

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

## **Section 1: Planning Applications**

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

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## 1. Planning Applications

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

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
<a href="#">DMPA/2023/0583</a>	<a href="#">1.1</a>	Woodville	Woodville	65
<a href="#">DMPA/2022/1159</a>	<a href="#">1.2</a>	Woodville	Woodville	86
<a href="#">DMPA/2023/0814</a>	<a href="#">1.3</a>	Hartshorne	Hartshorne	120
<a href="#">DMPA/2022/1080</a>	<a href="#">1.4</a>	Church Broughton	Hilton	133
<a href="#">DMPA/2022/1498</a>	<a href="#">1.5</a>	Church Broughton	Hilton	138
<a href="#">DMPA/2023/1043</a>	<a href="#">1.6</a>	Aston on Trent	Aston	144
<a href="#">DMPA/2023/0979</a>	<a href="#">1.7</a>	Church Broughton	Hilton	153
<a href="#">DMPA/2023/0930</a>	<a href="#">1.8</a>	Coton in the Elms	Seales	158
<a href="#">DMPA/2023/1162</a>	<a href="#">1.9</a>	Swadlincote	Swadlincote	167
<a href="#">DMPA/2022/1621</a>	<a href="#">1.10</a>	Woodville	Woodville	172
<a href="#">DMPA/2023/1110</a>	<a href="#">1.11</a>	Swadlincote	Linton	178
<a href="#">DMPA/2023/1060</a>	<a href="#">1.12</a>	Swadlincote	Linton	189

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

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

## Glossary of terms

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

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

**Item No:** 1.1  
**Ref. No:** [DMPA/2023/0583](#)  
**Valid date:** 09/05/2023  
**Applicant:** Robbie Locke (Cora)  
**Proposal:** The variation of condition no. 3b (Biodiversity Net Gain) of permission ref. DMPA/2019/0931 on Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote.  
**Ward:** Woodville

### Reason for committee determination

This planning submission is being reported to Planning Committee in conjunction with the planning application referenced DMPA/2022/1159 which covers Phase 1 of the wider site.

### Update Report

The application was previously considered at the committee meetings held on 08 August 2023 and 22 August 2023 but was deferred on both occasions to allow further details and clarifications to be provided with regards to Biodiversity Net Gain (BNG) delivery on site. Further details and clarifications are presented within this report below. The previous reports are attached as an appendix.

- Appendix 1: Committee Report for DMPA/2023/0583. Originally presented 08 August 2023.
- Appendix 2: Committee Report Addition for DMPA/2023/0583. Originally presented 22 August 2023.

Further to the details of the above-mentioned reports further details and clarifications have been submitted for consideration in the following documentation:

- Ecology Enhancements Briefing Note - pdf doc - Received by the LPA: 18 October 2023
- Biodiversity Net Gain Assessment - pdf doc - Received by the LPA: 18 October 2023
- Outline Area Biodiversity Metric - excel doc - Received by the LPA: 18 October 2023

### Updated Details/ Clarifications

In response to the latest deferral, the applicant has provided an Ecology Enhancement Briefing Note, a Biodiversity Net Gain Assessment, and an Outline Area Biodiversity Metric covering the entire site in support of this planning submission referenced DMPA/2023/0583.

