

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

**SECTION 1: Planning Applications  
SECTION 2: Planning 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 1995 (as amended) responses to County Matters and submissions to PINS.**

Reference	Item	Place	Ward	Page
9/2014/0090	1.1	Overseal	Seales	1
9/2013/1053	1.2	Repton	Repton	16
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9/2014/0124	1.5	Hilton	Hilton	56

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.

15/04/2014

**Item**            **1.1**

**Reg. No.**        **9/2014/0090/FX**

**Applicant:**  
**Pinehouse Ltd.**  
**School Lane**  
**Normanton Le Heath**  
**LE67 2TU**

**Agent:**  
**Mr David Granger**  
**David Granger Design Ltd**  
**The Old Dairy Mill Street**  
**Packington**  
**Ashby De La Zouch**  
**LE65 1WN**

**Proposal:**        **THE ERECTION OF 4 NO. TWO STOREY DWELLINGS  
AND 2 NO. SINGLE STOREY DWELLINGS ON LAND TO  
THE REAR OF OVERSEAL MANOR STABLES HALL  
CROFT AVENUE OVERSEAL SWADLINCOTE**

**Ward:**            **SEALES**

**Valid Date:**     **05/02/2014**

*Members will recall that this application was deferred at the last meeting in order for them to carry out a site visit.*

*All updates to the original report appear below in italics.*

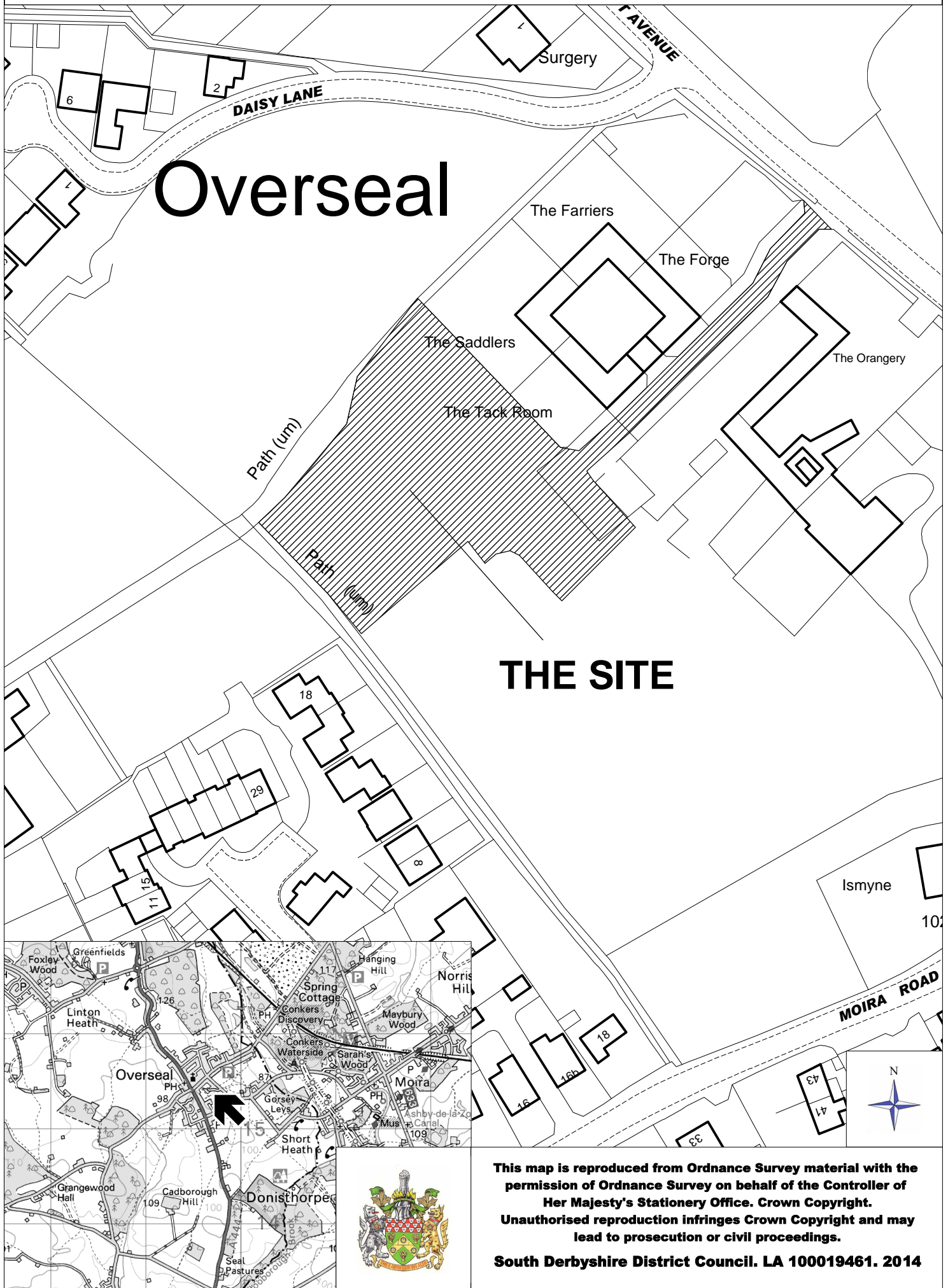
### **Reason for committee determination**

The application is brought to Committee at the request of Councillor Frost as local concern has been expressed about a particular issue and there are unusual site circumstances that should be considered by the Members.

### **Site Description**

The application site comprises some 0.29ha of land to the rear of Overseal Manor Stables, which is a relatively recently constructed building in a traditional courtyard form comprising four dwellings: The Saddlers, The Farriers, The Tack Room and The Forge. Overseal Manor, a Grade II Listed Building, was converted to form four dwellings at a later date. The site itself comprises a small paddock which is currently grassed and which slopes upward in the westerly direction towards the rear of the site.

The western and northern boundaries are formed by two mature hedgerows of approximately two to four metres in height. The remainder of the land to the southeast of the site is open grassland which is separated from the converted Manor by various boundary enclosures.



# THE SITE

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

The site is within the Overseal confine boundary, as denoted on Inset 22 of the Proposals Map for the Adopted Local Plan. It is also within the catchment area for the River Mease Special Area of Conservation (SAC).

The routes of Public Footpath Nos. 18 and 19 border the site on the northwest and southwest facing boundaries but lie outside the site itself and therefore would remain unaffected by the proposals.

## **Proposal**

The application proposes the erection of a terrace of four, two-storey dwellings, the frontages of which would face into the site and two demi-detached, single storey dwellings positioned at right angles to the two-storey dwellings, again facing into the site. The proposal would provide a mix of two and three-bedroom properties. The frontages of all properties would be provided with landscaped pathways leading from the car parking court, which would be located at the south eastern end of the site. The vehicular access would lead off the existing private driveway and extend into the site, terminating in a turning head to provide a turning area for service vehicles. An area to the southwest of the development would be landscaped, the details of which are proposed for future agreement. Each property would have its own rear garden area, ranging from 172 m<sup>2</sup> to 441 m<sup>2</sup>. Each dwelling would be provided with two car parking spaces in the parking court.

## **Applicants' supporting information**

The application is supported by the following documents, which are available of the Council's website:

- Heritage Statement, together with the Listing Text for Overseal Manor
- Planning Statement
- Design and Access Statement

These are summarised as follows:

### Heritage Statement

The proposed dwellings would be some distance from the principal listed building and largely screened from its view by intervening features, including boundary walls, hedges etc. The application site makes neither a positive nor a negative contribution to the significance of Overseal Manor or its ability to experience its significance as a heritage asset. Any direct or indirect impact that the proposals would have on the setting of Overseal Manor would, at worst, be neutral and would not affect the appreciation of its special architectural and historical character.

### Planning Statement

Overseal has been identified by the Council as a sustainable settlement and, as such, the principle of a degree of new housing is accepted as being likely to take place. The site lies within the settlement boundary in the current Local Plan and it can be argued that, in light of housing requirements and the need for a 5 year supply of deliverable housing, there are no reasons why, in principle, permission should not be granted.

The development of the site in the manner proposed will have no adverse impact upon the character and appearance of the area, the setting of Overseal Manor or upon the amenities of nearby residents. The proposal complies with the relevant policies in the adopted Local Plan and accords with the general thrust of the NPPF to encourage sustainable development. There are no impediments to the delivery of the site and if permitted will result in the provision of six additional dwellings in the village.

### Design and Access Statement

This covers the physical, social and economic contexts of the development, as well as policy considerations and a site evaluation. In terms of scale, appearance and design, the proposal is for six dwellings which would constitute an appropriate level of development for an edge of settlement location (21 dwellings per ha.). Discussions with the Council's Conservation and Heritage Officer indicated at an early stage that a replication of The Stables development would not be an appropriate form of development and suggested a smaller scale cottage-style development as being more in keeping. The inclusion of two single storey dwellings would assist in keeping the height of the low as the land rises and shows a continuation of the 'stepping down' of the built form from The Stables development, through the two storey dwellings and ending with the single storey dwellings, i.e. diminishing in size and scale from the more 'grand' Stables complex.

Whilst Overseal boasts a variety of construction materials throughout the village it is proposed to use red brick throughout the development with clay tiles and timber windows; precise colours and types to be submitted to the Council for approval.

### **Planning History**

9/1999/0591 – Outline for the erection of four dwellings – approved October/November 1999

9/2003/0243 – Erection of four dwellings (reserved matters for landscaping only) approved 23/04/2003

9/2003/0604 & 0605 – Revisions to previous permissions, including an amended layout, fenestration and garaging for units 1 and 2, formation of unit 3 in Overseal Manor, together with garage and courtyard for unit 4 and rendering of Overseal Manor – approved 03/10/2003

9/2005/0951 & /0952 – Conversion and extension to form dwelling, Unit 2 Overseal Manor – approved 12/12/2005

Various other applications for works to protected trees (TPO210).

### **Responses to Consultations**

The Environmental Protection Officer (contaminated land) has no comment.

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

The County Highway Authority was originally concerned about the ability for refuse and other service vehicles to enter and leave the site in a forward gear without causing damage to areas intended for landscaping and possibly to residents' or visitors' cars parked along the driveway. Amended plans to satisfy these concerns have been received which illustrate that a service vehicle can enter, turn and leave the site in a forward gear and on this basis and subject to conditions there are no objections to the proposal from the highway safety point of view.

The County Archaeologist considers there is some potential for medieval or post-medieval archaeology to survive within the application site and therefore there is a requirement to establish the significance of any heritage assets within the site. He recommends that the proportionate approach would be to require a geophysical survey of the 0.3ha proposal area to be submitted as part of the application. This has been undertaken and forwarded to the County Archaeologist who considers that there is potential for some remains to be present and recommends a condition in respect of a written scheme of investigation.

Natural England has no objections to proposal in respect of the River Mease SAC and the SSSI subject to conditions in respect of the additional foul water and the direction of surface water.

*The Environment Agency has been consulted on the proposal, however, to date, a response has not been received.*

Derbyshire County Council (education) seeks a S106 contribution towards secondary education of £17,176.

The Peak and Northern Footpaths Society has no objections provided that the full widths of the two public footpaths remain unobstructed at all times during and following construction of the development.

Derbyshire County Council (Public Rights of Way) has no objection to the proposal as the scheme does not appear to affect the routes. However, it should be noted that:

- The routes must remain open, unobstructed and on their legal alignments at all times;
- There should be no disturbance to the surface of the routes without prior authorisation from the Rights of Way Inspector for the area;
- Consideration should be given to members of the public using the routes at all times;
- A temporary closure of the routes may be granted to facilitate public safety subject to certain conditions;
- The width of the right of way should not be encroached upon by any structures.

### **Responses to Publicity**

Overseal Parish Council strongly objects to the proposal on the following grounds:

- The proposal is not in keeping with this part of the village, being next to a grade II listed building and a development of four high quality dwellings. The design is detrimental to the appearance of the area and no notice has been taken of the

Council's Design Code in relation to appearance of the buildings. A total of 12 windows would face the existing Stables development to the detriment of privacy.

- Inability to access the proposed dwellings by refuse vehicles would result in 22 refuse bins being assembled on the verge at Hallcroft Avenue, which would restrict visibility for vehicles emerging from the site at a point where visibility is often restricted by vehicles associated with the doctor's surgery.
- Increased traffic using and parking along the private drive would be unsatisfactory. No garage provision or visitor parking provision has been made.
- A survey undertaken in 2008 concluded there was a need for no more than 12 affordable dwellings in the village. The District Council is about to construct 12 Council houses in Lullington Road therefore this need is catered for. Consequently, the proposed dwellings are not required.
- No environmental or ecological studies have been carried out even though it is known that there used to be Great Crested Newts in the pond within the Manor grounds. No maintenance arrangements have been provided for the remaining paddock area.
- If approved, the development could create a precedent for more intensive development within the remaining grounds of the Manor to the detriment of the area and vehicular safety within Hallcroft Avenue.
- The character of Overseal is changing from a primarily local settlement to a commuter village.

The Chair of Governors for Overseal Primary School has written clarifying the needs of the School. He writes that the School is currently housed within an old building that is rapidly become full to capacity. As of February 2014 the School has 203 pupils on roll with a maximum capacity of 206, which is expected to be reached in September 2014. Further development within the village will only bring additional families and increased strain on an already struggling school. Without Central Government or private developer funds to improve the facilities at the school resources will become increasingly stretched. The current situation as it stands is:

- Infants currently housed in a second hand portacabin originally donated by the Coal Board, which is in poor condition.
- No space or resources to cater for KS1 classes above legal limit. Placing children in a classroom which is undersized, with inadequate toilet and cloakroom facilities for extra children would result in considerable impact on the school.
- Inadequate assembly hall – lunch currently is in two sittings with children also eating in classrooms. It is not possible to accommodate all children in one sitting in the timescales available.
- The school office is a shared staff room which seats half the teaching staff at any one time. The head teacher's office is a converted cupboard. There is no storage space.
- The fire certificate just about covers the whole school assemblies with numbers at its current level.

Further development within the village and the school's catchment that aims to attract families' needs to be considered carefully. The school is stretched to breaking point and without further investment continual development only increases this demand. For this reason the Governing Body has to strongly object to any proposed residential development within the village.



Overseal Footpath Group has no objections in principle but points out that the pipe wall, a heritage feature that lies to the north of the development should remain unchanged and the responsibility for cutting the hedgerow to the north and west of the site to ensure rights of way are kept clear if side growth and overgrowth should be made clear.

