide sufficient width for vehicles to pass. The application demonstrates that 2.4m x 43m vehicular visibility splays can be achieved from the site entrance in both directions. In terms of parking provision, each of the dwellings providing for parking for a minimum of 2 cars, which is considered to be of a sufficient level for the development proposed.

Given this and the lack of objection from the Highway Authority subject to conditions, the proposal is considered to comply with policy INF2 and the requirements of the NPPF, and as such is acceptable in highway safety terms.

## Other Issues

Policy BNE3 states that planning proposals that could have a direct or indirect effect on sites with ecological or geological importance, and where mitigation measures cannot sufficiently offset the significant harm resulting, should be refused. Policy EV11 seeks to afford similar protection of biodiversity interests, whilst paragraphs 109 and 118 of the NPPF aim to conserve and enhance biodiversity and provide net gains where possible. No evidence of use by protected species is evident on site, with surveys indicating that bats only use the site for foraging and commuting. A sensitive lighting strategy which prevents light spill on to the adjacent hedgerows is recommended to converse these interests. The provision of a wildflower meadow with parkland oak tree planting and the reclamation of this field from agriculture is considered to result in a net increase in biodiversity as a result and is supported by the Wildlife Trust.

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

The site itself is located within Flood Zone 1 and as such is not at risk from flooding. However, as a result of the recent flooding concerns in Melbourne and the location of the Carr Brook to the south of the site; it is considered appropriate to condition the provision of a drainage scheme for the site to ensure that sustainable drainage techniques are utilised throughout the site.

## Conclusion

Matters of highway safety, biodiversity and impacts on residential amenity are considered to be acceptable in principle, subject to conditions where necessary and a detailed assessment of the remaining reserved matters. The proposed development would bring about economic, social and environmental benefits through

provision of new housing close to a KSV, the prospective occupiers supporting businesses and community facilities in the village, the environmental improvements by way of the net gain in biodiversity, and economic benefits through the construction phase of the development. The comprehensive re-development of the site brings about further environmental and social gains, both in visual terms and precluding non-conforming uses. It is considered that whilst the proposed would be contrary to the provisions of the Development Plan, the material considerations in this specific circumstance outweigh the conflict with it such that the development can be supported.

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

### **Recommendation**

That delegated authority be granted to the Planning Services Manager to consider any further representations received; and subject to those representations not raising any significant matters not already addressed in this report, **GRANT** permission subject to the following conditions:

1. Before any development is commenced the further approval of the Local Planning Authority is required with respect to the following reserved matters:
  - (a) appearance,
  - (b) landscaping, and
  - (c) scale.

Reason: This permission is granted in outline under the provisions of the Town & Country Planning (Development Management Procedure) (England) Order 2015 and section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2.
  - (a) Application for approval of the reserved matters listed at condition 1 shall be made to the Local Planning Authority before the expiration of three years from the date of this permission; and
  - (b) The development hereby permitted shall be commenced before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

3. The access and layout of the development hereby permitted shall be carried out in accordance with drawing number 230.SBR.009 Rev B; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

4. The development shall be implemented in accordance with the recommendations of the submitted Noise Assessment prepared by Echo Affiliates (21 March 2014).

Reason: To ensure the development is provided with appropriate noise mitigation.

5. 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 altered, enlarged or extended, no satellite dishes shall be affixed to the dwellings and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the site without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

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

6. No development shall take place until a Construction Management Plan or Construction Method Statement has been submitted to and been approved in writing by the Local Planning Authority. The Plan/Statement shall provide for the storage of plant and materials, site accommodation, loading, unloading of goods vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway, pedestrian and cyclist protection and any proposed temporary traffic restrictions. The approved Plan/Statement shall be adhered to throughout the construction period.

Reason: In the interests of highway safety, recognising that initial works to clear and prepare the site could give rise to unacceptable impacts.

7. No generators or pumps shall be used on site during the construction phase without details having first been submitted to and approved in writing by the Local Planning Authority. There shall be no burning of waste on site arising from the construction phase.

Reason: In the interest of protecting the amenity of nearby residents.

8. During the period of construction and unless in an emergency, there shall be no deliveries or use of plant and machinery outside the following times: 0800 - 1800 hours Monday to Friday and 0800 - 1300 hours on Saturdays. There shall be no deliveries or use of plant and machinery at any time on Sundays, Bank and Public Holidays.

Reason: To protect the amenity of residents.

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

Reason: To protect the amenities of adjoining properties and the locality generally, acknowledging that these details are required prior to initial ground works being carried out on the site.