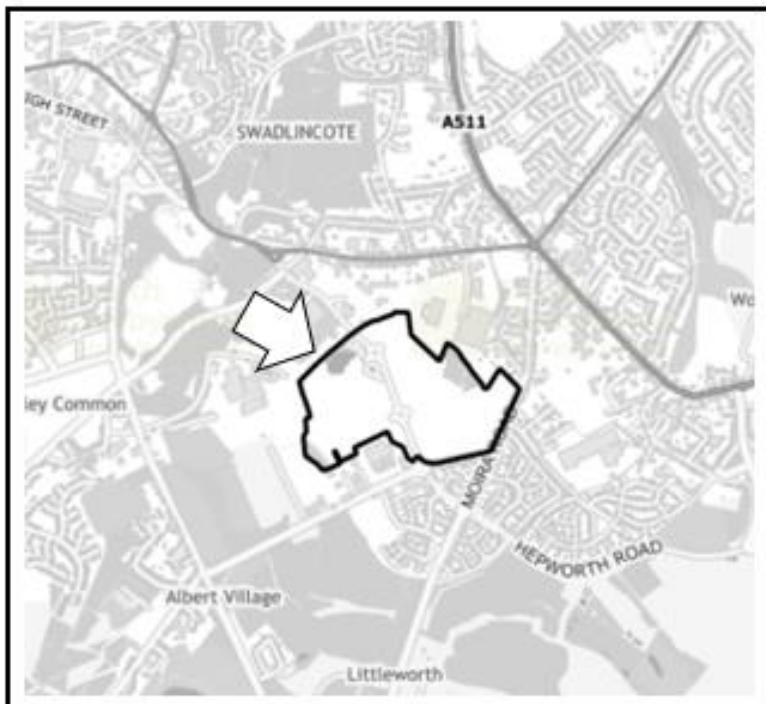
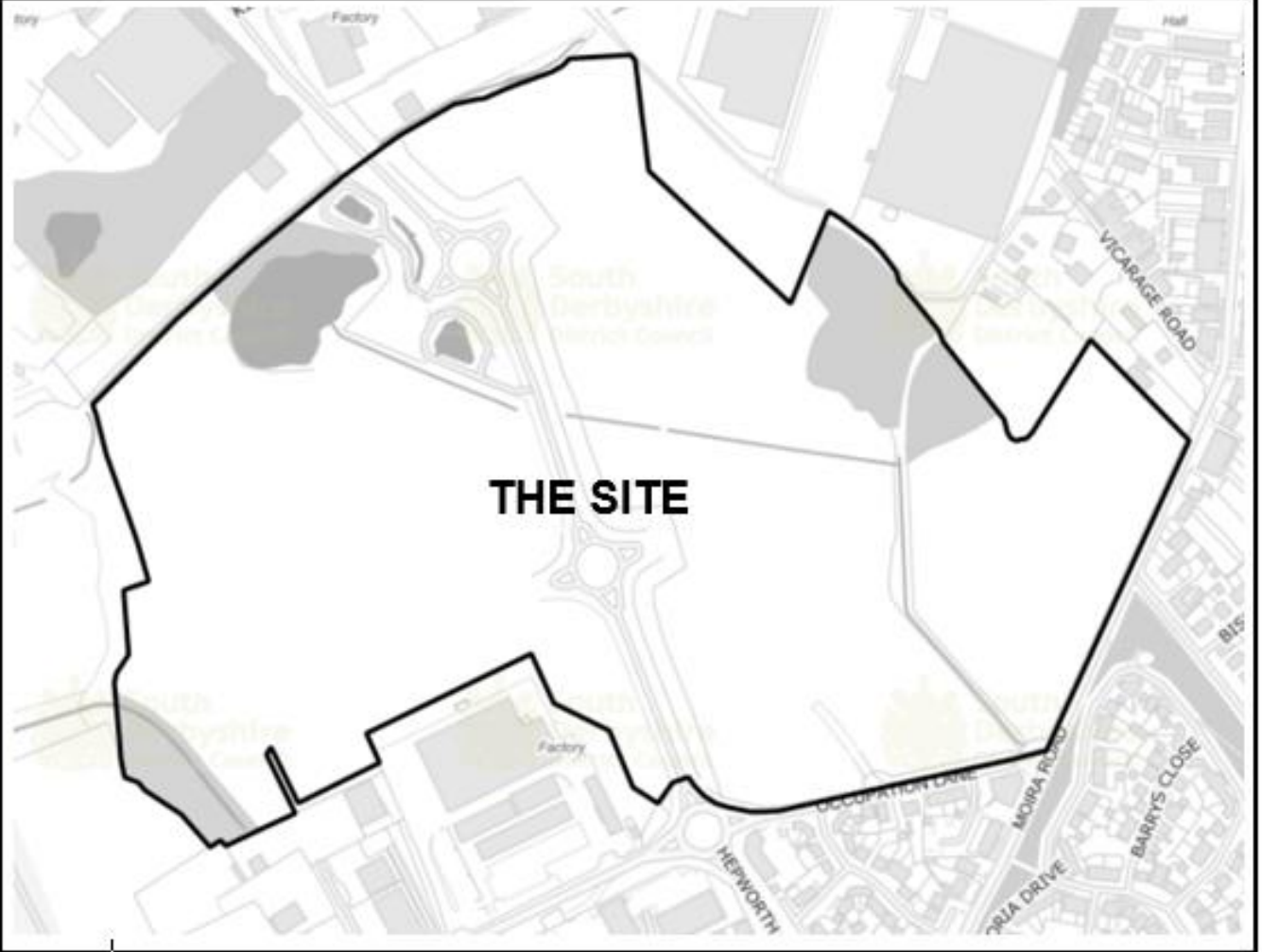
DMPA/2023/0583 seeks to amend Condition 3b attached to DMPA/2019/0931, which seeks BNG on site.