Eight letters/emails of objection from neighbouring residents have been received, which make the following points:

- a. The advice of the Conservation Officer has been ignored as the proposed terrace of housing would be at the same height as The Stables development.
- b. Overlooking and overshadowing of existing properties and possible loss of outlook resulting in adverse effect on residents' wellbeing and quality of life.
- c. Layout should be re-considered with single storey units next to the Stables development with the two-storey properties beyond.
- d. Safety of children playing on the private drive
- e. Low cost family homes have already been provided for elsewhere within the village therefore targets have been reached.
- f. Village school is at capacity.
- g. Provision of services and failure to consider impact
- h. Unrealistic parking layout and lack of turning space will encourage parking on Hallcroft Avenue, which has restricted visibility. The current situation already affects the grass verges, turning them to mud.
- i. An alternative access off Daisy Lane should be considered.
- j. Proposed development not in harmony with surrounding buildings
- k. Purchased property based on the high standards of the development which have been overridden in this instance with values and principles now being irrelevant
- l. Inconceivable that planning permission should be granted
- m. Complete disregard to neighbours in the pre-application process
- n. Led to believe the paddock would remain undeveloped. It is an intrinsic part of the Overseal Manor quadrangle.
- o. Green space within the village should remain so.
- p. No ecological assessment has been carried out.
- q. 'Cottage-style' design is disputed.
- r. Twelve windows overlooking existing rear gardens.
- s. Disruption and disturbance from additional traffic using the private drive.
- t. Extension of mains services into the site would be contested legally.
- u. No permission would be given for a Council refuse vehicle to access the site via the private drive and compensation would be claimed if any damage was caused to parked cars by that vehicle.
- v. No visitor parking provision.
- w. Negative impact on the exclusive curtilage of Overseal Manor and surrounding properties and negative impact on property values.
- x. Missed opportunity to achieve a more sympathetic design and relation to existing dwellings.
- y. Overseal deserves the same attention to detail as other villages in the area seem to get.
- z. Parked cars would hinder/obstruct access for emergency services

### **Development Plan Policies**

The relevant policies are:

Adopted Local Plan:  
Saved Housing Policies H5, 11  
Saved Environment Policies Env8, 10, 13, 14  
Saved Transport Policy T6

Housing Design and Layout SPG

Emerging Local Plan:  
Policy H1 (Settlement Hierarchy)

### **National Guidance**

The National Planning Policy Framework (NPPF), paragraphs 7, 14, 49, 50, 56, 57, 61, 65, 66, 109, 118, 119, 128, 129, 131, 132, 186, 187, 203, 204

NPPG

### **Planning Considerations**

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

- The principle of the development
- Conservation and heritage issues
- Neighbours' amenities
- Design
- Highway safety
- River Mease SAC/SSSI
- Section 106 including education
- Miscellaneous issues

### **Planning Assessment**

#### Principle of Development

Overseal Manor (formally a school) is a Grade II Listed Building which was converted to residential use around 2005 or shortly thereafter. Planning permission for the erection of four further dwellings to the northwest of Overseal Manor was approved and the development subsequently constructed, also in 2005. This took the form of a courtyard development, square on plan, designed to appear as a converted stable block. The application site is to the southwest of the courtyard development and currently forms an open paddock bordered by timber fencing, hedgerows and brick walls. The site, including Overseal Manor and the Stables development, is wholly within the confine boundary of Overseal.

Adopted Local Plan Saved Housing Policy 5 supports new housing development in villages provided that they can be accommodated within the village confines.

Similarly, the NPPF supports new residential development stating in paragraph 49 that 'Housing applications should be considered in the context of the presumption in favour of sustainable development'.

Overseal is a village that provides a range of services, such as public transport, a convenience store, primary school, various shops, takeaways, at least one public house, a church etc., and is classed as a Key Service Village in Policy H1 of the Emerging Local Plan. The site is therefore considered to be sustainable and suitable for residential development of a scale appropriate to its surroundings and character. It is considered, therefore, that the principle of residential development is acceptable.

### Conservation and heritage issues

The application site is in a sensitive location that was, and remains, part of the parkland associated with Overseal Manor, and has, in the past, been acknowledged as an important space in Overseal. Saved Local Plan Environment Policy 8 makes it clear that 'Open spaces, gaps and landscape features which make a valuable contribution to the character or the environmental quality of individual villages and settlements will be safeguarded from development'.

That said, from a conservation and heritage point of view the prime consideration is the effect of development on the setting of the Grade II listed building. Initial pre-application discussions envisaged a development that extended further to the southeast, which was not encouraged as it would impinge on the setting of the Manor. The setting of the Manor appears to be less open than it formerly was and intervisibility between the application site and the listed building is limited by planting and the presence of an earth bank. Nevertheless, the open grassland to the southwest of the listed building is still important to the historic setting of the house, and the current application represents the extent of development which was felt to be acceptable without undue harm to that setting. The site is screened from Hallcroft Avenue by the Stables development which makes a fitting companion to the listed building, when viewed from the road. The development of the site in the manner proposed would retain the open aspect of the site when viewed along the existing access road from Hallcroft Avenue, thereby complying with Environment Policy 8.

However, despite limited visibility from the principal building and public road, it is still important that the houses are designed and detailed to a high standard to reflect the sensitive setting. Although the siting is quite discreet the houses would still form part of the experience of visiting the site in general and would integrate with the existing development. For that reason, it is considered that conditions relating to the constructional detail would be relevant.

Other than the proposed southeastern boundary treatment, on the advice of the Conservation and Heritage Officer, it is considered that the proposed scheme would not have a detrimental impact on the setting of Overseal Manor and therefore is acceptable in conservation and heritage terms.

### The amenities of neighbouring residents

Of the four residential units within the Stables development, The Saddlers and The Tack Room are the two that are most likely to be affected by the proposal. Both properties are two-storeys in height and have habitable room windows facing the rear of the proposed two-storey terraced dwellings. The rear gardens of The Saddlers and The Tack Room are 13m deep from the rear elevation to the 1.8m high brick boundary wall. The rear gardens of the proposed terraced dwellings would be a minimum of 9m deep

from the rear elevation to the end of the garden, with a 1m wide rear walkway linking the rear gardens to the proposed parking court. This gives a total of a minimum distance of 23m between habitable room windows, which is 2m more than the any of the minimum distances specified in the Council's SPG. The proposal, therefore, is not considered to be detrimental to the amenities of the neighbouring residents by way of overlooking or loss of privacy as it exceeds the adopted minimum distance standards. For similar reasons it is also considered that there would be no loss of natural light or sunlight to the neighbouring dwellings.

The main impact for the residents of The Saddlers and The Tack Room would be their loss of an open view. However, there is nothing within the planning legislation that allows applications to be refused on grounds of loss of view.

It is considered therefore that the proposal would not adversely impact on the amenities of the neighbouring residents and is therefore in accordance with Local Plan Saved Housing Policy 11 and the advice in the Housing Design and Layout SPG.

### Design

The Council's Conservation and Heritage Officer has been closely involved in the proposed scheme, which has resulted in a development that would be sympathetic to the parkland setting, the adjacent residential properties and the Grade II Overseal Manor. The terrace of four cottages has a low eaves height and simple elevations with either brick window and door arches or stone heads. There is a difference in land levels in the southeast/northwest direction which has resulted in a design that indicates a difference of finished floor levels, and consequently roof heights, of approximately 0.9m, with Plot 1 being set at 11.000m and Plot 4 at 11.9m. This not only creates interest but is better suited to the site itself.

The pair of single storey dwellings proposed to the southwest of the terraced dwellings would, again, be of simple design, each with a front entrance canopy, low eaves and chimneys and in line with the advice of the Conservation and Heritage Officer. It is understood that there is a District-wide need for single storey dwellings and this development will go some way to address this need.

In terms of policy therefore, it is considered that the design of the proposed dwelling is in accordance with both the advice in Local Plan Saved Housing Policy 11 and the design objectives of the NPPF, particularly paragraph 65 which states that: *'Local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design (unless the concern relates to a designated asset and the impact would cause material harm to the asset or its setting which is not outweighed by the proposal's economic, social and environmental benefits)'*. It has already been established that the setting of the designated asset, i.e. Overseal Manor, would not adversely affected by the proposal.

### Highway Safety

Following concerns raised by the County Highway Authority with regard to refuse vehicles, amended plans have been submitted to show how a refuse vehicle could enter the site, via the private drive, and turn/manoeuvre in order to leave the site in a forward

gear. The Highway Authority is now satisfied with the proposal and has no further objections, subject to conditions. The proposal is therefore in accordance with Local Plan Saved Transport Policy 6.

### River Mease SAC/SSSI

Natural England has not raised objections to the proposal with regard to the River Mease SAC issues or SSSI issues, subject to conditions. The main concerns relate to whether Severn Trent Water Sewage Treatment Plant has capacity for the additional foul water and that the surface water generated from the development is not directed towards the mains sewer. With regard to the first concern, Severn Trent Water has indicated that there are no objections in principle subject to drainage details being submitted, which is standard for this type of development. Secondly the application forms state that surface water would go to a soakaway and it is not unreasonable to request details of this via condition so that Natural England can be satisfied that there will be no adverse impact on the integrity of the SAC or SSSI.

It is considered therefore that this matter can be dealt with satisfactorily by conditions and through the approved developer contributions scheme to improve water quality management.

*The application has been screened in line with The Habitats Directive and it is the opinion of the District Council that the proposed development would not be likely to have a significant effect on the River Mease SAC. An appropriate assessment under the Habitats Directive is therefore not required.*

### Section 106 matters

The application is a proposal for a residential development in excess of four dwellings. As such there is a requirement for developer contributions towards recreation, health and education as well as the River Mease Developer Contribution Scheme towards water quality management.

The breakdown of contributions required for this proposal is as follows:

River Mease contributions	£ 1,386.00
Recreation (open space, outdoor & built facs.)	£11,424.00
Healthcare	£ 3,306.00
Education	£17,176.00
Total	£33,292.00

### Miscellaneous Issues

With regard to the issues raised by the Chair of Governors of Overseal Primary School, the County Education Officer has confirmed that the school has a net capacity of 206 children and a current number on roll of 204, with falling rolls predicted over the next five years. Four, two-storey dwellings would yield one primary school pupil and one secondary school pupil and therefore there is no requirement for a contribution towards primary school education. With regard to the current situation within the school itself and its limited resources, this is a matter for the County Council as part of its financial obligations and upgrade procedure as and when financial resources allow. The

requirement for an increased contribution towards the upgrade of the school would be unreasonable and therefore not in accordance with the NPPF.

With regard to the pre-application discussions that have been had in relation to the proposal, it is not normal practice to involve neighbours in such discussions of this nature, as there is often an issue of confidentiality to consider and neighbouring residents have no automatic right to be consulted prior to the planning application process. In some instances applicants may approach the neighbours prior to the submission of an application but this is by personal choice and is not a requirement.

The Parish Council's argument regarding precedence is not a reason for refusal, as each application is assessed on its own merits. Furthermore, any development within the curtilage/setting of a Listed Building would require planning permission and the merits of such a proposal would be up for separate and individual discussion at that time.

Natural England has not requested an ecological assessment and is satisfied that the proposal is acceptable based on the information already provided.

With reference to affordable housing, there is no evidence within the submitted documents to demonstrate that the development is intended to be for social housing and therefore the points made regarding the recent decision to approve the Council's application for twelve affordable dwellings in Lullington Road is not relevant.

Possible negative impact on property values is not a material planning consideration.

With regard to comments about parking, the scheme shows full provision of off-street parking on the site (i.e. two spaces per dwelling).

In conclusion, it is considered that the proposed scheme is in accordance with local and national planning policies and, subject to the applicant's entering into a legal agreement under Section 106 of the Planning Act and the imposition of appropriate conditions, planning permission should be granted.

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**

Subject to the applicant entering into a legal agreement under Section 106 of the Town and Country Planning Act 1990, as amended, as set out above, **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. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. 13.2908 (Location Plan) and 13.2908.11B received on

13th March 2014 and showing the outline of the site enlarged and the provision of a turning circle/swept path for use by refuse and emergency vehicles.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.

3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the dwellings have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: To safeguard the setting of the existing Grade II Listed Building, neighbouring properties and the locality generally.

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

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

5. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

6. With regard to Condition 5 above, particular attention should be given to the boundary treatment on the southeastern boundary of the site, which should be delineated by lightweight, black steel, 'parkland' fencing of horizontal rails without a hedge or other planting.

Reason: In order to maintain the open parkland character of the site and wider area.

7. All boundary walls shall have a traditional style of shaped clay or stone coping the details of which, including a sample, shall have been previously agreed in writing by the Local Planning Authority.

Reason: In the interests of the completed development, the setting of the Grade II Listed Building and the surrounding area.

8. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority and shall not be replaced with joinery of any other type unless previously agreed in writing by the Local Planning Authority.

Reason: In the interests of the completed development, the setting of the Grade II Listed Building and the character of the surrounding area.

9. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.
- Reason: In the interests of the completed development, the setting of the Grade II Listed Building and the character of the area.
10. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.
- Reason: In the interests of the completed development, the setting of the Grade II Listed Building and character of the area.
11. Pointing of the proposed dwellings shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joints shall be slightly recessed with a brushed finish.
- Reason: In the interests of the completed development, the setting of the Grade II Listed Building and the character of the area.
12. A sample panel of pointed brickwork 1 metres square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing. The works shall be carried out in accordance with the approved sample.
- Reason: In the interests of the completed development, the setting of the Grade II Listed Building and the character of the surrounding area.
13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, 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 application site (shown edged red on the submitted plan) 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 of the Grade II Listed Building, size of the development, the site area and effect upon neighbouring properties.
14. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
- Reason: In the interests of the appearance of the area.
15. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar



size and species, unless the Local Planning Authority gives written consent to any variation.

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

16. A. No development shall take place, until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the Local Planning Authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and
1. The programme and methodology of site investigation and recording.
  2. The programme for post investigation assessment.
  3. Provision to be made for analysis of the site investigation and recording.
  4. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
  5. Provision to be made for archive deposition of the analysis and records of the site investigation.
  6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

B. No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under 'A' above.

C. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under 'A' above and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.

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

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

18. With reference to Condition 17 above the applicant shall confirm (a) that the local sewage treatment works can handle the added foul water; and (b) that surface water is not to be directed to the mains sewer and the detailed drawings of any proposed soakaway shall be submitted before commencement of works. The works shall be carried out in accordance with the approved details.

Reason: In order to achieve the River Mease water quality conservation targets, as required by Natural England.

19. Prior to any other operations commencing, space shall be provided within the site curtilage for the storage of materials, site accommodation, loading and unloading of materials, parking and manoeuvring of goods vehicles, parking and manoeuvring of site operatives' and visitors' vehicles, laid out in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

20. Prior to the first occupation of any of the dwellings hereby approved the car parking and manoeuvring space, including the service vehicle turning head, shall be provided, laid out and constructed in accordance with the application drawing (13.908.11B) and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

**Informatives:**

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 0845 762 6848. Further information is also available on The Coal Authority website at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk) Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

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

The routes of Public Footpaths 18 and 19 adjacent to the site must remain open, unobstructed and on their legal alignment at all times. There should be no disturbance to the surface of the routes without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section. If a structure is to be erected adjacent to the right of way, it should be installed within the site boundary so that the width of the right of way is not encroached upon.