10. Prior to the commencement of building operations, a scheme for the disposal of surface and foul water shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the approved details before the development is first brought into use.

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

11. The landscape reserved matter submitted in accordance with condition 1 shall include a full and detailed scheme for ecological enhancement across the site based upon the Preliminary Ecological Assessment & Daytime Bat Survey (January 2017) and Design and Access Statement. The scheme shall include (but not exclusively relate to) the creation of a wildflower meadow, native hedge planting and the incorporation of bat bricks and bird nest boxes within the new dwellings. The scheme shall include a timetable for implementation relative to the completion of the dwellings hereby approved, and a scheme for the ongoing management and maintenance of the site in perpetuity including the funding and management arrangements. Thereafter the approved ecological enhancement scheme shall be implemented in full in accordance with the approved timetable and thereafter managed in accordance with the management requirements.

Reason: As recommended by Derbyshire Wildlife Trust in this interests of ensuring that the development provides for biodiversity enhancement, and for the visual improvement of the area.

12. Prior to the first occupation of any new dwelling, the access/driveway within the site shall be laid out in accordance with approved drawing. Notwithstanding the approved drawing, the junction of the driveway with Station Road shall be constructed as a splayed dropped crossing, laid out and constructed in accordance with Derbyshire County Council's specifications. The access shall be provided with visibility sightlines of 43m to the nearside carriageway edge in either direction as measured from a central point in the access 2.4m back from the nearside carriageway edge, the area forward of which shall be maintained thereafter clear of any obstruction greater than 1m in height (0.6m in the case of vegetation).

Reason: In the interests of highway safety.

13. Prior to the first occupation of any new dwelling hereby permitted, measures to prevent vehicular access to the dwellings from the existing access which passes between numbers 222 and 224 Station Road shall be installed, the details of which shall have been first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

14. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the approved drawing for the parking and manoeuvring of residents' vehicles of the existing and proposed dwellings, along with service and delivery vehicles, laid out,

surfaced and maintained throughout the life of the development free from any impediment to its designated use as such.

Reason: To ensure that adequate parking/garaging provision is available.

15. No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for the designated purposes at all times thereafter.

Reason: In order to ensure that adequate bin storage is provided.

Informatives:

1. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, suggesting amendments to improve the quality of the proposal through meetings and negotiations. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
2. Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water would seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.
3. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport and Communities at County Hall, Matlock regarding access works within the highway. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk), email [Highways.Hub@derbyshire.gov.uk](mailto:Highways.Hub@derbyshire.gov.uk) or telephone 01629 533190.
4. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
5. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.

05/09/2017

**Item** 1.7

**Ref. No.** 9/2017/0768/FH

**Applicant:**  
**Ms J Laughlin**  
**38 Beech Avenue**  
**Willington**  
**Derby**  
**DE65 6DB**

**Agent:**  
**John Pearson**  
**Jdp Architects**  
**Manor Barn**  
**Lullington Road**  
**Coton In The Elms**  
**DE12 8EP**

**Proposal:** THE ERECTION OF EXTENSIONS AT 38 BEECH AVENUE  
WILLINGTON DERBY

**Ward:** Willington & Stenson

**Valid Date** 25/07/2017

### **Reason for committee determination**

The application is reported to Committee as Councillor Andrew Macpherson is the partner of the applicant and lives at the address.