For clarity there are three applications relevant to this report and they are set out below:

**App Ref:** DMPA/2019/0931

**Proposal:** Outline application with all matters reserved, except for part access into the site from Moira Road, for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8

**DMPA/2023/0583 – Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote**



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storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure on  
**Address:** Land north of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote  
**Status:** Approved - 28 August 2019

**App Ref:** DMPA/2023/0583

**Proposal:** The variation of condition no. 3b (Biodiversity Net Gain) of permission ref. DMPA/2019/0931 on

**Address:** Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote

**Status:** Pending Consideration

**App Ref:** DMPA/2022/1159

**Proposal:** Approval of Reserved Matters (Landscaping, Layout, Scale and Appearance) pursuant to phase 1 (residential development of up to 75 dwellings) of outline application DMPA/2019/0931 for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure on

**Address:** Land north of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote

**Status:** Pending Consideration

In order for the application referenced DMPA/2022/1159 to be determined, it requires application referenced DMPA/2023/0583 to be approved to allow the off-site delivery of BNG.

For background, the application referenced DMPA/2022/1159 is the 'Reserved Matters' application for Phase 1 of the large mixed use 'Woodville Regeneration' development referenced DMPA/2019/0931.

The Woodville Regeneration development was approved in outline and allows comprehensive development across some 21.5ha for:

- up to 300 homes
- 14000sqm of employment space; and,
- 2850sqm of retail space.

The impact of such a development on biodiversity and ecology was considered at the time of approving DMPA/2019/0931. The Committee report notes -

*"The response of the Wildlife Trust indicates there would be impacts on protected and priority species... it is noted that suitable off site compensatory habitat for ground nesting species including Skylark would need to be provided and this can be conditioned accordingly".*

Subsequently, there were conditions attached to the decision. Specifically, Condition 3 which outlines the following relevant matters:

*3. The reserved matters shall be designed broadly in accordance with the illustrative plan ref. P16-1422\_004 revision B and section 5 of the Design & Access Statement ref. P18-0670\_200B dated August 2019 with the exception of pages 44 to 45 where the principle and extent of 3 and 4 storey dwellings would need to be justified through detailed design analysis, and include the following specific requirements and/or be supported by the following documents in so far as relevant to that matter:*

*3(b) a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain) compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework;*

It is this element (3b) of the planning condition which this application referenced DMPA/2023/0583 is subject to. The application seeks to amend the wording to enable off-site provision of BNG. It should be

noted that off-site provision is allowed by the Environment Act subject to on-site provision being maximised.

The further information in support of this application referenced DMPA/2023/0583 shows that a significant amount of the regeneration proposed in terms of housing delivery, employment and town centre amenities for residents would be lost if a 10% BNG was to be delivered on-site. This would in turn make the scheme unviable and likely result in no development.

Derbyshire Wildlife Trust have confirmed that the application referenced DMPA/2022/1159 for Phase 1 has maximised its on-site BNG delivery and therefore in accordance with the Environment Act it is permissible to consider off-site provision. The applicant has outlined how there would be the loss of approximately 20 dwellings if the 3 BNG units (which will currently be lost on-site through the proposed development) were to be provided on-site, this is due to the large land take that delivering BNG can often require. Officers have worked with the applicant and have agreed that it would be necessary for a legal agreement to secure an off-site contribution resulting in an overall 10% net gain in BNG.

Members are reminded that it is not currently SDDC planning policy to require a 10% biodiversity net gain, and the Environment Act, whilst a consideration, is not fully enacted at this time and the wording of the condition also does not require a 10% net gain. The delivery of an overall 10% net gain is therefore considered to be a positive outcome on this scheme.

Overall, there is an approach to secure a Biodiversity Net Gain via the retention of the important habitats, trees and supplementary enhancements across the site, and then a further gain of 3 habitat units off-site. Derbyshire Wildlife Trust has considered the supporting Ecological Impact Assessment and approach to securing Biodiversity Net Gain and raises no objection subject to conditions and legal agreement during which Officers will be in correspondence with Derbyshire Wildlife Trust.