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

15/04/2014

**Item** 1.2

**Reg. No.** 9/2013/1053/SMD

**Applicant:**  
Mr Richard Kirkland  
c/o Agent Maplevale Developments Ltd

**Agent:**  
Mr Christopher Timothy  
CT Planning  
Traflalgar House  
20A  
Market Street  
Lichfield  
WS13 6LH

**Proposal:** THE ERECTION OF 33 DWELLINGS (9 4-BED HOUSES;  
2 2-BED BUNGALOWS; 12 2-BED HOUSES AND 8 1-  
BED APARTMENTS) WITH FORMATION OF A NEW  
VEHICULAR ACCESS AND ASSOCIATED WORKS ON  
LAND AT SK3126 1679 MILTON ROAD REPTON DERBY

**Ward:** REPTON

**Valid Date:** 14/01/2014

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

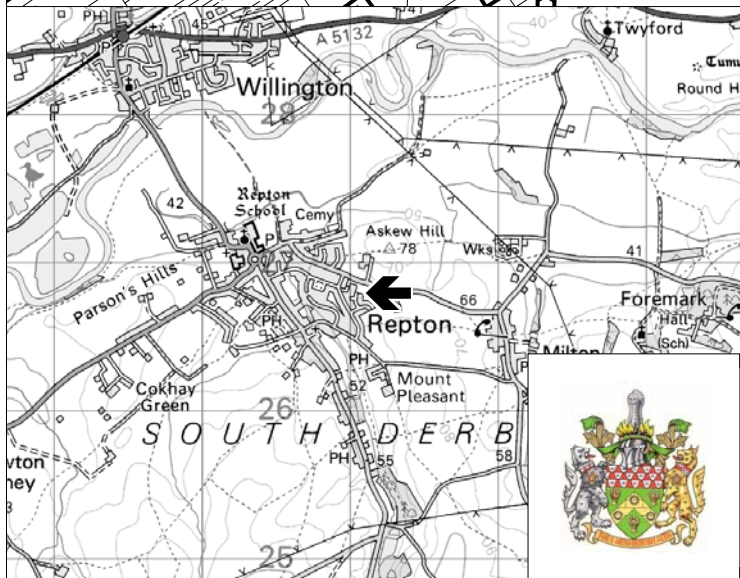
The item is presented to committee because this is a major development not in accordance with the Development Plan and having received more than two objections.

#### **Site Description**

The site extends to approximately 0.65 hectares and is presently rough grassland. It is a greenfield site just beyond the eastern edge of the village and adjacent to both the primary school to the west and the Longlands residential site recently granted permission to the south. The boundaries are predominantly mature hedgerows, scrub and trees, although works have recently taken place to lay or remove some of this. The boundary to the school also carries a 2 metre wire mesh fence, whilst a post and wire fence follows the southern hedgerow. An open land drain runs down the eastern boundary.

The land falls from the south-eastern corner towards the west and north. The levels fall from the northern boundary to the carriageway level of Milton Road – most notably at the eastern end of this boundary where the fall is very pronounced. The field to the east is also some 1 to 2 metres higher. The wider landscape continues to rise to the east and also beyond Milton Road up towards Askew Hill. The footway along the northern side of Milton Road is elevated to a similar level to the site providing aspects from the north and north-east. There is a single isolated dwelling (Springfield House) beyond the

9/2013/1053 - Land at SK3126 1679, Milton Road, Repton, Derby (DE65 6GN)



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next field to the east of the site, a cluster of dwellings sit within trees to the north of Milton Road, and existing dwellings on Longlands and Hill View sit on elevated land overlooking the site and the Longlands residential site in the intervening break. Milton Road connects Repton and Milton and is lit as far as the western end of the school grounds, with the footway on the northern side continuous between the two settlements.

## **Proposal**

The application is detailed, seeking permission for the erection of 33 dwellings of which 24 would be for affordable housing purposes in a mix of 1, 2 and 3 bedroomed dwellings. These dwellings would be managed by Trent and Dove Housing Association. The remaining 9 four to five bedroomed dwellings would be for sale on the open market. Dwellings would be predominantly of two-storey style with some rooms in the roof space, with a couple of bungalows and an apartment block which would appear as a 3-storey Georgian house. An access road would be provided, although not put forward for adoption, with parking provided as a mix of driveway and carport spaces, and a rear parking courtyard. A pedestrian connection to the Longlands residential site would be facilitated. Sustainable Urban Drainage Systems (SuDS) would be provided below ground.

Amendments have been received throughout the course of the application seeking to address design and highway concerns. At the time of writing the latest set of amendments are open to consultation, but other than seeking to address highway safety matters are limited to minor changes to elevations and plot layouts. Assessment proceeds on the basis of these changes and other documents originally submitted.

## **Applicants' supporting information**

The Design and Access Statement notes the proposal is of high but is considered appropriate having regard to the site's sustainable location close to existing services and facilities within Repton. The density of development is consistent with the form of development proposed which includes a significant number of 1 bedroom apartments and 2 bedroom dwellings, and it is submitted that in these circumstances the proposal would not appear out of context. It is noted the layout makes provision for a footpath link to the Longlands residential site and open space within. It is anticipated the dwellings would comprise of a mixture of red brick and render with tiled roofs, decorative brick detailing to gables, brick and stone detailing to window and door heads, provision for chimneys and traditionally proportioned dormers. The proposed dwellings are designed to Level 3 of the Code for Sustainable Homes, with each house and apartment having secure cycle storage and suitable bin space. It is advanced that the applicants would be willing to fund the relocation of the existing 30mph area to the eastern edge of the site, and provide a 2m wide footway, with street lights, along the highway verge to connect to the existing footway.

A Planning Statement considers the case for the applicant's proposals after taking into account the Development Plan and all other relevant material considerations. It notes the site is not within, part of or adjoining Green Belt, an Area of Outstanding Natural Beauty, a Special Landscape Area or a Landscape Protection Zone, a Site of Special Scientific Interest, a Local Nature Reserve, a Wildlife Site or Special Area of Conservation, a Regionally Important Geological Site, an Important Open Space or a Historic Park or Garden; nor is it located within or adjacent to any listed building Listed or a Conservation Area. The document rehearses the relevant planning policies and

looks at the material considerations such as the 5-year housing supply. It considers the suitability of the site for housing, living conditions and Section 106 Contributions before drawing together conclusions on the various issues raised. These matters will be drawn out in the assessment below. As a particular point on Section 106 contributions, the provision of affordable housing is highlighted and the consequential impact upon the viability of the proposal such that there will be limited surplus funds available to make contributions to other planning objectives. It is indicated however where surplus funds exist, the applicants will work with the Council to agree how these contributions are to be prioritised.

A Transport Statement has been prepared to consider the access, traffic and sustainable travel issues associated with the proposed development having regard to Department for Transport guidance, the 6C's Design Guide and the requirements of Manual for Streets (MfS) and MfS2 as well as the NPPF. It looks at existing conditions in respect of the site, the surrounding area, the local highway network and the facilities available to encourage access by sustainable modes of transport. Personal Injury Accident data over the last five years has been reviewed and shows no accidents in the immediate vicinity of the site or on Milton Road within the 30mph zone, although there was a single "slight" accident on Springfield Road in 2010. The Statement notes that the western section of the site is not located within the 30mph zone, but visibility splays of 120 metres are available in each direction. Based on guidance this equates to a vehicle speed of around 46mph, and given vehicles would be slowing for the 30mph zone this is considered adequate. Notwithstanding this the applicant would be willing to fund the relocation of the existing 30mph area to the western edge of the site. Elsewhere it is proposed to provide a 2 metre wide footway along the highway verge to the west of the site, and car parking has been provided on the basis of 2 spaces per house 1.5 spaces per apartment. The Statement makes predictions for the level of peak hour and daily traffic generated by the development at the proposed site access and over the local highway network, and investigates this impact. The projections give 19 vehicular movements during the morning peak hour, 20 during the evening peak hour, with total vehicle movements across a 12 hour period from 7am totalling 181. It is assumed that around 50% would route to the east and 50% west. It is considered that traffic generation will be modest in absolute terms, and in capacity terms the change in flows will be minimal and that the addition of the development traffic will have no material impact on junction operation in the locality.

An Ecological Appraisal based on a site walkover is provided. The Appraisal notes the majority of the site is species-poor, semi-improved rough grassland of low to medium ecological value, with areas of tall ruderal vegetation providing potential sheltering and foraging opportunities for species such as hedgehogs and reptiles. The site is bordered by intact hedgerows containing a mature ash and horse chestnut of medium ecological value whilst offering limited nesting bird and reptile sheltering opportunities, and to a lesser extent connectivity through the landscape. The relative isolation of the site within the landscape, being bordered by an expanse of arable land and a local primary school, limits its suitability to support populations of protected species. The Appraisal therefore recommends a precautionary watching brief be undertaken by a suitably experienced ecologist during the clearance of any vegetation to help ensure any impacts to local wildlife such as reptiles or hedgehogs will be minimal.

A Tree Survey and Tree Constraints Plan also accompany the application. This finds there are no trees of high quality, although a handful (within boundary hedgerows) have

suitable amenity value but are less suitable for long term retention because of impaired condition. Remaining trees are unsuitable for retention.

A Drainage Strategy is provided. This calculates the new impermeable area arising from the development and calculates the maximum on site storage required to ensure a runoff rate no greater than 5 litres per second.

In addition to the above, a Topographical Survey has also been provided.

## **Planning History**

None relevant, although outline permission has been recently granted for the erection of up to 40 dwellings on land to the south (herein referred to as the Longlands residential site) under ref: 9/2013/0643.

## **Responses to Consultations**

In the interests of efficiency and clarity, the most up to date response from each consultee listed below is given, recognising amendments seeking to address any previous comments or concerns made:

Natural England raises no objection advising that the proposal is unlikely to affect any statutorily protected sites or landscapes. They also point the Council towards their Standing Advice to assess likely impacts on protected species. They note that the application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes, and the Council should consider securing measures to enhance biodiversity if it is minded to grant permission. They also highlight the proposal may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment.

Derbyshire Wildlife Trust initially raised a holding objection on the basis that a mature ash to be removed had potential to support bats and was not discussed. They requested that the tree be subject to a climbing bat survey. Also during the course of amended plans being submitted, a ditch along the eastern boundary of the site became of interest and the Trust sought further information on its ecological value and suitability to support species such as water vole. Clarification has been received that the hedgerows and trees were checked prior to removal for nesting birds, the trees offered little opportunity for roosting bats, and the ditch was considered to offer little suitable habitat for water vole. The Trust does not contest these statements. Elsewhere no evidence of badgers were recorded, the presence of amphibians and reptiles is considered to be relatively low and remaining hedgerows, trees and scrub were identified as offering suitable features to support nesting birds. The habitats are also considered to have potential to support hedgehog. The Trust raised no objection to these matters. They do however raise some concern that hedgerows will be incorporated into the gardens of the new properties which has implications in terms of their long-term management and retention. They also recommend that suitable features for nesting birds and roosting bats are incorporated into the new properties and that the loss of hedgerow is compensated for, whilst adequate protection is afforded to nesting birds. It is also recommended that any external lighting is minimised and appropriately designed to minimise light spillage, in particular onto the boundary hedgerows.

The County Highway Authority has confirmed the latest revisions are acceptable and conditions can resolve any residual matters. Unfortunately a complete list of conditions has not yet been supplied at the time of writing, but officers are aware from previous responses and holding objections to this application and experience of similar proposals elsewhere what conditions would likely be requested. The recommendation below therefore reflects the conditions expected, and any revisions or additions will be reported to Members at the meeting.

The Police Crime Prevention Design Advisor raises no objection to the principle of development neither at this location, nor to the majority of the layout proposed and detail, which in most instances gives a good outlook, parking provision and balance between public and private space. The only points of concern are upon are the proximity of parking to the footpath link to adjacent open space, secondary elevations of some plots facing open space and private drives, the relative positions of apartments and their parking provision, whether the parking court should be gated and lighting for communal space.

The County Minerals Planning Officer advises the proposed development would not adversely affect the minerals planning interest.

The County Archaeologist notes that the site lies immediately north of the Longlands residential site that was evaluated by geophysical survey, and that survey did not identify any significant archaeological anomalies (although a small-scale conditioned scheme was recommended because of the scatter of early finds in the vicinity, the archaeological importance of the Repton area, and the fallibility of geophysics as a technique. Hence in light of the small size of the current site and the lack of geophysical results from the adjoining site, a conditional approach to archaeology is appropriate in this case.

The County Developer Contributions Officer seeks provision of £944 towards the provision of a new Household Waste Recycling Centre, £56,995 towards 5 primary school places, £68,704 towards 4 secondary school places, and £37,255 towards 2 post-16 education places. It is also recommended that the homes are designed to Lifetime Homes standards, that the layout makes provision for installation of high-speed broadband, and consideration is given to the installation of sprinklers within the homes. The comments also recognise that the viability of development schemes will vary and that if the developer feels that the contributions sought would impact on viability to the point where the scheme would not go ahead, a full financial appraisal should be provided for review.

The County Flood Risk Officer comments that it holds no historical records of flooding within the site and that it is unlikely to be subject to surface water flooding in its current state, but development may add a considerable area of impermeable surfacing which is likely to exacerbate surface water flood risk. The ground conditions are considered to be likely suitable for infiltration although this may affect instability problems which are probably present. The site does not sit within a groundwater Source Protection Zone but infiltrating water should be free of contaminants in any case. The County strongly promote sustainable drainage systems (SuDS) to be incorporated, applying an appropriate number of treatment stages. The applicant should also promote betterment or meet current greenfield runoff rates taking into account the impacts of climate change. The proposed drainage scheme indicates that an attenuation tank will be utilised to manage the additional surface water generated, and it appears that its



capacity is appropriate. Use of water butts is also recommended, as well as use of swales, rain gardens, attenuation ponds, permeable paving, etc to further manage some or all of the additional runoff on site.

The Strategic Housing Manager welcomes the provision of 24 units of affordable housing accommodation helping towards identified housing needs as well as a specific need for an individual (in the form of a specialist built bungalow). It is noted that Trent and Dove (who will manage the affordable housing element) have secured funding to deliver this scheme by March 2015, and that a condition to restrict occupation of the 24 units to those with a local connection is requested.

Severn Trent Water raises no objection in principle subject to conditional details of foul and surface water drainage.

The Council's Tree Officer comments that the tree survey is in the main appropriate with those trees to be removed of short term life expectancy or unsuitable for retention. Two trees are identified to be of value by way of their condition and long term contribution.

The Council's Drainage Engineer initially noted there is no available surface water sewer or watercourse to receive flows from a drainage system. It was requested the applicant submit details of proposed surface water drainage and its outfall. Following submission of a drainage strategy, no further comments have been received.

### **Responses to Publicity**

Repton Parish Council objects to the proposal, noting:

- i. the site is elevated and prominent;
- ii. the separation between Repton and Milton will be reduced to just 3 fields;
- iii. the proposal is contrary to the recommendation in the Village Design Statement;
- iv. the site is outside the Village Development Boundary;
- v. for the housing to be truly sustainable it should be closer to public transport;
- vi. the development will impose additional strain on local schools and other infrastructure, including drainage and roads;
- vii. there is a lack of pavement at this location and a large number of houses will front onto Milton Road;
- viii. the bungalows are located in the wrong area with no pavement and at a distance from public transport;
- ix. any development in this location would preclude further expansion of the primary school; and
- x. incorrect facts are given, in particular regarding the distance to the bus stop; footpaths being in existence and the size of the local population.

Repton Village Society asks if the proposal could be considered in conjunction with the development off Longlands to make just one exit on to Milton Road, thereby avoiding Springfield Road and the entrance to the Primary School.