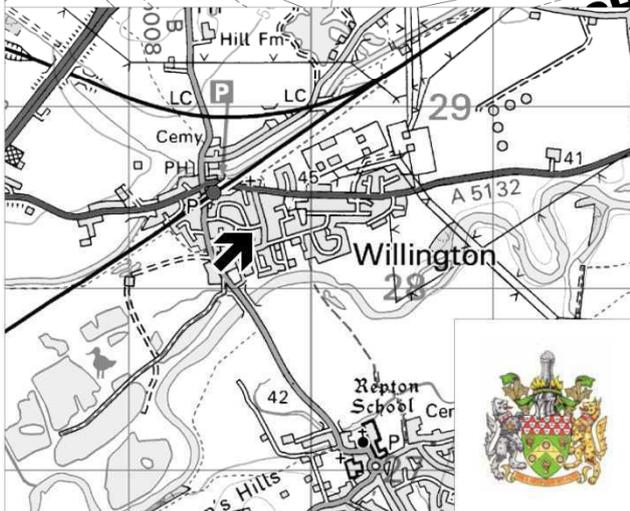
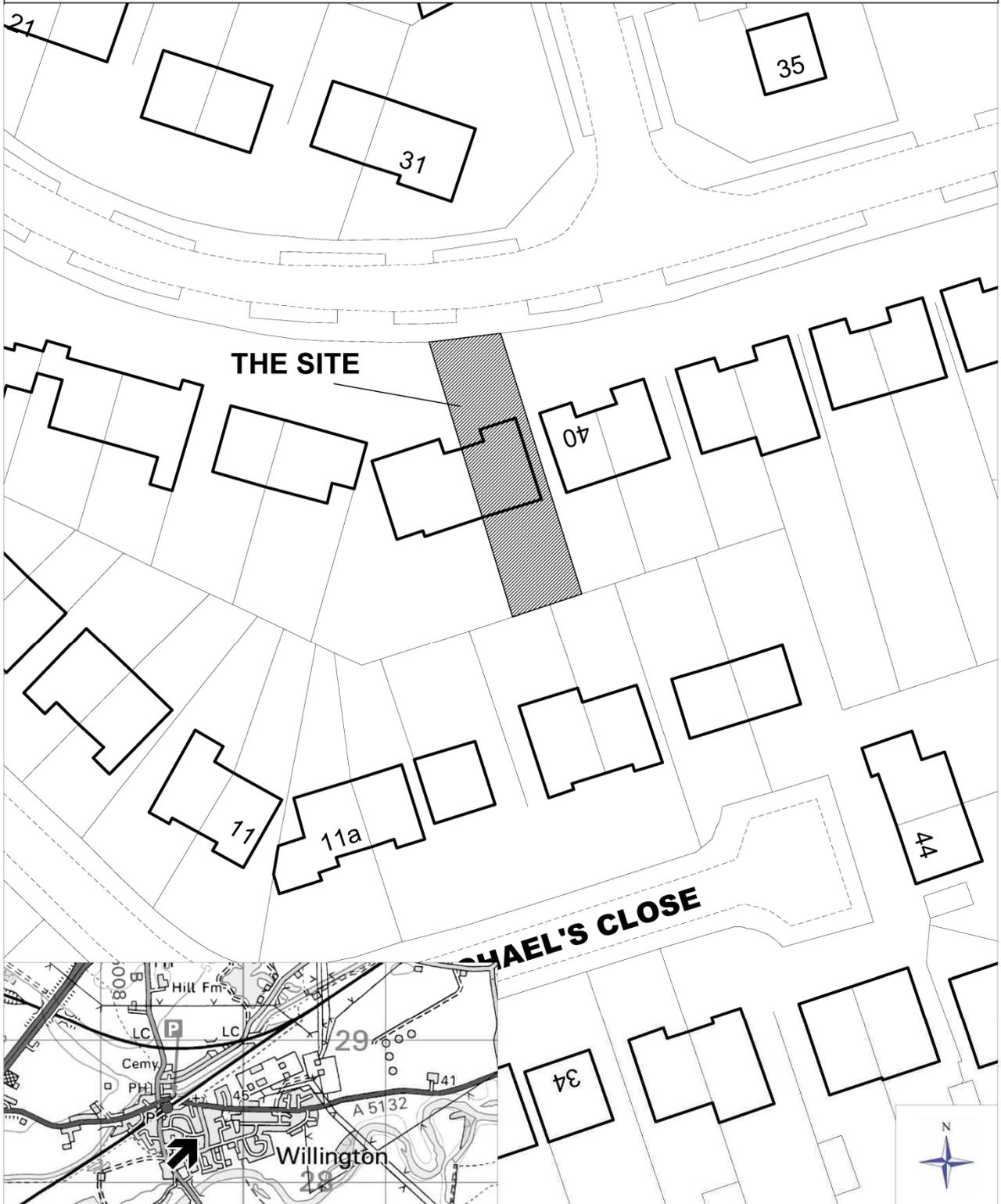
### **Site Description**

The property is typical of the area, two storey, semi-detached, affording some front and rear garden space. Garden frontages are generally open (as is the case here) with some basic landscaping and space to park a couple of cars. This particular rear garden is consistent in size with the neighbours and affords some privacy by way of 1.8m high boundary screening, made up of a mix of hedging and fencing. Levels are generally flat, although this and neighbours properties do sit slightly lower than the road level.

### **Proposal**

The application proposes three separate extensions – one to the front, one to the side and one to the rear. All could be reasonably described as being of single storey size. The part to the front allows for some extra lounge space and continues the lean-to form of the current forward protruding garage part. Plans show it extending some 1.25m forward of the principal wall with eaves at 2.5m and a finished height of 3.6m. The side extension is effectively a covered side passage, open to side, supported by 5 'pillars' and finished with a flat roof. The rear extension takes on the form of an orangery, finished with a flat roof/small protruding roof lantern. All of its windows are south facing.