The proposed variation of Condition no. 3b (Biodiversity Net Gain) of the Outline planning permission referenced DMPA/2019/0931 at the site under the address of Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote is considered to be acceptable, and is considered to be in accordance with the relevant local and national level planning policy. None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition.

## **Conclusion**

For the reasons set out above and in the two prior reports the applicant has demonstrated that on-site delivery of BNG has been maximised. The provision of off-site mitigation will ensure the scheme achieves and exceeds the future requirements regarding BNG. Off-site delivery of BNG can be stringently controlled. The scheme follows the mitigation hierarchy and is providing additional features that go beyond the minimum legal and policy requirements and will ensure that the site mitigates and enhances biodiversity. This will result in a 10% BNG overall which Derbyshire Wildlife Trust raises no objection to. Further to matters set out above, that wider elements of Condition 3 attached to DMPA/2019/0931 are met, the Planning Committee is asked to resolve that planning permission be granted in accordance with the recommendations in the previous report.

Appendix 1: Committee Report for DMPA/2023/0583. Originally presented 08 August 2023.

Appendix 2: Committee Report Addition for DMPA/2023/0583. Originally presented 22 August 2023.

## APPENDIX 1

08/08/2023

Item No. 1.3

Ref. No. DMPA/2023/0583

Valid date: 12/05/2023

Applicant: Barwood Homes

Proposal: The variation of condition no. 3b (Biodiversity Net Gain) of permission ref. DMPA/2019/0931

Ward: Woodville

### Reason for committee determination

This planning submission is being reported to Planning Committee in conjunction with the planning application referenced DMPA/2022/1159 which covers Phase 1 of the wider site.

### Site Description

The application site is addressed as Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote. The site comprises of some 21.5ha of open land associated with the former Dyson coal and clay workings site. The site is located to the south-west of Woodville and south-east of Swadlincote town centre.

The site adjoins existing residential and employment development off the A514 Swadlincote Road and Woodhouse Street/ Kiln Way to the north, existing housing off Moira Road to the east, employment development off Bridge Street/ John Street to the west, and residential dwellings and employment development off Occupation Lane/ Hepworth Road to the south.

The site falls within the settlement confines for Woodville and the wider Swadlincote Urban Area.

### The proposal

The applicant is seeking the approval of the variation of Condition no. 3b (Biodiversity Net Gain) of the outline planning permission referenced DMPA/2019/0931 at the site under the address of Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote.

This application seeks to amend the wording of Condition no. 3b (Biodiversity Net Gain) to enable the delivery of biodiversity net-gain to off-site locations, through either a financial contribution or off-site biodiversity improvements. To facilitate this an amendment to the wording of Condition no. 3b (Biodiversity Net Gain) would therefore be required.