9 objections have been received from local residents. These raise the following comments and/or concerns:

#### Principle of development

- a) there is already an application for 40 dwellings on the land immediately adjoining this site, with both that and this site outside of the village envelope;
- b) such development would lead to the joining up of two distinct communities, contrary to the Village Design Statement;
- c) a development of this size could be considered to be beyond organic growth;
- d) the number of required rural housing trust properties is in the region of one dozen, not two dozen, and not for one bedroom units;
- e) what is proposed is social housing which does not give priority to people with a family or work connection to Repton as rural housing trust properties do;

#### Services and facilities

- f) the primary school is at capacity;
- g) the development would preclude the expansion of the school, its play areas and playing field;
- h) the nearest amenities are approx ¾ mile away;
- i) the balance between housing and services/facilities needs to be maintained (e.g. more bus services, improved schools, better recreation facilities, etc);

#### Highway safety and traffic

- j) the transport statement is misleading in stating a bus service runs along Springfield Road, with only school buses and free supermarket buses using these stops;
- k) the transport statement extracts much of its data from a different settlement which might not have a public school at its heart, and a preparatory school and kindergarten less than two miles away;
- l) the transport statement does not appear to include a survey of traffic movements along Milton Road;
- m) the transport statement does not realistically project vehicle movements to and from the site;
- n) there is not the convenient travel options given for those without cars or disabilities;
- o) an increase in traffic at the bottom of Milton Road where it is narrow and bendy, with considerable parking and already heavy traffic;
- p) Repton cannot cope with any more traffic;
- q) the transport assessment states there is 120 metres clear view in both directions, and the 6C` s design guide points towards a road speed of 46mph;
- r) difficult to see how refuse vehicles can enter and leave the site without reversing;
- s) danger to pedestrians using the proposed new footway along Milton Road;
- t) crossing Milton Road during peak hours is a real problem due to the volume of school traffic, commuters and on-street parking;
- u) the congestion outside the school already makes it difficult for vehicles to get through;
- v) this section of road is extremely dangerous in poor weather conditions, with the downhill section very difficult to brake on in such conditions and the narrow road section between the banks providing no escape space;
- w) poor driver habits on this section of road, with some on the wrong side of the road and excessive speed well over 30mph;
- x) numerous occasions when soil and vehicle debris is apparent resulting from a collision;

- y) lack of a road connection to the Longlands Residential site;
- z) level of parking provision;

#### Drainage

- aa) not clear where the sewers will go;
- bb) Milton Waterworks is at maximum capacity, having previously been enlarged at the beginning of the 90s, so it is not clear where the foul water will go;
- cc) not clear where surface water will be directed;
- dd) it will exacerbate flooding within the Repton Brook floodplain;

#### Visual and landscape impacts

- ee) this development is in an area previously regarded as green belt;
- ff) the 2 metre wide footway would mean the loss of the existing verge, leading to urbanisation of the area;
- gg) the high density of development makes it out of keeping with its location;
- hh) an old established hedgerow and trees have already been reduced/cleared prior to determination;

#### Amenity impacts and design

- ii) the high density is undesirable anywhere but more so in such a rural location;
- jj) the existing rural housing site at Longlands is around 14 dwellings per acre, whereas this development is around 24 per acre;
- kk) refuse collection will be a nightmare; and

#### Other matters

- ll) The Cross in Repton, a historic monument, is already struggling to cope with damage due to high traffic volumes;

### **Development Plan Policies**

The relevant policies are:

- Saved Local Plan 1998: Housing Policies 5, 8 and 11 (H5, H8 and H11); Transport Policy 6 (T6), Environment Policies 1, 9, 11, 13 and 14 (EV1, EV9, EV11, EV11, EV13 and EV14), and Community Facilities Policy 1 (C1).

### **Emerging Development Plan Policies**

The relevant policies are:

- Pre-Submission Local Plan 2014: Policy S1: Sustainable Growth Strategy, Policy S2: Presumption in Favour of Sustainable Development, Policy S4: Housing Strategy, Policy S6: Sustainable Access, Policy H1: Settlement Hierarchy, Policy H9: Land at Longlands, Repton, Policy H19: Housing Balance, Policy H20: Affordable Housing, Policy SD1: Amenity and Environmental Quality, Policy SD2: Flood Risk, Policy SD3: Sustainable Water Supply, Drainage and Sewerage Infrastructure, Policy SD4: Contaminated Land and Mining Legacy Issues, Policy SD5: Minerals Safeguarding, Policy BNE1: Design Excellence, Policy BNE2:

Heritage Assets, Policy BNE3: Biodiversity, Policy BNE4: Landscape Character and Local Distinctiveness, Policy INF1: Infrastructure and Developer Contributions, Policy INF2: Sustainable Transport, Policy INF6: Community Facilities, Policy INF7: Green Infrastructure and Policy INF9: Open Space, Sport and Recreation.

### **National Guidance**

- National Planning Policy Framework (NPPF): including (but not exclusively) paragraphs 6, 7, 8, 11, 12, 14, 17, 32, 39, 47, 49, 53, 58, 61, 69, 70, 73, 75, 96, 103, 109, 118, 120, 123, 129, 131, 132, 134, 135, 139, 144, 186, 187, 196, 197, 203, 204, 206, 215 and 216.
- National Planning Policy Guidance (NPPG).

### **Local Guidance and Evidence**

- Housing Design and Layout SPG.
- The Strategic Housing Market Assessment 2013 (SHMA).
- Section 106 Agreements – Guidance for Developers.

### **Other Material Considerations**

- Repton Village Society's Village Design Statement (VDS).

### **Environmental Impact Assessment**

The proposal has been screened under Regulation 7 of the Environmental Impact Assessment (EIA) Regulations 2011 for 33 residential units. The proposal is considered to fall within paragraph 10b of Schedule 2 to those Regulations, being an infrastructure project. However having taken into account the criteria of Schedule 3 to the Regulations, the proposal is not considered to give rise to significant environmental effects in the context and purpose of EIA. Accordingly the application is not accompanied by an Environmental Statement.

### **Planning Considerations**

Planning legislation commands that applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The saved policies of the SDLP presently form the Development Plan, although the NPPF is a significant material consideration. The emerging Plan is also gathering weight whilst replies from statutory and technical consultees, as well as third parties, are also material considerations. All these will carry varying degrees of weight.

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

- Policy weight and the principle of development
- Sustainability of the site;
- Impact on local economy, facilities and infrastructure;
- Affordable housing and viability;
- Highway impacts;
- Biodiversity and ecological impacts;
- Landscape and visual impacts;

- Archaeological impacts;
- Amenity impacts;
- Design and layout; and
- Drainage.

## **Planning Assessment**

### Policy weight and the principle of development

The site lies outside of the identified settlement boundary and consequently in open countryside. Paragraph 215 of the NPPF states *“due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”* [emphasis added]. The SDLP contains numerous saved policies relating to housing development and development within the countryside which are considered to be consistent with the NPPF.

Policy H5 restricts development to within the settlement boundary, but as this site is beyond the village confines H5 cannot be applied to this proposal. It is left to saved policy H8, but this only allows for housing development in the countryside on an exception basis (e.g. where necessary to support the operation of a rural enterprise or for the replacement of existing dwellings). These exemptions do not apply here such that the proposal is not accommodated for by, nor is it in accordance with the Development Plan. Whilst EV1 places very similar criteria to limit development in the countryside and drive development to more suitable locations, there is argument that the development is “unavoidable” given the present need to allocate and develop greenfield sites to provide for strategic housing needs across the District. Whether the third limb of EV1, relating to visual, wildlife and heritage impacts, is met is considered below. This “divergence” of the purposes of EV1 is consistent with recent High Court rulings where it has been debated whether the whole, part or none of a policy which affects housing supply should be stood down.

Paragraph 216 of the NPPF states *“from the day of publication, decision-takers may also give weight (unless other material considerations indicate otherwise) to relevant policies in emerging plans according to the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given); the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and the degree of consistency of the relevant policies in the emerging plan to the policies in [the NPPF].”* The site forms part of a preferred site for around 100 houses in the emerging Plan (policy H9), the remaining land being that to the south of which half benefits from permission for up to 40 dwellings. The policy specifies the following site specific requirements:

- i) *The development shall reflect the historic character of the village, preserve Repton’s landscape and townscape character, reflect local landform and be designed to minimise the effects on the local landscape;*
- ii) *The eastern edge of the site will require a green buffer and landscaping to help soften the housing development against the rural landscape and improve the existing south east edge of the village;*
- iii) *Views of the church spire from the public footpath will need to be respected and preserved where possible;*

- iv) *Consideration of improvements in community facilities for Repton;*
- v) *Development of the site shall not adversely impact upon the setting of Repton Conservation Area and other designated and non-designated heritage assets;*
- vi) *A strategy to deal with foul and surface water associated with site development to be submitted alongside any development proposal;*
- vii) *High quality pedestrian links within the site and delivery of enhanced walking connections to the site along Milton Road.*

The inclusion within the emerging Plan is material. In preferring this site the Council has already made a statement that this is considered to be appropriate for housing of a scale commensurate with the existing village. The emerging Plan is presently undergoing a final round of consultation and the site has not been reduced or removed since the previous consultation. However, and crucially, it has not yet been submitted for examination, nor tested by an Inspector. Accordingly, whilst indicating the Council's preferred direction of travel, only a modest degree of weight can be attached to H9.

Notwithstanding the above, the NPPF requires proper consideration of the weight which may be afforded to housing policies. Paragraph 49 of the NPPF states: "*Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites*" [Emphasis added]. There are two arms to this paragraph: (1) that the application should be considered in the context of the presumption in favour of sustainable development (a point returned to below), and (2) SDLP housing policies should not be considered to be up-to-date if a 5-year housing supply cannot be demonstrated. It is intended to address point (2) first.

Paragraph 47 of the NPPF seeks "*to boost significantly the supply of housing*". It is therefore clear there is considerable emphasis on bringing forward significant housing provision as soon as possible. This is achieved through a rolling supply of deliverable sites sufficient to provide five-years worth of housing against projected requirements (a "5-year supply"). Where Local Planning Authorities have failed to deliver a 5-year supply, an additional buffer of 20% is required (effectively 6 years). Whilst the Council has no issue with land supply as such, and recent permissions have helped to improve the supply, there is still a significant shortfall on the 5-year supply at the present time. As such the relevant SDLP policies pertaining to housing delivery cannot be considered up-to-date and the proposal must be considered in the context of the presumption in favour of sustainable development. This conclusion also supports the above approach to policy EV1 as it is clearly necessary to allocate land beyond settlement boundaries to accommodate projected housing needs over the next 15 years.

Repton is classed as a Key Service Village in the emerging Plan's Settlement Hierarchy (H1). To qualify as a Key Service Village, settlements must have suitable public transport links and a minimum number and mix of other services. Such settlements are envisaged to be capable of accommodating developments up to and including strategic sites (100 dwellings or more). Again only a limited degree of weight can be given to this policy at the present time although it is noted the proposed development below the scale envisaged for a Key Service Village – even when combined with the recent permission at Longlands. The proposal remains to be considered on first principles.

Repton is served by a regular bus service from Burton and beyond to Willington and Derby. This provides connection to direct rail services to/from Derby or Burton in

Willington and wider regional and national services in and out of Burton and Derby. The village lies on a junction between the B5008, which connects to the A38 and A50 via Willington to the north and to Burton to the west, and the main route from Swadlincote. Whilst Milton Road lacks a footway connecting to the surrounding highway network, a footway is proposed to provide a safe pedestrian route back to the village centre and facilities within. The facilities on offer include a post office, a convenience store, a butcher, a bank, a primary school, a church, a recreation area, a public house, restaurants, a dental practice, a day nursery and the private school. Overall the range of services and the wider connectivity of this settlement are considered to assist in demonstrating its sustainability and suitability for additional residential development.

### Sustainability of the site

In light of the above it follows that, as the Local Planning Authority is unable to demonstrate a 5-year supply, the presumption in favour of sustainable development as set out in paragraph 14 of the NPPF applies. This means:

*“...where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*

- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or*
- *specific policies in this Framework indicate development should be restricted”* [Emphasis added].

It is important to note that the NPPF provides a presumption in favour of sustainable development – not a presumption in favour of development. It is necessary, as a preliminary issue, to determine whether the proposed development is sustainable. A recent high court ruling ratifies this approach. Paragraph 6 of the NPPF states that *“the policies in paragraphs 18 to 219, taken as a whole, constitute the Government’s view of what sustainable development...means in practice...”*. Paragraphs 7 and 8 go further to split sustainable development into three roles: economic, social and environmental, whilst highlighting that these dimensions are mutually dependent (i.e. they should be sought jointly and simultaneously). It is thus reasonable to conclude that conflict with other parts of the Framework, and indeed Development Plan policies, could lead to the proposal being defined as unsustainable.

Therefore Members should first reach a view on whether the proposal is sustainable, or can be made sustainable through planning obligations and conditions, before considering whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits arising. The assessment so far establishes an ‘in principle’ acceptance of sustainability – the discussion below looks in detail at the impacts arising so a conclusion can be reached on whether the presumption should actually apply, and whether there are significant and demonstrable adverse impacts arising which should command a refusal.

### Impact on local economy, facilities and infrastructure

The issue of what constitutes a sustainable village could be considered as subjective. A view could be taken that an increase in population is likely to boost the local economy by increasing demand and bringing in more custom, or enabling businesses to expand or new businesses to locate within it. Paragraph 23 of the NPPF recognises that

residential development can play an important role in ensuring the vitality of centres. The opposing view is that existing infrastructure and services are considered insufficient to cope with the additional population. It is accepted that the proposed development would place additional pressure on the village, whilst not providing any benefits other than affordable housing (of which there is a pressing need). Specific capacity issues are discussed below.

A key focus is the existing traffic congestion on Milton Road and elsewhere in Repton, especially around school drop-off and collection times. The Transport Statement looks at this concluding vehicle trips amount to 19 movements during the morning peak hour and 20 during the evening peak hour (and 181 between 7am and 7pm). It is difficult to predict precisely the distribution/direction of trips, but the Transport Statement suggests a 50:50 split between Repton and Milton. Given the draw of the A50 and A38 corridors, Burton and Derby for employment purposes, and John Port Academy for secondary education in the Repton direction, whereas the pull is limited to Foremark School, Melbourne and possibly commuters to Nottingham in the Milton direction; it is likely that there would be a slant of the trip generation towards/from the village. However given the maximum movements outlined (i.e. one every 3 minutes), it is considered that the increase on the surrounding road network could be satisfactorily absorbed without the need for off-site improvements to alleviate the impacts. Indeed the Highway Authority raises no objection on grounds of network capacity.

Related to the trip projections is consideration of pedestrian movements. The Transport Statement does not provide a breakdown of pedestrian and cycle trips against multi-person vehicle trips. However it is not unreasonable to conclude pedestrian movements along Milton Road would increase as a result of the development. At the present time there is no footway along the southern side or a safe crossing point to the northern footway. In order to overcome this matter, and meet Highway Authority requirements, a 2 metre wide footway within the limits of the public highway to connect the site across the western frontage and the school frontage is proposed.

Further objections highlight schooling provision in the village and wider area. Repton Primary is claimed to be at capacity. As for secondary school places, John Port Academy serves this village and it is well established that it too has little capacity at secondary and post-16 schooling levels – a matter recognised in the emerging Plan. However the County considers capacity issues can be addressed through commuted sums towards the provision of primary school, secondary school and post-16 places as outlined above. These requests are considered to meet the planning obligations tests set out in paragraph 204 of the NPPF. The County highlights that it is formulating a strategy to provide additional secondary capacity, possibly through expansion of John Port School and/or the delivery of a new school in the Derby sub-area. In the interim it is considered that the relatively small pressures arising could be absorbed.

The development will inevitably create refuse and waste which will need to be handled through a HWRC. The existing HWRC at Newhall (Bretby) is already over capacity, having exceeded its tonnage last year, and unable to expand. Additional housing will compound this problem. Consequently the County advice of a need for commuted sums towards the provision of a new HWRC for South Derbyshire. This is considered to be justified and meet the NPPF tests.