9/2017/0768 - 38 Beech Avenue, Willington DE65 6DB



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## **Planning History**

None.

## **Responses to Consultations**

None.

## **Responses to Publicity**

None received.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence) and BNE4 (Landscape Character and Local Distinctiveness)
- 1998 Local Plan (saved policies): H13 (Residential Extensions)

## **Emerging Development Plan Policies**

The relevant policies are:

- Submission Local Plan Part 2: H27 (Residential Extensions and Other Householder Development)

## **National Guidance**

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

## **Local Guidance**

- Extending Your Home SPG

## **Planning Considerations**

The main issues central to the determination of this application are the design of the proposed extension and the impact it would have on neighbouring properties.

## **Planning Assessment**

The three forms presented are felt to be in keeping with the evolved character here; indeed a number of neighbours have been allowed to extend in similar modest fashion. Furthermore, all of the proposed additions are single storey and felt to be small enough or fenestrated in such a way as not to impinge on the amenity of neighbours.

None of the new mass is felt to be unreasonably oppressive when seen from the closest primary spaces. The alteration to the front is on the periphery of any view from the adjacent space, whereas the extension to the rear could effectively be achieved by way of permitted development. The 'covered walkway' is open to the side so some depth of view is maintained for the closest neighbour there.

SPG minimum distance requirements are complied with in terms of new windows with over 15m from the new dining space to first floor bedrooms on St Michael's Close, whilst the highway/public realm intervenes in terms of any altered view to the front.

A condition that ensures the use of matching materials will ensure sympathetic execution of the development.

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

## **Recommendation**

**GRANT** permission subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with drawing No. 1636/02B unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

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

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

## **Informatives:**

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

05/09/2017

Item 2.1

Ref. No. 9/2016/0147/NO

**Applicant:**  
**Mr Umesh Kotecha**  
**First Fence Ltd**  
**Kiln Way**  
**Woodville**  
**Swadlincote**  
**DE11 8EA**

**Agent:**  
**Mr Umesh Kotecha**  
**First Fence Ltd**  
**Kiln Way**  
**Woodville**  
**Swadlincote**  
**Derbyshire**  
**DE11 8EA**

**Proposal: USE OF SITE IN CONNECTION WITH B2/B8 USE RETENTION OF PERIMETER PALLISADE FENCING INSTALLTION OF DROPPED KERB, RETENTION OF HARDSTANDING AND RETENTION OF RETAINING WALL AT FIRST FENCE LTD KILN WAY WOODVILLE SWADLINCOTE**