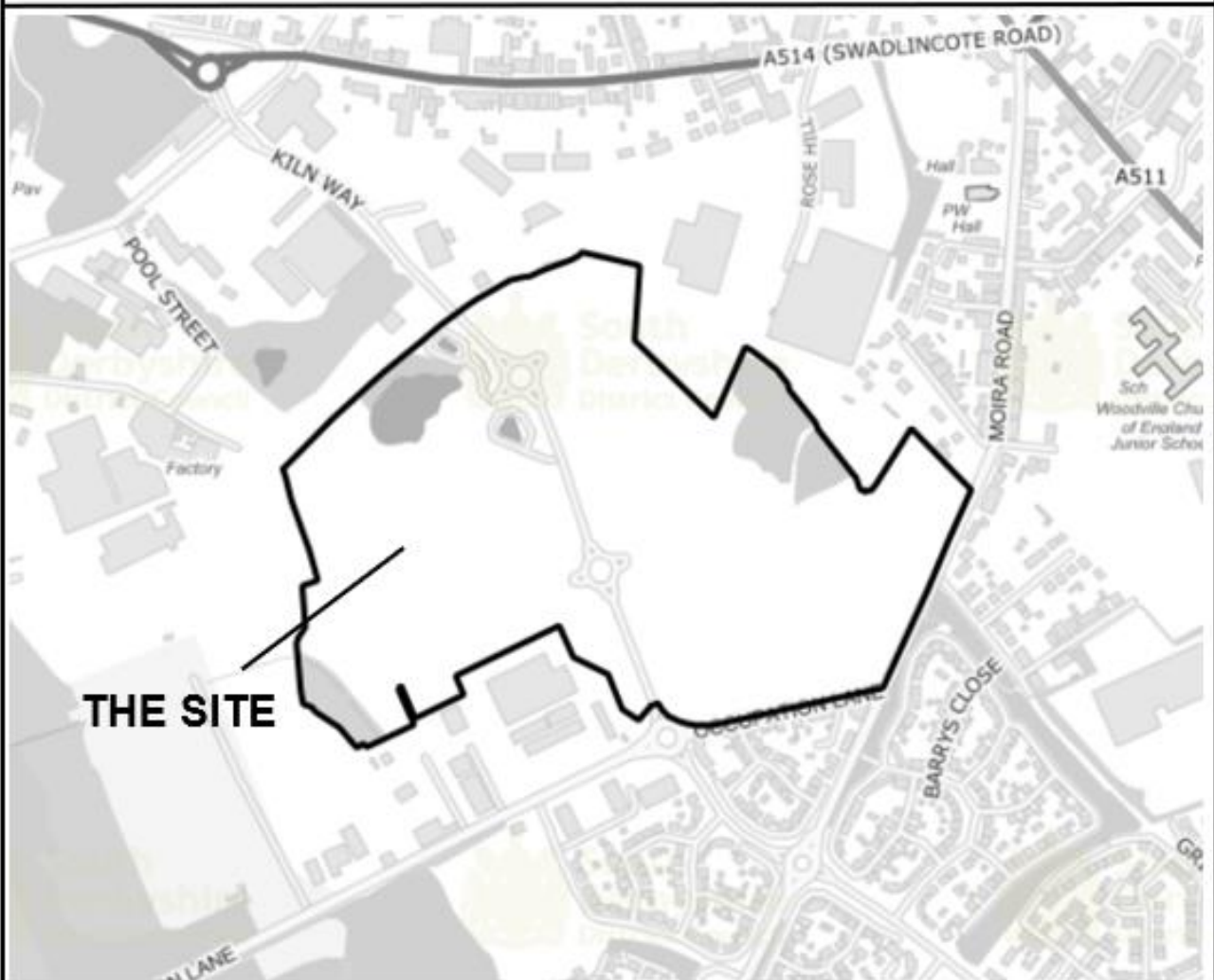
Condition no. 3b (Biodiversity Net Gain) of the permission referenced DMPA/2019/0931 reads as follows:

*Condition 3 - The reserved matters shall be designed broadly in accordance with the illustrative plan ref. P16-1422\_004 revision B and section 5 of the Design & Access Statement ref. P18-0670\_200B dated August 2019 with the exception of pages 44 to 45 where the principle and extent of 3 and 4 storey dwellings would need to be justified through detailed design analysis, and include the following specific requirements and/or be supported by the following documents in so far as relevant to that matter:*

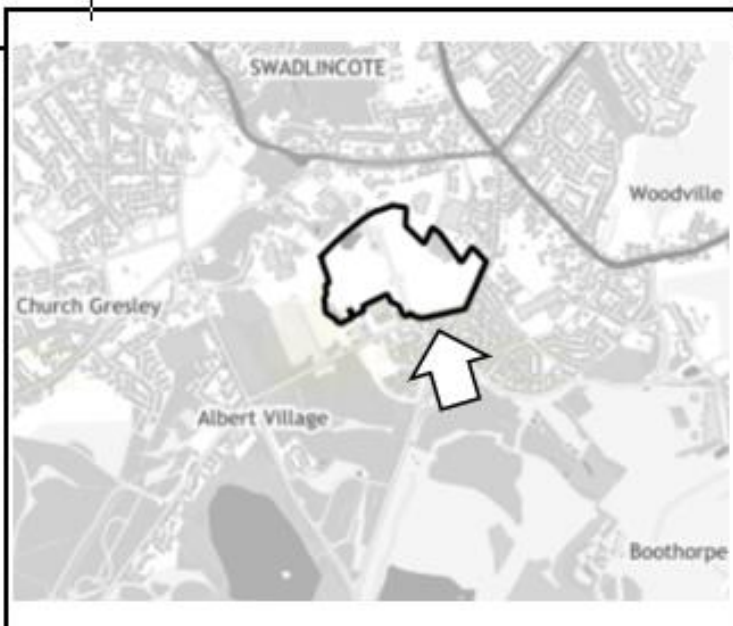
*Part b - a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain) compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework;*