Broadband quality varies across the District and access to superfast broadband speeds in Derbyshire is limited. Improvement to connectivity is a key priority for the County with



superfast broadband roll out imminent. The NPPF places emphasis on ensuring high quality communications infrastructure. This request is also considered to be reasonable, but is likely provided for in any case (through standard provision of utilities).

The Derbyshire and Nottinghamshire Area Team of NHS England have adopted the former Derbyshire County PCT health care model, which assumes an average of 1800 patients per full time GP. Where extensions to existing practices are *required*, the Derbyshire and Nottinghamshire Area Team request financial contributions from residential developments where a significant increase in the number of dwellings is anticipated. No request has been received to substantiate a commuted sum in line with established figures in the Section 106 guidance. In the context of a new larger surgery having recently opened in Willington, it is highly unlikely any request could be deemed “necessary” under paragraph 204 of the NPPF.

Public open space is not proposed within the site. This is unusual for a development of this scale, with Section 106 guidance pointing towards the need to provide informal public open space and a local area for play. However the Longlands residential site sits immediately adjacent and the indicative layout points towards the open space sitting immediately adjacent to this proposal. It is the view of the Open Space Manager that it is more beneficial to seek commuted sums from this development towards enhanced provision on the adjacent site, although accepting that this proposal is likely to come “on-stream” before the Longlands element. This latter point does raise concern that residents on this development would be left without adequate provision in the interim – particularly those occupying the 1 bedroom apartments. The nearest public open space is some 700 metres distant. This is a matter Members may wish to consider further, particularly in light of discussion on viability below.

A Member of the Parish Council has requested further commuted sums towards a new village hall. As outlined in the Longlands application, the hall is well used by the community and it is nearing the end of its useful life expectancy such that the Parish Council is already raising funds towards a replacement building. The Infrastructure Delivery Plan which informs the emerging Plan identifies the hall as a key asset in need of improvement. It is not unreasonable to draw a link between an increase in the number of dwellings in the Parish to an increase in the use of the hall, whether it be by way of increased attendance to existing functions or new functions taking place. Evidence has been advanced in an attempt to substantiate a sum “per head” as would be normal in demonstrating full compliance with paragraph 204. However this evidence has not been tested at the present time and there is some concern as to the £66,000 requested complies with paragraph 204 as to it being fairly and reasonably related in scale. This is a matter Members may wish to consider further, particularly in light of discussion on viability below.

Remaining services and facilities, such as shops and public houses, would not have a *direct* pressure placed upon them. The proposal is instead considered to bring about benefits in this fashion and ensure the vitality of them. Indeed the vitality and longevity of many of the aforementioned local services is sustained by the proposal. It is thus not considered there is a specific capacity issue or impact on a local service or facility which cannot be addressed in order to make the development sustainable.

#### Affordable housing and viability

H9 of the SDLP seeks that a proportion of the housing be made available for affordable purposes. The NPPF states that Local Planning Authorities should “*use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area...*”, and “*identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand...*”. The SHMA identifies an overall need for 75% rented accommodation, and 25% intermediate (shared ownership). The Strategic Housing Manager also prefers that more emphasis is given to delivering housing for those on the social rent list as opposed to intermediate needs, and advises that the 75% rented need equates to 71 dwellings in Repton, leading to there being an overall affordable housing need in village for 95 dwellings.

The emerging Plan sets out a policy minimum of 30%. This is based on the most recent update to the SHMA and equates to 10 dwellings. The applicant instead proposes 24 affordable dwellings, or 73%. The basis for this over-provision follows extended discussions pre-dating the emerging Plan for an affordable exceptions site on this land. Whilst the proposal is now cross-subsidised by the 9 dwellings for sale on the open market and HCA funding, the latter funding is dependent on providing the 24 affordable dwellings by March 2015. The number of affordable units above the 30% requirement alone attracts significant weight. The speed of delivery further adds to this weight. Furthermore the mix and tenure has been shaped by input from the Strategic Housing Manager who also needs to provide suitable accommodation for a disabled person with specific care needs. The result here is plot 20. This again affords weight to the proposal.

This scheme will also compliment the Longlands development, with effectively 33% affordable housing across the 73 dwellings provided on the two sites. Not only is there an overall extra of 3% here, but the Longlands development will provide for a commuted sum in the region of £1m for use elsewhere in Repton. Hence between the two developments there are significant benefits arising helping to address considerable affordable housing needs.

This provision of affordable housing does have consequences. At the time of writing viability evidence points towards the scheme not being able to sustain the number of affordable dwellings as well as provide for all the commuted sums which meet the tests of NPPF paragraph 204. A formal response from the District Valuer is anticipated prior to the meeting, but it is anticipated this will find the development “breaks even” in the form presented. This raises a sustainability issue and is the crux of discussion for Members – whether the development as presented is unsustainable by way of over providing affordable housing on site at the expense of addressing education, open space and refuse needs; or whether this sustainability conflict is outweighed by the significant weight of affordable housing provision within the next 12 months directly meeting an identified need. The balancing of this matter is set out below.

### Highway impacts

It is important to divorce the existing situation from that which may result from the proposal. This is in order to better appreciate whether this proposal would be materially detrimental to highway safety. Congestion and capacity concerns are outlined above, and the Highway Authority raises no objection in this respect. The remaining matters relate to the proposed access and visibility to/from it.

The access will exist as a private cul-de-sac off Milton Road with a footway to one side. A turning head is provided and it has been demonstrated this is suitable for refuse wagons. The geometry of and speed limits on Milton Road are material to the suitability of the access. The Highway Authority notes the access would meet Milton Road within the 60mph limit, normally commanding 215 metre splays. This cannot be achieved to the east. Whilst the view that 120 metres is adequate (as set out in the Transport Statement) is noted, no speed readings to substantiate this have been provided. However it is noted that should the speed limit be moved out to the eastern edge of the site and the verge properly formed and lit, a 43 metre splay would be suitable as the access would fall wholly within the 30mph zone. The Highway Authority accepts this view.

Moving to the internal layout of the site, as the new road will now remain private the provision of the footway to one side only is acceptable to the Highway Authority. They raise no objection to the bin store provision, the overall parking provision, and the dimensions of parking bays and car ports. The footway

#### Biodiversity and ecological impacts

The Ecological Appraisal is considered to be generally accurate. The site survey found no evidence of protected species and further work concluded none of the trees provided suitable habitat for roosting bats. The same additional work found that the eastern land drain habitat was unsuitable for water vole. Consequently there is not considered to be habitats of international, national or county importance that would be directly or indirectly affected by the proposals, with no protected species recorded. It is considered a decision can be made on this application without giving rise to conflict with the Habitat Regulations.

It is noted that works to hedgerow and trees have taken place prior to determination. The majority of works are considered to reflect good management practice, with retained hedgerows laid to provide more substantial boundary features and softening over time and the trees removed either in poor structural condition or health. However 2 trees marked for retention and a section of hedgerow to the eastern boundary have been removed. On balance the loss of the trees is not considered to be of significant detriment and appropriate replacements could be secured through the imposition of a suitably worded condition. At the time of writing there is some dispute as to whether the eastern boundary was hedgerow, scrub or a mix of both. However officer observations and the Ecological Appraisal point towards hedgerow at least in part. As to whether a breach of the Hedgerow Regulations has occurred is presently being considered by enforcement officers, but it is not considered to be fundamental to the determination of this application. A refusal on this basis would not restore the hedgerow, and as such it is considered more appropriate to secure a suitable replacement and additional tree planting to provide a net improvement.

The Wildlife Trust and Natural England seek a range of mitigation/enhancement measures to reduce the impact of the works on local wildlife and increase the nature conservation value of the site in the long term in accordance with EV9, EV11, the third limb of EV1, and paragraphs 117 and 118 of the NPPF. This should help represent a net gain in biodiversity. They seek conditions to afford protection to the remaining hedgerows and trees and protection for nesting birds. These requests are all considered reasonable and proportionate, in line with the NPPF.

### Landscape and visual impacts

As identified already EV1 makes allowance for the development in that it can be viewed as “unavoidable”, although there are further criteria to be fulfilled. An objective of the emerging Plan is to protect the rural character of the area. The focus is therefore on the value of the character of the countryside and landscape quality, and what degree of weight should be attached to it. The landscape falls into the “Melbourne Parklands” character area – more specifically the “estate farmlands”. This is a broad, gently rolling lowland, mixed farming landscape with estates. Trees and woodland are well represented throughout and with occasional red brick villages (such as Repton), scattered estate farmsteads and country houses. The proximity to main settlements has led to reasonable expansion of larger villages in the character area, with existing urban fringes often characterised by large modern housing estates.

The proposal would sit on a rise from Milton Road which forms the valley between Askew Grove and the hilltop to the south of the site (within the Longlands Residential site). This position affords prominent views of the development from Milton Road, the footpath to the north over Askew Hill and the footpath from Milton. From these aspects, the most pronounced impact would be from Milton Road – particularly the elevated footway on the northern side. However the impacts would be reduced by way of the design, in that the first suggestion of development would generally be the proposed access and houses fronting Milton Road to the west of it. The eastern portion of the site would be “hidden” behind the retained hedgerow and the lack of a footway along Milton Road at this point would retain the rural feel somewhat. The planting along the eastern boundary and digging in of floor levels would also help to reduce the visual impacts from the east, whilst the overall approach to design would suggest this site comprises of a converted farmstead with additional housing added later. The impact on landscape character would therefore be modest, with on-site landscaping assisting in limiting this impact. At closer proximity the impact would be greater but the frontage along Milton Road would provide a transition from countryside to the village, moving from open farmland to housing behind retained hedgerow, to a run of dwellings exhibiting a barn conversion character, to the school grounds and dwellings beyond. Although not leading to the loss of the best and most versatile agricultural land, the proposal would bring about moderate visual harm and intrusion into this part of the countryside. Consequently the moderate degree of visual harm weighs against the proposal and conflicts with EV1 and paragraphs 17 and 109 of the NPPF.

### Archaeological impacts

Whilst no pre-determination survey has been carried out on this site, the County Archaeologist notes the lack of interest identified from a geophysical survey of the Longlands site. This is weighed against documented records of Roman pottery and round barrows at Askew Hill, and of an Anglo-Saxon brooch and other metalwork nearby. It is considered that any finds would be of local archaeological interest at best. The principle of development can therefore be supported, although the County Archaeologist feels that, on balance, there is still potential for small scale archaeological remains such that a conditional approach is proportionate. Paragraph 133 of the NPPF states where there is total loss of significance, local planning authorities should refuse consent unless it can be demonstrated that the loss is necessary to achieve substantial public benefits that outweigh that loss. Given the conditional approach recommended, and the wider benefits of providing the housing mix proposed, it is considered there is insufficient weight to resist the proposal on heritage matters.

### Amenity impacts

With no immediate neighbouring dwellings to the site, there is not considered to be an unacceptable impact on privacy, nor overshadowing concerns. The arrangement of dwellings within the site is also considered to afford a reasonable degree of privacy to all occupants, both within the dwellings and in private amenity space. The school is unlikely to compromise the living standards for occupiers, and the Environmental Protection Officer has not requested control over the construction phase, such as restricting the hours of construction and deliveries.

### Design and layout

H11 of the SDLP seeks a reasonable environment for the public at large; reasonable amenities in terms of light, air and privacy for, both existing and new dwellings; safe, functional and convenient layouts; private amenity space, and space for landscaping; adequate public open space; and for the development of any suitable adjoining land. Paragraphs 58, 60 and 61 of the NPPF reinforce this policy.

The Design Excellence Officer and Police Crime Prevention Design Advisor raised concerns to the originally submitted layout, noting a number of fundamental issues. Revisions to the proposal have addressed the majority of these, including additional trees and planting in the public domain, surveillance of public and private spaces including the parking courtyard, and overall character and appearance of the dwellings; and conditions can address the remaining matters which are considered material to the decision. It remains unfortunate that the eastern hedgerow and part of the southern hedgerow would form the rear boundaries to private gardens, reducing the opportunity for controlled management into the future. It also leads to some gardens bordering the proposed open space on the Longlands site, but where this occurs they would side on to the open space or back onto the likely position of the balancing pond. It is considered that the opportunity for nuisance arising from ball games and other activities is appropriately limited and a conditional control can be applied to ensure these boundaries remain "green".

### Drainage

The site has a reasonable slope falling some 4.5 metres from corner to corner. It is unconstrained by Flood Risk mapping published by the Environment Agency, and there are no records of surface water flooding on site. The focus is on surface water drainage arising from the development.

The County recognise that SuDS are to be incorporated although subterranean and without a number of treatment stages. The applicant is proposing a single attenuation chamber and then a discharge off site to a surface water sewer extended along Milton Road up to the site. The County recommends that discharge is limited to no greater than greenfield runoff rates, and has therefore considered the attenuation capacity. It finds the provision to be appropriate. Hence, whilst not the most ideal surface water drainage technique, it fulfils policy objectives to ensure flood risk is not exacerbated on or off site. Elsewhere the land drain along the eastern boundary is to be culverted across the site away from this boundary to connect with an existing culvert along the public highway (where the land drain presently leads). There is therefore not considered to be net change in circumstances here.

As to foul water, despite concerns from neighbours, Severn Trent Water raises no objection subject to a condition. They do not raise concern either regarding capacity at the Milton Treatment Works.

#### Balancing exercise and determining whether the development is sustainable

There are many factors in favour of the proposed development. Central to these is the provision of housing towards the 5-year supply and the wider housing needs of the District, as well as the benefits of a substantial amount of affordable housing provision meeting identified and specific needs. This all attracts significant weight. The economic benefits arising also add some weight to this. The reasonable connectivity of the site to the Longlands residential site and improvements along Milton Road to secure safe pedestrian links help to elevate the sustainability credentials. The fact that there is not an unacceptable impact on highway safety and biodiversity, flood risk is not exacerbated elsewhere, and the site can provide for a suitable layout and design without significantly compromising residential amenity, is of significance as it demonstrates compliance with the NPPF as a whole.

Balanced against all this is the matter regarding viability and the lack of commuted sums towards education and waste handling, and the lack of open space on site or commuted sums towards off-site provision. The degree of weight behind these conflicts is a matter which Members may wish to decide for themselves, but it is felt to be of reasonable weight in that the dwellings will still create a pressure on local services and infrastructure which is not catered for. In addition there would be a moderate degree of visual harm.

The balancing exercise is thus focussed towards sustainability and visual and landscape impacts. A number of appeal decisions and case law are defining the manner in which paragraph 49 of the NPPF should be applied. Ultimately these decisions take the view that although paragraph 49 intends to ensure that housing need does not suffer to other policy considerations, it does not mean that those other considerations should be disregarded altogether. The protection of the environment and social aspects of development form two of the three dimensions of sustainability (paragraph 7 of the NPPF). It is therefore apparent that relevant policies of the SDLP which are not concerned with the supply of housing land cannot be automatically “stood down”. Policies EV1 and CF1 are particularly relevant to this balancing exercise and remains a wholly relevant consideration. The national and local policy envisages there will always be difficult balances to be struck, and this is one such case.