**Ward: Woodville**

**Valid Date 05/08/2016**

#### **Reason for committee determination**

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

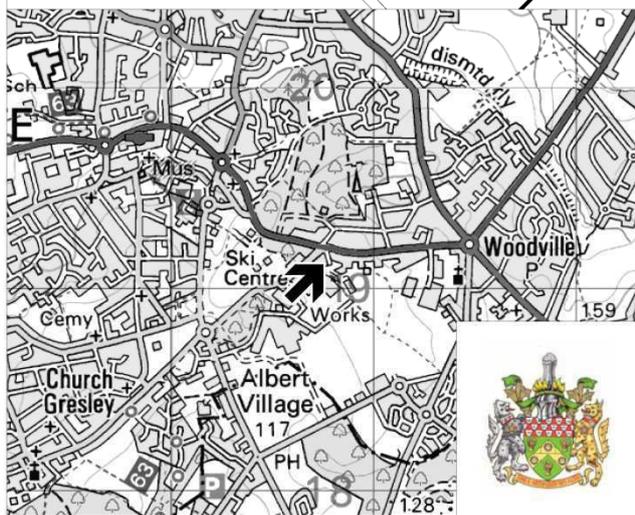
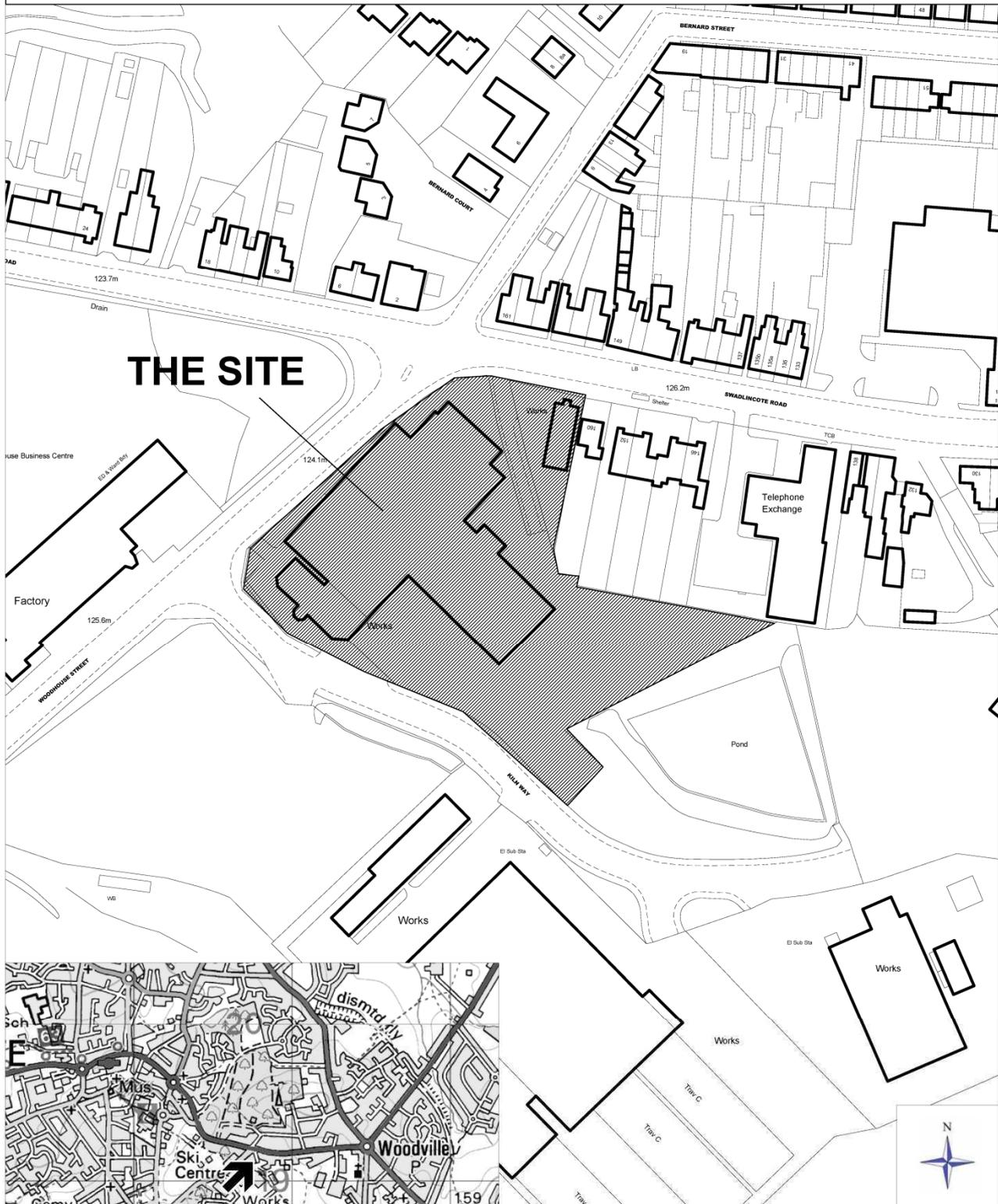
#### **Site Description**

The site has historically been used for general industrial uses (use class B2) with the surrounding land outside of the buildings used for ancillary storage. The site is located on the corner of Swadlincote Road and Woodhouse Street and whilst the site is contained by existing industrial uses to the south, there are residential properties to the north and east of the site. The site is presently accessed from Kiln Way and Swadlincote Road.

#### **Proposal**

Consent is sought for the retention of the palisade fencing around the perimeter of the site with the installation of a new dropped kerb and a new access, the retention of a retaining wall to the rear and hardstanding and the use of a new section of the site (created by the access and hardstanding) for industrial/storage purposes (use classes B2 and B8).

9/2016/0147 - First Fence Ltd, Kiln Way, Woodville DE11 8EA



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**South Derbyshire District Council. LA 100019461. 2014**

## **Planning History**

970/35	Office Block – Approved 04/11/1970
1171/44	Industrial building – Approved 09/02/1972
373/16	Office – Approved 17/04/1973
9/482/258	Single storey workshop extension – Approved 26/05/1982
9/584/336	Erection of an extension on the flank of the building – Approved 22/06/1984
9/985/470	The erection of a workshop extension of 1034 sq m floor area on the north eastern side of the factory premises – Approved 07/11/1985
9/0690/0274	The erection of two storey extension – Approved 26/07/1990
9/1095/0519	Workshop and ancillary accommodation – Approved 29/11/1995
9/0196/0737	The erection of an extension to provide a workshop and compressor room in substitution for that permitted under planning application 9/1095/0519 – Approved 21/03/1996

## **Responses to Consultations**

The Development Control Archaeologist has no objection.