In reaching a conclusion the concern over open space provision is likely to be short term with the Longlands development providing for both sites in due course. Whilst the quality of play provision may be compromised by a lack of commuted sums, there would still be provision. The lack of commuted sums towards built and sports facilities elsewhere in the District is also not considered to be so great (circa £27k) to compromise delivery of strategic sites and projects. The sustainability impacts here are felt to be relatively low. As to the lack of commuted sums towards education provision, the number of spaces at primary and secondary level is relatively low. Given some primary school age children from Repton are already travelling elsewhere, and all secondary school age children are travelling to the John Port Academy, the overall change to this situation in the short term is limited. As other developments come on line and commuted sums are gained to resolve the education issues across the sub-Derby area, the balance would be redressed. As to waste and refuse handling capacity, the

loss of circa £1k is highly unlikely to compromise the ability to adequately handle waste and refuse arising from the 33 dwellings. The visual harm arising would be generally limited to the immediate area and ameliorated to some degree by way of landscaping. Viewers stood at long distance vantage points would find the development falls against the existing urban backdrop of this part of Repton, especially when the Longlands site is built out. The site does not fall in a designated green wedge, or national designation such as an Area of Outstanding Natural Beauty or Green Belt. In a wider context this harm is not considered to make the development unsustainable, nor is it considered to be demonstrably adverse.

Consequently the harm brought about by way of this development is considered to be outweighed by the significant benefits of providing housing towards the 5-year supply (as a part of the larger 'allocation'), including an over provision of affordable housing provision which meets both strategic and specific needs, and the ability to for the proposal to have otherwise acceptable impacts. The proposal is considered to be sustainable development in the round to which a presumption in favour can apply and the recommendation below follows.

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**

Subject to any other conditions or informatives which the Planning Services Manager considers necessary, in consultation with the chair of Planning Committee, **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 the following plans/drawings unless as otherwise required by condition attached to this permission:
  - 1336/20 Rev A (Site Layout Plan received 1 April 2014);
  - 1336/21 Rev A, 1336/22 Rev A, 1336/23 Rev A, 1336/24 Rev A, 1336/25 Rev A, 1336/26 Rev A, 1336/27 Rev A, 1336/28 Rev A, 1336/29 Rev A, 1336/30 Rev A, 1336/31 Rev A, 1336/32 Rev A and 1336/33 Rev A (floor plans and elevations to Plots A1 to A9, received 1 April 2014);
  - 1336/34 Rev A, 1336/35 Rev B, 1336/36, 1336/37, 1336/38 Rev A, 1336/39 Rev A, 1336/40, 1336/41 Rev A, 1336/43 and 1336/44 (floor plans and elevations to Plots 1 to 24, received 1 April 2014);
  - 1336/34 Rev B, 1336/35 Rev C, 1336/39 Rev B, 1336/40 Rev A, 1336/41 Rev B and 1336/44 Rev A (floor plans and elevations to Plots 1 to 24, received 10 April 2014);
  - 1336/45 Rev D (Detailed Site Layout received 1 April 2014);
  - 1336/47 Rev A (Street Scenes received 1 April 2014); and

- 1336/48 and 1336/49 (Eaves, Verges and Dormers Detail received 1 April 2014)

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), the car ports shall not be enclosed other than allowed for by the drawings hereby approved, and all car ports and parking spaces to be provided in connection with the development shall not be used other than for the parking of vehicles except with the prior permission of the Local Planning Authority granted on an application made in that regard.

Reason: To ensure adequate parking provision for the dwellings hereby approved remains in perpetuity in the interests of safety on the public highway.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no gates, fences, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected 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 the street scene.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), plots P1, 1 and 7 hereby permitted shall not be enlarged or extended 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, private external amenity provision, site levels and effect upon public open space.

6. There shall be no gates or other barriers within 5 metres of the nearside highway boundary (existing and proposed highway boundary) at any of the private driveways or vehicular accesses within the site. Any gates beyond 5m from the highway boundary (existing or proposed highway boundary) shall open inwards only.

Reason: In the interests of safety on the public and private highway.

7. The proposed private driveways or vehicular accesses within the site shall be no steeper than 1 in 15 for the first 5m from the nearside highway boundary (existing highway boundary).

Reason: In the interests of safety on the public highway.

8. Throughout the period of construction within any phase vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles



shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud or other extraneous material on the public highway.

Reason: In the interests of safety on the public highway.

9. Notwithstanding the provisions of the Hedgerow Regulations 1997 (or any future legislation that replaces it), following first occupation of the dwellings hereby approved no hedgerows shall be removed.

Reason: In the interests of ensuring appropriate boundary treatments in the public realm and to lessen the visual impact of the development.

10. The footway along the private road connecting with land to the south shall remain open for public use by pedestrians and cyclists at all times.

Reason: In the interests of providing vital a pedestrian connection to residential development and public open space on land to the south permitted under a separate permission.

11. No removal of hedgerows, shrubs or scrub shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period; and details of measures to protect the nesting bird interest on the site have first been submitted to and approved in writing by the Local Planning Authority. The approved protection measures shall then be implemented as approved.

Reason: In the interests of safeguarding against harm to protected species.

#### Pre-commencement

12. No development or other operations on the site shall commence until a scheme which provides for the protection of all hedgerows and trees identified for retention growing on or adjacent to the site has been submitted to and approved in writing by the Local Planning Authority. The approved protection measures shall then be retained until a time where vehicles or mechanical equipment cannot interfere with such hedgerow or trees, or completion of the development, whichever occurs first.

Reason: In the interests of maintaining existing habitat provision to the benefit of wildlife and visual amenity.

13. (a) No development or other operations shall take place until a Written Scheme of Investigation (WSI) for archaeological work has been submitted to and approved in writing by the Local Planning Authority, and until any pre-start element of the approved WSI has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and
- (i) the programme and methodology of site investigation and recording;
  - (ii) the programme for post investigation assessment;
  - (iii) provision to be made for analysis of the site investigation and recording;

- (iv) provision to be made for publication and dissemination of the analysis and records of the site investigation;
- (v) provision to be made for archive deposition of the analysis and records of the site investigation; and
- (vi) nomination of a competent person or persons/organization to undertake the works set out within the WSI.

(b) No development shall take place other than in accordance with the archaeological WSI approved under (a).

(c) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological WSI approved under (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.

14. No development or other operations (other than that necessary to carry out investigation under condition 13) shall take place until a temporary access for construction purposes has been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The access shall be retained in accordance with the approved scheme throughout the construction period, except where replaced under the requirements of condition 19, free from any impediment to its designated use.

Reason: In the interests of safety on the public highway.

15. Before any other operations are commenced, other than allowed for by condition 14 above, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees' and visitors' vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to and approved in writing by the Local Planning Authority. This space shall be maintained throughout the construction period in accordance with the approved designs free from any impediment to its designated use.

Reason: In the interests of safety on the public highway.

16. Before any other operations are commenced, other than allowed for by conditions 14 and 15 above, Milton Road shall be modified generally in accordance with approved plan 1336/45 Rev with a 2 metre wide grassed margin provided on the southern side of the carriageway to the east of the proposed access, and a 2 metre wide footway provided on the southern side of the carriageway to the west of the proposed access. The modified highway shall be laid out, constructed, drained and lit all in accordance with Derbyshire County Council's specifications for new estate streets.

Reason: In the interests of highway safety both during and after construction.

17. No development shall commence until a scheme for the provision of the affordable housing hereby permitted, as detailed on approved plan 1336/20, has been submitted to and approved in writing by the Local Planning Authority. The

affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the NPPF or any future guidance that replaces it. The scheme shall include:

- the tenure of the affordable housing provision to be made which shall consist of not less than 24 dwellings;
- the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no RSL involved);
- the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reason: To ensure the provision of affordable housing.

18. No development shall commence until an ecological mitigation, compensation and enhancement strategy has been submitted to and approved in writing by the Local Planning Authority. The approved strategy shall be implemented in full and maintained thereafter.

Reason: In the interests of protecting and enhancing biodiversity.

19. No development involving the construction of any dwelling shall take place until the access has been formed to Milton Road. The access shall have a 5 metre wide carriageway, one 2 metre wide footway, two 6 metre radii and be provided with visibility splays of 43 metres by 2.4 metres in either direction cleared and thereafter retained free of all obstructions to visibility over a height of 1 metre above the adjoining carriageway level.

Reason: In the interests of safety on the public highway.

20. No development shall commence until details of a scheme for the disposal of surface water from the proposed dwellings, private driveways, parking and turning areas, and the access road have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

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

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

Reason: In the interests of pollution control.

22. No development shall commence until details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the first

occupation of the development hereby permitted (or first occupation of the respective dwelling where private secure cycle parking facilities are proposed) and shall thereafter be retained for use at all times.

Reason: In the interests of encouraging the use of sustainable methods of transport.

23. No development shall commence until details of retaining structures within plots to accommodate existing land levels, proposed finished floor levels and level access to patios, paths, etc, have been submitted to and approved in writing by the Local Planning Authority. The retaining structures shall then be implemented in accordance with the approved details.

Reason: In the interests of protecting existing boundary hedgerows and ensuring a satisfactory form of development.

24. No development shall commence until precise details, specifications and, where necessary, samples of the facing or surfacing materials (as the case may be) to be used in the construction of the external walls and roofs of the dwellings, car ports, boundary walls, vehicular and pedestrian circulation areas (including shared surfaces) have been submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved schedule of materials.

Reason: In the interests of the appearance of the dwellings and wider development, and to ensure a high quality of finish in accordance with approved drawings and the viability of the overall scheme.

25. No development shall commence until precise details and drawings of the slit windows on plots 18, 21 and 24 have been submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details and drawings.

Reason: In the interests of the appearance of the dwellings and wider development.

26. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping. The scheme shall include details of compensatory tree planting to the eastern and southern boundaries of the site as well as supplementing existing hedgerow with new hedging.

Reason: In the interests of species and habitat conservation, and in the interest of visual amenity.

27. No development shall commence until a scheme for the position, type, angle, colour and baffling of external lighting to the new access road and shared and private driveways and parking areas has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be implemented and maintained as such.

Reason: In the interests of species and habitat conservation, and in the interest of visual amenity.

Pre-occupation

28. No dwelling, the subject of the application, shall be first occupied until a 2 metre wide footway has been provided on the southern side of the carriageway of Milton Road to the west of the site and connecting to the existing footway. The modified highway shall be laid out, constructed, drained and lit all in accordance with Derbyshire County Council's specifications for new estate streets.

Reason: In the interests of highway safety for occupiers of the development and adjacent development.

29. No dwelling, the subject of the application, shall be first occupied until a landscape management plan has been submitted to and approved by the Local Planning Authority. The landscape management plan shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens. The landscape management plan shall be carried out as approved.

Reason: In the interests of interest of visual amenity, particularly for areas of landscaping not within the confines of privately owned, domestic gardens.

30. No dwelling, the subject of the application, shall be first occupied until a Travel Plan comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use has been prepared, submitted to and been approved in writing by the Local Planning Authority. The approved Travel Plan shall then be implemented, monitored and reviewed in accordance with the agreed Travel Plan Targets.

Reason: In the interests of encouraging the use of sustainable methods of transport.

31. Prior to the first occupation of plots 20 to 24, private driveways shall be laid out and constructed and surfaced with a solid bound material at a gradient no steeper than 1 in 15 and shall incorporate measures to prevent the flow of surface water onto the highway.

Reason: In the interests of highway safety.

32. No dwelling, the subject of the application, shall be first occupied until space has been provided within the application site in accordance with the approved plans for the parking of the proposed dwellings' 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.

33. No dwelling, the subject of the application, shall be first occupied until the bin stores have been provided in accordance with the approved plans, and shall be retained thereafter free from any impediment to their designated use.

Reason: To ensure adequate bin storage and collection for the development hereby approved.

Other

34. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The publically landscaped areas shall be maintained as such until these areas are transferred to the Local Authority or nominated maintenance company.

Reason: In the interests of visual amenity.

**Informatives:**

- a. 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 technical issues, suggesting amendments to improve the quality of the proposal, meetings and negotiations, and promptly 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.
- b. An existing open ditch is being piped through the site. Culverting of this ordinary watercourse is likely to require Land Drainage Consent under Section 23 of the Land Drainage Act 1991. Derbyshire County Council (DCC) is the consenting authority and therefore any application, along with a £50 fee per structure, would need to be submitted to the Flood Risk Management Team. They request that the developer provides DCC with additional information as to the plans for the ditch and the culvert into which the pipe seems to outfall at the north of the site in order to ascertain the requirement for Land Drainage Consent. The applicant is advised that the Council wishes to see the SuDS as presently proposed broken into a management train to improve water quality, and that the play equipment within the public open space moved to the northern part of the site with sufficient capacity for later improvements.
- c. The Highway Authority recommends that the first 5m of proposed access driveways 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.
- d. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid

across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

- e. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the County Council via email – [es.devconprocess@derbyshire.gov.uk](mailto:es.devconprocess@derbyshire.gov.uk). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.
- f. 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 (e.g: street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- g. Pursuant to Section 50 (Schedule 3) of the New Roads and Streetworks Act 1991, before any excavation works are commenced within the limits of the public highway (including public Rights of Way), at least 6 weeks prior notification should be given to the Strategic Director of Environmental Services at County Hall, Matlock (tel: 01629 580000 and ask for the New Roads and Streetworks Section).
- h. New housing should be designed to addresses safety and the needs of vulnerable people. Domestic sprinkler systems are exceptionally effective through their ability to control a fire and help prevent loss of life. As a minimum, new residential development should incorporate a 32mm mains water riser which will enable the installation of domestic sprinkler systems, and ideally should incorporate the sprinkler systems themselves. The cost of installing a 32mm mains water riser is approximately £26 per dwelling and the cost of a domestic sprinkler system is approximately £1500. Derbyshire Fire and Rescue Service can advise further on such provisions.

15/04/2014

**Item** 1.3

**Reg. No.** 9/2014/0044/NO

**Applicant:**  
Cranberry Foods Ltd  
C/O Agent

**Agent:**  
Miss Alison Wright  
Savills  
Wytham Court  
11 West Way  
Oxford  
OX2 0QL

**Proposal:** RETROSPECTIVE APPLICATION FOR THE CONTINUED SITING OF TWO PORTABLE BUILDINGS, THE RETENTION OF VAPORIZERS AND TANKS TO STORE LIQUID NITROGEN AND CARBON DIOXIDE ALONG WITH ASSOCIATED WORKS AT CRANBERRY FOODS LTD SCROPTON ROAD SCROPTON

**Ward:** HILTON

**Valid Date:** 31/01/2014

**Reason for committee determination**

The application is reported to Committee at the request of Councillor Patton because local concern has been expressed about a particular issue.

**Site Description**

The application site is an established turkey farm/factory located on the southern side of Scropton Road in the open countryside. There are trees protected by preservation orders within the site and there are residential properties immediately to the west of the part of the site affected by the proposal. The wider site is bounded on its southern boundary by a railway line.

**Proposal**

The application is retrospective and seeks permission to retain 3 x vaporizers as well 2 x tanks for storing liquid nitrogen and CO<sub>2</sub> on the site used in connection with the business. The equipment range in height and size with the vaporizers being up to 7.2m in height, the tank on the front being approximately 10.1m in height with the tank behind being approximately 6.8m in height. Retrospective permission is also sought to retain two modular buildings measuring approximately 4.8m x 2.8m stacked one on top of the other to a maximum height of 5.9m which are used as a staff tea room and additional office space.





## **Applicants' supporting information**

A statement has been submitted in support of the application and the salient points of the statement are that the tanks were located to ensure that they were the legal distance from the main factory buildings, neighbouring dwellings and the car park and that they enabled improvements in terms of health and safety at the site as a whole and to improve operational efficiency and reduce noise and disturbance to the neighbouring residents to the west of the factory site. It states that the former location of the nitrogen and CO2 tanks was not suitable as during the winter when production levels were high, the vaporizers were not large enough to cope with demand. CO2 liquid would often freeze within the lines and mobile propane heaters were subsequently required to heat the vaporizers with this process of heating the vaporizers being slow and therefore having a negative effect on the production lines within the factory operation.

The applicant has also stated that a further reason for the relocation of the nitrogen and CO2 tanks was that the large tankers required to fill the tanks previously had to reverse into very tight spaces with the workshop to one side and pedestrian access to another and the new location for them has also enabled greater capacity and subsequently reduced the number of deliveries required throughout the year with the filling times having been adjusted with the use of telemetry on the tanks and the gas supplier has specific windows for delivery to cause the least amount of disruption to the company and neighbours.

The statement states that the applicants are committed to effective consultation and engagement and liaison with the local community was carried out in advance of installing the new vaporizers and tanks with several meetings were held with the neighbouring dwellings to the west of the site to discuss the proposals and seek input in to the design which included painting the tanks green, erecting rattan fencing to the boundary wall and planting a new Blue Cedar tree between the vaporizers and tanks and Scropton Road.

## **Planning History**

Numerous previous applications, none part particularly relevant to this proposal.

## **Responses to Consultations**

The Health & Safety Executive advise that no consultation with them is required.

The Environmental Health Officer (Pollution Control & Contamination) raises no comments as the site has an approved Environment Agency permit which authorised these changes and that is the primary method of controlling environmental impacts from the site.

## **Responses to Publicity**

The Parish Council object to the application which can be summarised by the following points:

- a) They are disappointed the application has been received retrospectively.
- b) They are not well screened.

- c) Ask why not site them underground or on their side.
- d) They are bigger than the ones they replaced.
- e) The site is no longer agricultural but more industrial.

## **Development Plan Policies**

The relevant policies are:

Saved Local Plan:

Environment Policy 1

## **National Guidance**

The National Planning Policy Framework (NPPF) at Para. 7, 14, 28, 56, 57, 61, 64, 65, 66, 186, 187, 203

The NPPG

## **Planning Considerations**

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

- Design and Impact on Visual Amenity.
- Residential Amenity.

## **Planning Assessment**

### Design and Impact on Visual Amenity

In terms of design matters, whilst the equipment and the cabins are very prominent and visible from the road, they are set behind a substantial area of landscaping and whilst the trees in that area are not in leaf for significant parts of the year, they do provide some screening and result in the installation being located away from the highway boundary. It is noted that the applicant proposes to plant a Cypress tree in front to further aid screening, though this will take time to provide any benefit, but the applicant has also indicated that they are willing to provide additional planting in this area to consolidate the existing planting, which will assist with their assimilation with the surroundings. The equipment clearly relates to a commercial activity taking place on the site and there are very large buildings within the site. One of the core principles of the NPPF is to seek to secure a high quality design and Employment Policy 1 (Existing Industry) of the Local Plan states that the expansion of existing businesses will be permitted provided they are not detrimental to the character of the locality. It is acknowledged that the installation is prominent and clearly visible and is of a purely functional appearance. However, the equipment has an appearance which relates appropriately to the character and appearance of the site as a whole and whilst prominent, and notwithstanding the comments of the Parish Council, the proposals are considered to be acceptable in this context and in compliance with planning policy.

### Residential Amenity

In terms of impact on the residential amenity of the occupiers of the neighbouring properties, whilst the installation is of a substantial size, they are well screened and are of a sufficient distance from the properties to the west so as to ensure that they are not unduly overbearing in terms of the impact on those neighbours. In terms of safety there are clearly implications should the equipment fail but there are other areas of legislation, as acknowledged by the Environmental Health Officer, that adequately cover the health and safety implications of the installation. It has to be remembered that the location of the installation in this part of the site has resulted in the cessation of other activities in that location such as washing down of racks etc. and these activities would have had a significant impact on the amenity of neighbours. One of the core principles of the NPPF is to secure a good standard of amenity for all existing and future occupants of land and buildings and Employment Policy 1 (Existing Industry) of the Local Plan states that the expansion of existing businesses will be permitted provided they are not detrimental to residential amenity. With these policies in mind, notwithstanding the concerns of the Parish Council, it is considered that the proposal would not be unduly detrimental to the amenity that the occupiers of the adjacent dwellings could reasonably expect to enjoy and in compliance with planning policy.

With regards to the other matters raised which have not been covered above, whilst it is regrettable that any application has had to be made retrospectively there is provision for doing so within planning legislation and the merits of these proposals are able to be assessed appropriately; the size and merits of the equipment in their current form are for consideration; the site has agricultural activity associated with it but it is also food processing factory.

Overall it is considered that the proposals are acceptable and will allow the efficient operation of the business without undue harm on the character or appearance of the area or amenity of neighbours.

### **Recommendation**

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

1. Notwithstanding the submitted details, within 28 days of this permission, full details of landscape works to aid with the screening of the installation, including a programme for their implementation, shall be submitted to, and approved in writing by, the Local Planning Authority. The works shall be carried out as approved. Any trees or plants which, within a period of 5 years from the completion of the development or the approved scheme (whichever is the later) die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity.

### **Informatives:**

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 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.

15/04/2014

**Item**            **1.4**

**Reg. No.**        **9/2014/0078/FO**

**Applicant:**  
**Mrs J Castledine**  
**Field House**  
**Coton Park**  
**Linton**  
**DE12 6RE**

**Agent:**  
**Mr John Steedman**  
**Steedman Planning**  
**Tournament Way**  
**Ashby De La Zouch**  
**LE65 2UU**

**Proposal:**        **OUTLINE APPLICATION (ALL MATTERS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF UP TO THREE DWELLINGS ON LAND ADJACENT TO FIELD HOUSE COTON PARK LINTON SWADLINCOTE**

**Ward:**            **LINTON**

**Valid Date:**     **27/01/2014**

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

The application has been brought to Committee as the proposal is contrary to policies in the development plan.

#### **Site Description**

The application site comprises an area of vacant land (formerly a small holding) adjoining the northwestern boundary of Field House, which is a detached dwelling outside but adjoining the settlement confine boundary of Coton Park, as shown on Inset 9 of the Adopted Local Plan. The site is enclosed by fencing and vegetation. There are existing dwellings to the south of the site, which are set back from the road facing the site.

#### **Proposal**

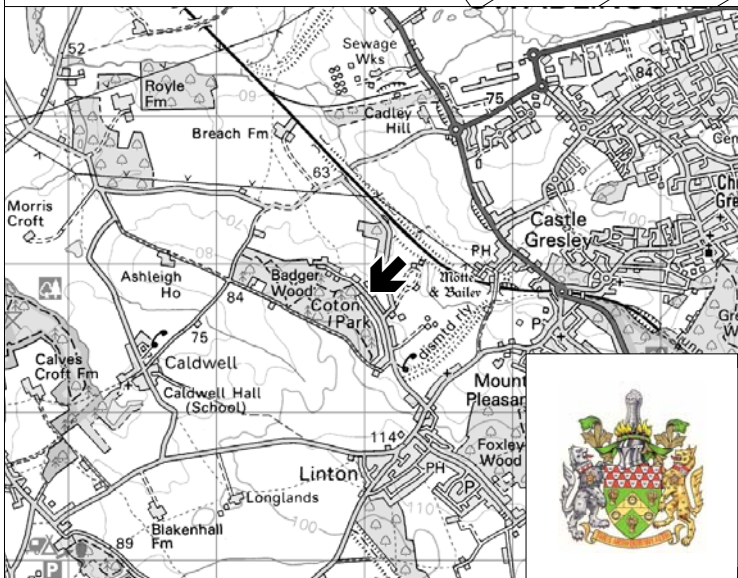
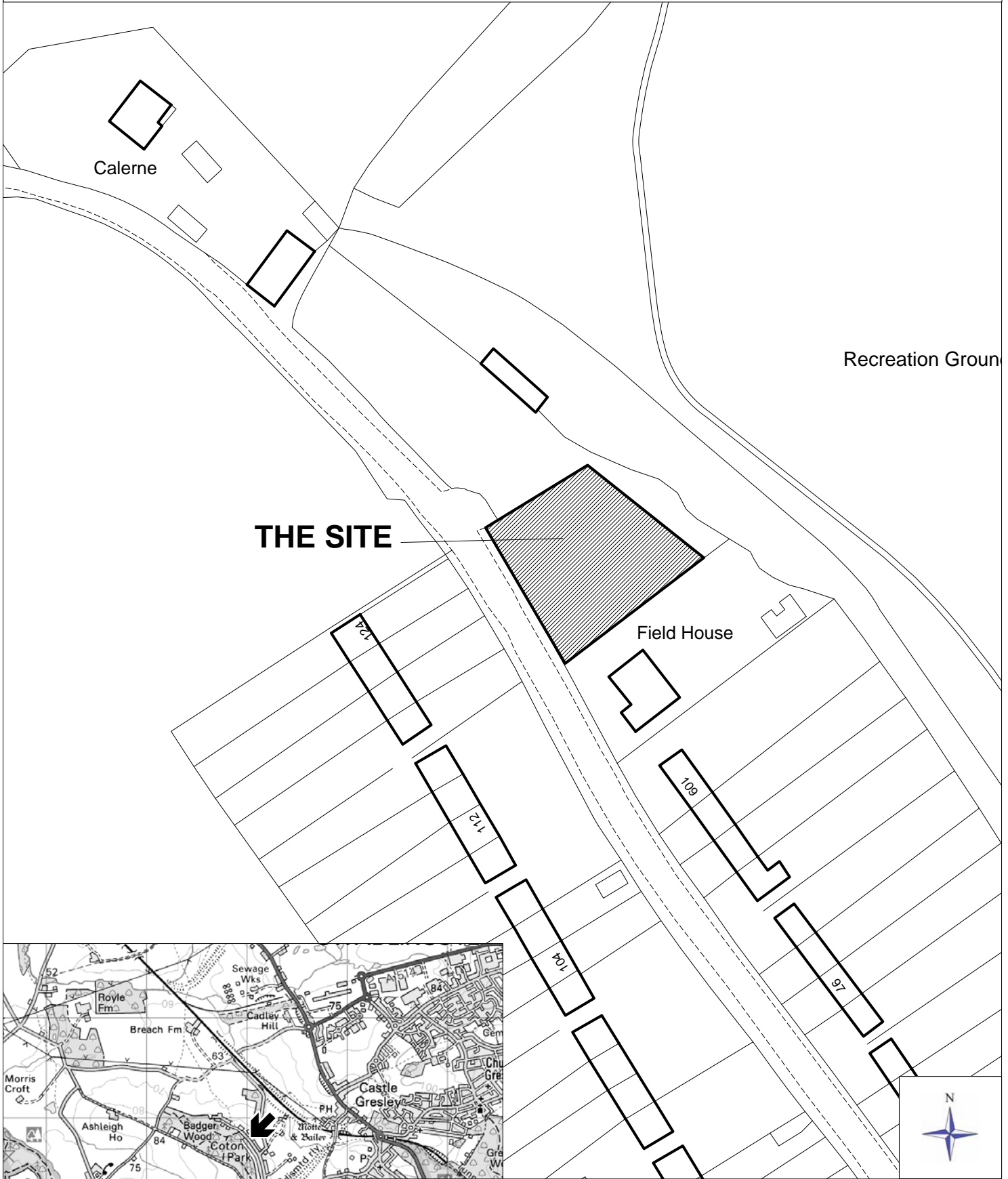
The application is in outline with all matters reserved for subsequent approval for the erection of up to three dwellings.

#### **Applicants' supporting information**

The application is accompanied by a Planning Statement which makes the following points:

- This is a re-application for a development previously permitted.

**9/2014/0078 - Land adjacent to Field House, Coton Park, Linton,  
Swadlincote DE12 6RE**



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- There has been no change in policy since the original permission and therefore it would be incumbent upon the LPA to demonstrate a change of circumstances between then and now.
- National planning policy has not changed in respect of the locality which the Council has acknowledged by having made its own application for larger scale development at the opposite end of the settlement.
- The site mirrors development on the other side of the road.
- The sloping nature of the site and the elevated position of the houses opposite would ensure that existing neighbouring amenity would not be compromised.
- An access track would be retained to the rear of the proposed houses to ensure connection to remaining horticultural land and to provide a buffer between the site and the recreation ground, thereby ensuring minimum impact on landscape and habitat.
- The proposal would contribute to local housing supply and would be in line with the NPPF objectives.

### **Responses to Consultations**

The Environmental Protection Officer (contaminated land) has no significant concerns but requests a condition in respect of ground gas ingress.

The County Highway Authority has no objections subject to previously imposed conditions in respect of parking provision.

Severn Trent Water has no objections to the proposal.

The Coal Authority requests that its standing advice is applied to the proposal.

### **Responses to publicity**

Three emails have been received all of which object to the proposal on the following grounds:

- a. Increased traffic;
- b. Devaluation of existing properties
- c. Loss of open views
- d. Noise and disturbance from construction traffic
- e. Loss of on-street parking
- f. Loss of privacy
- g. The scheme should include off-street parking

### **Relevant Planning History**

Field House was originally granted planning permission in 1991 prior to the current Local Plan being adopted. The house was subsequently constructed and is occupied.

An outline application for the erection of five dwellings (later amended to two dwellings) was refused by Committee in 2002. The grounds for refusal were that the site was outside the built confines of the settlement and thus contrary to national and local planning policy.

Later that year a further outline application (9/2002/0697) for residential development was approved by Committee, against recommendation, in November 2002.

### **Development Plan Policies**

The relevant policies are:

Local Plan:

Saved Housing Policies: H5, H8

Saved Environment Policies EV1, EV10

Saved Transport Policy T6

Emerging Local Plan: H1

### **National Guidance**

National Planning Policy Framework (NPPF), paragraphs 14, 17, 47, 49

National Planning Policy Guidance (NPPG), Use of Planning Conditions

### **Planning Considerations**

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

- Principle of proposed development and compliance with the development plan and national policy
- Impact on residential amenities
- Miscellaneous issues

### **Planning Assessment**

#### The principle of development and compliance with policies

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that 'if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'.

Paragraph 14 of the NPPF states 'at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking'. The NPPF makes it clear that for decision-taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out-of-date, granting consent unless:

- 'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or
- Specific policies in this NPPF indicate development should be restricted'.



Paragraph 215 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework.

This site is to the northwest of Field House, a detached two-storey dwelling on the edge of Coton Park. The site was formerly a smallholding but is now overgrown and unkempt. Outline planning permission for residential development was granted in 2002 which has since lapsed.

Whilst the emerging Local Plan is progressing, the current planning policy for the area is still contained within the Adopted Local Plan and therefore, technically, there has been no change in local policy since planning permission was originally granted in 2002. However, national policy changed in 2012 when the NPPF was introduced and the various PPSs and PPGs were revoked. National policy via the NPPF now has an emphasis on the presumption in favour of sustainable development.

Given that the proposal does not accord with the relevant saved housing and countryside policies in the Adopted Local Plan, which in this case remain consistent with the NPPF, it is evident that the principle of the development has not been met in policy terms. However, the fact that planning permission was approved by Members in 2002 is a material consideration in the determination of the current proposal that should be given due weight.