The County Flood Risk Team has no objection.

The Coal Authority has no objections to the works as there would be no ground intrusive works taking place.

The County Highway Authority has no objections to the works as the new access would be an improvement over the existing access point onto Swadlincote Road. It is requested that the existing access is closed off when the proposed access is operational.

The Environmental Health Officer, owing to the twenty four hour nature of the use, has requested that a Noise Mitigation Survey is submitted for consideration prior to determination of the application.

## **Responses to Publicity**

There have been six responses received from local residents raising the following points:

- a) There are a number of concerns about the company's general practice;
- b) A building that had previously been a Sunday School has been demolished;

- c) A number of trees have been removed and trees have had their lower branches removed. Due to the loss of privacy, residents do not use their gardens;
- d) The entrance on Swadlincote Road is being used as an entrance for staff vehicles including transit vans and flat-bed trucks. These vehicles are unloaded in an area adjacent to residential properties along Swadlincote Road;
- e) They are currently working all hours, creating noise from as early as 6am and even 4am. The noise is at such a level that it is impossible to leave windows open. There is constant noise from the workforce who are shouting above the sound of the steel panels;
- f) High intensity flood lights have been installed in an outdoor work area, which disturbs resident's privacy;
- g) Planning permission would be detrimental to all neighbouring properties as First Fence has no consideration for neighbours or their privacy;
- h) There are safety issues relating to the entrance that vehicles are using from Swadlincote Road and would cause further disruption to an already busy junction that is few yards from the entrance. Vehicles using this entrance would obscure the view of road users exiting the junction, which is extremely busy throughout the day;
- i) First Fence vehicles park all along Kiln Way on a regular basis (lorries, cars and vans) which exacerbates the problem, in addition with the front entrance being used more regularly;
- j) The proposal will generate a significant level of traffic;
- k) The working hours are to be extended for twenty four hours;
- l) The application is incorrect on specific details;
- m) Irreversible details have been carried out prior to the planning permission being sought/granted;
- n) The environmental issues have not been looked at and the implications have not been properly explored;
- o) Concerns as to where the numbers of staff will park as the site is at full capacity since the company have installed hardstanding for vehicles. If vehicles are not parked on site, they are parked on Kiln Way;
- p) The Environmental Health Officer has been involved due to noise and lights shining into properties. If the premises are allowed to operate over twenty four hours, this will exacerbate the problem;
- q) The use of the premises is affecting neighbours quality of life;
- r) The application is incorrect as the building has already been removed the building that stood on the land of Richardson's of Burton; and
- s) The perimeter trees have also been removed and with it the screening that was available to residents and damaged neighbours fencing panels.

Councillor Taylor has expressed concerns regarding the fencing and the impact that this could have on pedestrian safety.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in favour of Sustainable Development), E2 (Other Industrial and Business Development), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets) and INF2 (Sustainable Transport)
- 1998 Local Plan (saved policies): EV14 (Archaeological and Heritage Features)

### **Emerging Development Plan Policies**

The relevant policies are:

- Submission Local Plan Part 2: SDT1 (Settlement Boundaries and Development) and BNE10 (Heritage)

### **National Guidance**

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

### **Planning Considerations**

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

- Impact of the use;
- The creation of the new access;
- Impact of new fencing;
- The hardstanding and retaining wall;

### **Planning Assessment**

#### Impact of the use

Whilst the premises has operated under a predominantly industrial use (use class B2) dating back to the 1970's with ancillary offices (use class B1) and ancillary storage (use class B8); the demolition of the existing retail building (formally Richard's of Burton) and the incorporation and inclusion of this land into the existing industrial use causes a material change to the planning unit, 'resetting' its use to that proposed. This would mean that the combined use of the existing industrial buildings and the area of the previous retail shop would need to be considered as a new industrial unit in its own right.

Due to the historic nature of the original approvals, the existing industrial use is largely unconditioned, which would mean that the use could otherwise operate at any time during the day or night with no noise mitigation or control measures on most parts of the site.