Furthermore, the Council is unable to demonstrate a five year housing land supply and clearly, therefore, the housing policies in the Adopted Local Plan are outdated, according to the advice in the NPPF. Notwithstanding this, the proposal would make very little meaningful contribution to the housing land supply for the district because of its small scale. Policy H1 of the Pre-submission Emerging Local Plan, which relates to settlement hierarchy, places settlements into various categories with Coton Park falling within the category whereby only limited infill and conversion of existing buildings is supported. The proposal is neither infill nor conversion and therefore this policy would be unmet. However, the Emerging Local Plan remains at pre-submission stage only and has yet to be scrutinised by a Planning Inspector at the Examination in Public. In such cases, therefore, the advice in the NPPF is the most reliable and up-to-date publication that can be relied on.

Paragraph 17 lists 12 core land-use planning principles that should underpin plan-making and decision-taking, one of which advises that account should be taken of the different roles and character of different areas, promoting the vitality of main urban areas whilst recognising the intrinsic character and beauty of the countryside.

Paragraph 47 relates to the delivery of a wide choice of high quality homes and, in particular paragraph 49 states: 'Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites'.

Coton Park itself has no existing services, other than a bus service, which runs every two hours Mondays to Fridays. However, it is reasonably close to Linton with its existing services. Therefore the site has a degree of sustainability in social terms and there would be some economic benefit albeit both at a small scale. It would however result in the extension of a cluster of housing in the countryside which is less than

desirable and strongly discouraged by Paragraph 55 of the NPPF. This is a negative sustainability indicator.

#### Impact on residential amenities

The proposal is in outline for up to three dwellings with the anticipation that the site would be divided into three plots with frontages to the highway. The site slopes downwards from the road with the houses on the opposite side being substantially elevated. It is considered, therefore, that the proposed dwellings would have little impact on the amenities of neighbouring residents. Furthermore, the design and form of the development has been reserved for later approval and consequently, the opportunity to achieve an appropriate scheme in terms of residential amenity would present itself at that time.

#### Miscellaneous Issues

Whilst the views/objections of the neighbouring residents have been given due consideration in the determination of this application, it is considered that the majority of the points raised do not constitute material planning considerations. The details of the reserved matters application would determine whether there is likely to be any privacy issues to be mitigated against at that time. The County Highway Authority has requested a condition in respect of parking provision and therefore there should be no detrimental impact on the current on-street parking situation. Noise and disturbance from construction traffic could be controlled under Environmental Health legislation. Loss of views and devaluation of existing properties are not material in the determination of the application.

#### Conclusion

Considering the application purely in policy terms, measuring it against the social, economic and environmental roles in the NPPF, the proposal would fail because it seeks to extend a large but nevertheless isolated group of houses into the countryside. If this kind of development becomes accepted as a matter of principle there arises the danger of incremental erosion of the intrinsic character and beauty of the countryside. However, when taking into account the previous decision, which was made in broadly similar policy circumstances and accepted a similar degree of impact on the countryside, the balance tilts very marginally in favour of the scheme, purely on the basis of consistency with a previous decision.

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

#### **Recommendation**

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

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

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

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.

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

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

3. No development shall take place until a suitable scheme for the prevention of ground gas ingress has been submitted to and approved in writing by the Local Planning Authority (LPA). Alternatively, the site shall be monitored for the presence of ground gas and a subsequent risk assessment completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Upon completion of either, verification of the correct installation of gas prevention measures (if any) shall be submitted to and approved in writing by the LPA prior to the occupation of the development hereby permitted.

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

4. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

5. All planting, seeding or turfing comprised in the approved details of landscaping under Condition 2 shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

6. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

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

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

8. Prior to the development being brought into use parking facilities shall be provided so as to accommodate a minimum of two parking spaces within the curtilage of each dwelling. The parking spaces shall measure a minimum of 2.4m x 4.8m and shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

#### Informatives:

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 0845 762 6848.

Further information is also available on The Coal Authority website at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk)

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

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

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

Further guidance can be obtained from the following:

" CLR 11: Model Procedures for the Management of Contaminated Land

- " CLR guidance notes on Soil Guideline Values, DEFRA and EA
- " Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
- " Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
- " Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency. ISBN 0113101775.

The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner by quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirements set out in paragraphs 186 and 187 of the National Planning Policy Framework.

15/04/2014

**Item**            1.5

**Reg. No.**        9/2014/0124/FH

**Applicant:**  
MR IAN HEY  
21 RODNEY CLOSE  
HILTON  
DERBY  
DE65 5GX

**Agent:**  
MR MALCOLM GRANVILLE  
SDAD  
1 THE GREEN  
FINDERN  
DE65 6AA

**Proposal:**        **THE DEMOLITION OF EXISTING CONSERVATORY AND  
ERECTION OF GARDEN ROOM AT 21 RODNEY CLOSE  
HILTON DERBY**

**Ward:**            HILTON

**Valid Date:**     10/02/2014

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

This application is brought before Committee because the applicant is an employee of the Council.

#### **Site Description**

The application site is a two storey, relatively modern property located in a quiet residential area which is a no through route to traffic. There are a mix of housetypes and styles in the locality. The property is attached to No.23 Rodney Close and there are residential properties to the side, front and rear.

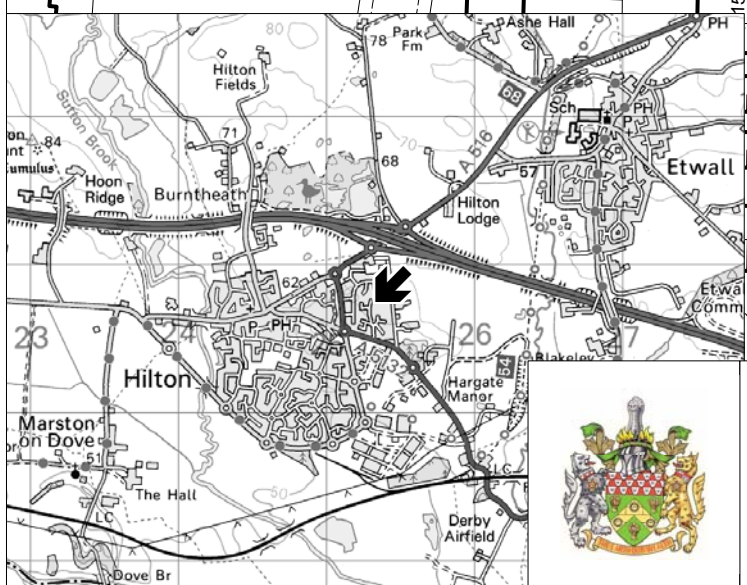
#### **Proposal**

The proposal is to erect a single storey, rear, brick built extension to replace an existing conservatory, albeit on a slightly bigger footprint. The proposed extension would project out from the rear wall by approximately 3.8m with a width of approximately 3.6m and an overall height to the top of the ridge of approximately 3.5m (2.3m to eaves). The proposal would have windows/doors to all sides with small amounts of brickwork as well as 3 no. roof lights and has been designed so that the gable end is glazed extending up into the apex of the roof. The roof would have a dual pitch and would be finished with concrete tiles, to match those on the main roof.

#### **Planning History**

Planning permission was granted on 25<sup>th</sup> March 2003 for the erection of a two storey extension (ref: 9/2003/0151).

9/2014/0124 - 21 Rodney Close, Hilton, Derby DE65 5GX



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## **Responses to Consultations**

None.

## **Responses to Publicity**

None.

## **Development Plan Policies**

Local Plan Housing Policy 13.

Supplementary Planning Guidance (SPG): Extending Your Home.

## **National Guidance**

National Planning Policy Framework (NPPF), paragraphs 14, 17 and 56.

## **Planning Considerations**

The main issue central to the determination of this application is the impact of the proposed extension on the amenity of neighbours.

## **Planning Assessment**

The proposed extension is to the rear, in the private amenity space associated with the property. The proposed extension is located centrally on the rear wall, away from the boundaries shared with the adjacent properties to the sides. In terms of overbearance, loss of light and overshadowing, the proposal would not lead to any undue adverse impact on the amenity that could reasonably be expected to be enjoyed by the occupiers of the properties to the sides. Whilst the property has a modest rear garden adequate amenity space would remain for the occupiers. It is considered that the proposal would not lead to any undue adverse impact on the amenity that could reasonably be expected to be enjoyed by the occupiers of the properties to the sides or rear by way of loss of privacy or overlooking and the proposal complies with the Council's Supplementary Planning Guidance: Extending Your Home.

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



Informatives:

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. 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>
9/2013/0250	Egginton	Etwall	Dismissed	Delegated

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## Appeal Decision

Site visit made on 25 February 2014

**by Stephenie Hawkins BSocSc(Hons) MPhil MSc MRTPI**

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

**Decision date: 25 March 2014**

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**Appeal Ref: APP/F1040/A/13/2207901**

**Egginton Hall, Church Road, Egginton, Derby DE65 6HP**

- 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 Kevin Ellis against the decision of South Derbyshire District Council.
  - The application Ref 9/2013/0250, dated 24 January 2013, was refused by notice dated 30 May 2013.
  - The development proposed is a new dwellinghouse.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. As far as relevant, I have taken the Planning Practice Guidance, issued on 6 March 2014, into account in reaching my decision. This cancels the Technical Guidance to the National Planning Policy Framework, as referred to in the decision notice in respect to flood risk. However, it does not, in my view, constitute a material change to the approach to flood risk as relevant to this appeal.

### Main Issues

3. The main issues are whether the proposed dwelling would:
  - be acceptable given its location within the countryside; and
  - be located in an area at risk from flooding, and, if so, whether it would, as a consequence, be acceptable.

### Reasons

#### *Development in the countryside*

4. The appeal site comprises a triangular shaped plot of land accessed from the access road to Egginton Hall. There is a mature tree within the site and trees are adjacent to the site's boundaries, within the rear gardens of dwellings on Fishpond Lane to the north west and a playing field to the south east.
5. The appeal site falls just outside the village confines, as shown on the Proposals Map of the South Derbyshire Local Plan (LP), adopted May 1998. Whilst this is not challenged by the appellant, he contends that the site should

be included within the village confines, due to improved flood defences. However, as pointed out by the Council, village confines are the result of a strategic planning decision and a review of the village confines is not, therefore, a matter for this appeal. For the purposes of this appeal, the development plan shows the site as beyond the village confines and, as such, it falls within the countryside.

6. In the interests of preserving the character and appearance of the countryside and protecting the best agricultural land, Environment Policy 1 and Housing Policy 8 of the LP seek to restrict new development in the countryside. New housing is restricted to that necessary to the operation of an established, viable, long term rural based activity. These policies are consistent with the National Planning Policy Framework (the Framework), the core principles of which require the intrinsic character and beauty of the countryside to be recognised and rural communities to be supported. In this instance, a case has not been made that the proposed dwelling is necessary to the operation of a rural based activity.
7. The appellant contends that the site is not suitable for agricultural use, as it is extensively covered by concrete bases from Nissen huts that were developed on the site during World War II. The appellant goes on to contend that the site should therefore be considered as brownfield land. Some concrete bases were evident on my site visit. However, the site is being used for the ad hoc growing of Christmas trees and the remains of the Nissen huts, the use of which the appellant states ceased in 1950, have, to me, largely blended into the landscape. Consequently, I do not consider the site falls within the definition of previously developed land as defined by the Framework. Moreover, I consider it is intrinsically part of the countryside. From the adjacent playing field the site forms part of the wider open landscape, contributing to a soft edge to this part of the village, with only glimpses of built form on Fishpond Lane through the trees. Regardless of the design of the proposed dwelling, it would materially harm the character and appearance of this part of the countryside, by virtue of being built form clearly visible through the loose range of trees within the playing field.
8. For the reasons given above, I conclude that the proposed dwelling would not be acceptable given its location within the countryside. As such it would be contrary to Environment Policy 1 and Housing Policies 5 and 8 of the LP, which seek to restrict new housing development to that which can be accommodated within village confines or to that which is necessary in a countryside location to support an established rural activity.

#### *Flood risk*

9. The Environment Agency has advised that the appeal site falls within Flood Zone 2, with the access within Flood Zone 3. The appellant suggests that the site falls outside of the areas at risk of flooding and that the access, which is existing, is being raised as part of flood defence works. In this respect, the appellant draws my attention to Environment Agency current and design flood maps. However, these maps show part of the site, and its access, to be at risk of flooding. Consequently I conclude that the proposed development would be located in an area at risk from flooding.
10. Given the site's location within an area at risk from flooding, in line with the Framework, the proposal should be subject of a Sequential Test to demonstrate

whether or not there are reasonably available sites appropriate for the proposed dwelling in areas with a lower probability of flooding. However, I have been provided with little substantive evidence in this respect. Whilst the appellant contends that the appeal site is the only suitable site, another being constrained by a Tree Preservation Order, I have no evidence of the geographical area examined, the sites considered, or the methodology used to compare sites. On the basis of the evidence before me, I cannot conclude that the requirements of a Sequential Test have been met.

11. The Environment Agency advises that had the Sequential Test been met, a site specific Flood Risk Assessment (FRA) would then have been required. This would need to demonstrate that the development would be safe for its lifetime and would not increase flood risk elsewhere. As advised by the Environment Agency, it should, amongst other things, set out details of the proposed development and flood risk management measures, such as floor levels and escape routes, as touched upon in the appellant's submission. Whilst I note the appellant's submission in respect of a FRA, as the Sequential Test has not been met I do not consider it necessary to give further consideration to flood risk.
12. For the reasons given above, I conclude that the proposed dwelling, given its location within an area at risk from flooding, would not be acceptable. As such it would conflict with the Framework's sequential risk based approach to the location of development.

### **Other Matters**

13. The appellant states that the proposed dwelling is required as a refuge in the event of a flood, as flood defence works will result in the flood levels around Egginton Hall increasing, isolating the Hall and putting its outbuildings underwater. I do not underestimate the distress caused to occupiers of properties affected by flooding. However, notwithstanding that the proposed development itself would be located within an area at risk of flooding and that such a refuge may be able to be met by an alternative site, or means, within the locality, I consider such an argument could be repeated by many occupiers of properties at risk of flooding across the country and as such does not amount to special circumstances to justify an unacceptable form of development.
14. I note the appellant's comments that the proposed dwelling would have little, if any, impact on the living conditions of occupiers of nearby dwellings and the adjacent playing field. I also note that the proposal may be acceptable in other respects, such as the incorporation of sustainability measures into its design. However, the absence of harm in respect of such matters does not justify a development that would be unacceptable due to its location within the countryside and an area at risk of flooding.
15. The appellant points out that the Government encourages development and contends that the proposed dwelling, which would be in an accessible location close to village facilities and services, would add to the housing stock of the area. Notwithstanding the contradiction of the proposed dwelling providing both a refuge for the appellant and contributing to general housing supply, taking account of the Framework, which recognises the intrinsic character and beauty of the countryside and seeks to steer development to areas with the

lowest probability of flooding, I do not consider the proposal represents a development which the Government encourages.

**Conclusion**

16. I have found that the proposed dwelling would not be acceptable given its location within the countryside and an area at risk from flooding. In my judgement, the other matters reviewed above do not justify the proposal. Consequently, the appeal should be dismissed.

*Stephenie Hawkins*

INSPECTOR