Concerns have been raised by the Environmental Health Officer and local residents with regard to the level of noise from the site. Owing to the new, closer proximity of

the use to neighbouring residential properties, as well as the greater use external areas for storage; the Environmental Health Officer has requested a Noise Mitigation Survey in order to assess if the inclusion of the land (formally Richardson's of Burton) into an industrial use would contribute to undue noise and disturbance impacts. Despite repeated attempts, this information has not been submitted. With such evidence, it is not possible to determine if the proposal would comply with policy SD1 of the Local Plan Part 1 with regard to the impact on the amenity of neighbouring residents. The NPPF and PPG provide further guidance on noise and at what stage investigation and/or mitigation is required, as well as when noise creating uses should be avoided. The indication is that the impacts on residential occupants would not be acceptable. On this basis, it is recommended that the application be refused due to this element of the proposal.

#### The creation of a new access

The new access would be located onto Swadlincote Road, positioned adjacent to the existing retail building that has since been demolished. The existing access is more or less on the radius of the junction to Woodhouse Street. The proposed access would be in a more preferable location in terms of driver and pedestrian visibility in comparison to the existing access, and the County Highway Authority has expressed no objection confirming the same. They request that this betterment is secured by condition, ensuring that the existing access is closed off. The proposed access would therefore comply with policy INF2 of the Local Plan Part 1.

#### Impact of new fencing

The fencing consists of 2.4m high palisade fencing that has been erected around the perimeter of the site and is positioned adjacent to the highway along Swadlincote Road, Woodhouse Road and Kiln Way. The fencing has been erected in the same position and at the same height as the previous wire mesh fencing that was present on site.

Whilst palisade fencing is not of ideal design, it remains visually permeable as before. The fencing has been painted blue which would make it appear more visually prominent than the former wire mesh fencing, but planning permission would not be required for the painting of a boundary treatment. A similar prominence could be achieved with a fence erected to permitted development limitations (i.e. 1m in height). These points coupled with the fence being erected in the same position and to the same height as that previously present, mean it is considered that there is not an unacceptable visual impact to the character of the area.

There have also been no objections raised by the County Highway Authority in respect of highway safety, despite local concerns as to visibility for pedestrians crossing the junction of Woodhouse Street. Ultimately, that visibility situation is largely unchanged from the former conditions and the fence therefore does not present notably different circumstances to warrant withholding permission. As a result it is considered that the fencing would comply with policies BNE1 and INF2 of the Local Plan Part 1, and a refusal is not recommended on these grounds.

## The hardstanding and retaining wall

The hardstanding has been installed in order to level and tidy the site and provide an area for ancillary storage at the premises. The outside area has always been used for ancillary storage purposes and therefore, the hardstanding would have a negligible visual impact. With such works not intrusive, there have been no objections raised by the Coal Authority or the Development Control Archaeologist. The retaining wall is to the rear of the site and cannot be seen from the wider public realm. As a result, these elements of the development would comply with policies BNE1 and BNE2, and saved policy EV14.

## Conclusion

In the absence of sufficient evidence in respect of noise impacts it is not appropriate to permit the continued use of the site as proposed. This lack of information also means it is not known whether mitigation could be achieved and whether it would secure the necessary abatement of noise breakout from the premises. On this matter alone, it is recommended that planning permission be refused.

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

## **Recommendation**

**REFUSE** permission for the following reason:

1. The proposal would constitute a materially different and new chapter in the planning use of the site, with proposed operations and activities also drawn closer to residential properties by the taking in of additional land and greater use of external areas. A Noise Assessment and mitigation proposals have not been submitted by the applicant and in the absence of this information, the Council is unable to determine if the use would be acceptable in principle, and/or whether mitigation could ensure appropriate living conditions for adjoining occupiers. As a result, the proposal fails to demonstrate compliance with policy SD1 of the Local Plan Part 1 and relevant provisions of the NPPF and PPG.

## Informatives:

1. Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues and providing the opportunity to overcome reasons for refusal. However despite such efforts, the planning objections and issues have not been satisfactorily addressed and the suggested information has not been supplied. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

## **2. PLANNING AND OTHER APPEALS**

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

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/Delegated</b>	<b>Page</b>
9/2016/1228	Rosliston Road, Walton on Trent	Seales	Dismissed	Committee	70



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## Appeal Decision

Site visit made on 4 July 2017

**by Andrew McCormack BSc (Hons) MRTPI**

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

**Decision date: 22 August 2017**

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**Appeal Ref: APP/F1040/W/17/3173416**

**Land rear of 1 Rosliston Road, Walton on Trent, Swadlincote DE12 8NQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr C Gordon against the decision of South Derbyshire District Council.
  - The application Ref 9/2016/1228, dated 20 November 2016, was refused by notice dated 22 March 2017.
  - The development proposed is demolition of garden building and erection of single dwelling and provision of 2No. car parking spaces relating to No.1 Rosliston Road.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposed development on the living conditions of neighbouring occupiers with regard to outlook and daylight.

### Reasons

3. The appeal site is located within the settlement of Walton on Trent and is formed by part of the rear garden of 1 Rosliston Road. The area is characterised as being predominantly residential with residential properties to the north, west and south of the site and domestic rear gardens to the east. The residential properties are positioned on relatively large plots which provide a sense of openness to the area. The site is situated adjacent to a public right of way which runs along its western boundary and is separated from it by a hedgerow and fencing. In addition, the topography of the area means that the site is elevated above the nearby residential properties to the north and west.
4. Policy SD1 of the South Derbyshire Local Plan – Part 1 (LP) states that development will be supported that does not lead to adverse impacts on the environment or the amenity of existing and future occupiers within or around proposed developments. Furthermore, the Council's Housing Design and Layout Supplementary Planning Guidance (SPG) indicates that the separation distances indicated within the SPG between properties can be increased or decreased to ensure that a good standard of residential amenity is maintained.
5. The proposed dwelling would be two storeys in height and, due to its elevated position in relation to the adjacent properties on Harbin Road to the north and Leedhams Croft to the north west, I find that it would have an overbearing and dominant impact on neighbouring occupiers. Furthermore, the proposed

- dwelling would create a sense of enclosure and would have an impact on the amount of natural light which would reach the rear garden areas of adjacent properties on Harbin Road.
6. There would be some screening between properties along the site boundaries. However, due to the proximity of the proposed dwelling to the northern boundary of the site, I find that such screening would not effectively mitigate the overbearing and overshadowing effect of the proposed development on the adjacent properties to the north and their occupiers. The proposed dwelling would have a dominant and prominent presence for the occupiers of the properties on Harbin Road and Leedhams Croft. Furthermore, it would create an undue sense of enclosure, particularly with regard to the nearest rear gardens of those properties. Moreover, this would only be exacerbated by the elevated position of the appeal site and proposal in relation to the adjacent properties.
  7. Having had regard to the evidence before me and from what I saw at the site visit, I find that due to its proximity and elevated position, the proposed dwelling would have a detrimental impact on the amount of natural light which would reach the adjacent garden areas of the properties on Harbin Road. In addition, notwithstanding the existing trees and hedgerow, I find that the nearest property to the proposal, situated on Leedhams Croft would be adversely affected in terms of natural light and by way of being overbearing.
  8. I note the amendments submitted by the appellant in terms of the orientation and layout of the proposed dwelling in order to address concerns regarding the impact on neighbouring occupiers. Notwithstanding this, whilst I have given due consideration to such matters, I find that due to the existing topography at the appeal site such measures would not adequately mitigate the significant impact that the height of the proposal would have in terms of overshadowing and the outlook of neighbouring occupiers.
  9. I acknowledge that the proposed development would provide a new dwelling within an established residential area. However, due to its height, elevated position and proximity to neighbouring properties, including garden areas, I find that it would have a significant detrimental effect on the living conditions of neighbouring occupiers with regard to overshadowing and by way of it being overbearing. As a result, I find that the significant harm resulting from the proposal would clearly outweigh the benefits identified.
  10. Consequently, I conclude that the proposed development would have a significant detrimental impact on the living conditions of neighbouring occupiers with regard to outlook and natural daylight. It would therefore be contrary to Policy SD1 of the South Derbyshire Local Plan - Part 1 (LP). Amongst other matters, this policy seeks to ensure that development has no adverse impacts on its surroundings or on the amenity of existing and future occupiers within or around it.

*Other considerations*

11. The guidelines for separation distances between buildings, as set out within the SPG, assume a relatively flat topography and little or no screening. The SPG also states that where this is not the case, the minimum separation distances set out may be increased or decreased as appropriate. Given the specific circumstances in this case relating to the topography of the appeal site, I find

that it would be appropriate to take such matters into account. As a result, I find that an increase in the separation distances between the proposed dwelling and properties on Harbin Road would have no significant adverse impact with regard to overlooking and privacy issues. Notwithstanding this, I find that this would not override the significant harm I have identified with regard to the in the substantive matter above.

**Conclusion**

12. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*Andrew McCormack*

INSPECTOR