**DMPA/2023/0583 – Land north of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote**



**THE SITE**



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The applicant is proposing to alter the wording of Part b of this condition to read as follows:

*Part b - a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain), which in the first instance should be provided on site as part of any phase of the development, or subject to agreement with the LPA and Derbyshire Wildlife Trust on a suitable off-site location or via a financial contribution, compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework. For the avoidance of doubt, each phase should positively contribute to the delivery of a biodiversity net gain;*

## **Applicant's supporting information**

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

## **Relevant planning history**

DMPA/2019/0931 – Outline application with all matters reserved, except for part access into the site from Moira Road, for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure on Land north of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote – Approved 8<sup>th</sup> April 2022.

DMPA/2022/1159 - Approval of Reserved Matters (Landscaping, Layout, Scale and Appearance) pursuant to phase 1 (residential development of up to 75 dwellings) of outline application DMPA/2019/0931 for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure on Land north of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote – Pending consideration.

## **Responses to consultations and publicity**

Woodville Ward - No comments received.

Woodville Parish - Woodville Parish Council requests hedgerows are retained and the footpath from Vicarage Road to Swadlincote Road is maintained as an important wildlife corridor. (14 June 2023)

Derbyshire Wildlife Trust - No fundamental objections to the variation of the condition as proposed. Key points of consideration highlighted. (19 July 2023)

SDDC Open Spaces/ Facilities/ Landscape - No comments received.

Responses to publicity - Following the formal consultation which included Neighbour Notification letters of 23 May 2023, a Site Notice displayed 26 May 2023, and a Press Advert published 02 June 2023, no formal comments of representation have been received in response to such.

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

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

The relevant Development Plan policies are:

2016 Local Plan Part 1: S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); S3 (Environmental Performance); S4 (Housing Strategy); S5 (Employment Land Need); S6 (Sustainable Access); S7 (Retail); H1 (Settlement Hierarchy); H20 (Housing Balance); H21 (Affordable Housing); E1 (Strategic Employment Land Allocation); E6 (Woodville Regeneration Area); SD1 (Amenity and Environmental Quality); SD2 (Flood Risk); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); SD4 (Contaminated Land and Mining Legacy Issues); SD5 (Minerals Safeguarding); BNE1 (Design Excellence); BNE2 (Heritage Assets); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness); INF1 (Infrastructure and Developer Contributions); INF2 (Sustainable Transport); INF4 (Transport Infrastructure Improvement Scheme), INF6 (Community Facilities), INF8 (The National Forest), INF9 (Open Space, Sport and Recreation); INF7 (Green Infrastructure).

2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development); BNE7 (Trees, Woodland and Hedgerows); BNE10 (Heritage) and RTL1 (Retail Hierarchy)

The relevant local guidance is:

South Derbyshire Design Guide SPD

South Derbyshire District Council Strategic Housing Market Assessment January 2020 (SHMA)

South Derbyshire Affordable Housing SPD

Section 106 - A Guide for Developers

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF) (as updated)

Planning Practice Guidance (NPPG)

The relevant Development Plan policies are:

The relevant legislation is:

The Community Infrastructure Levy (CIL) Regulations 2010 (as amended)

The Conservation of Habitats and Species Regulations 2017 ('the Habitat Regulations')

## **Planning considerations**

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

- Principle of the Development
- Ecology and Biodiversity
- Other Matters

## **Planning assessment**

### Principle of the Development

The principle of the overall proposed scheme of development has already been established. As referenced above the Outline planning permission under the reference of DMPA/2019/0931 was on 08 April 2022 granted. The assessment of this Variation of Condition planning submission will now consider only the matters regarding the variation of Condition no. 3b (Biodiversity Net Gain).

### Ecology and Biodiversity

Policy BNE3 seeks to protect, enhance, manage, restore and deliver net gains in biodiversity. Policy BNE7 states development proposals having a detrimental effect on important trees, woodland or hedgerows must satisfactorily demonstrate how the impact on biodiversity has been minimised and, wherever possible, a net biodiversity gain delivered through appropriate mitigation, compensation or offsetting. The NPPF has been updated since the adoption of these policies and requires net gains in biodiversity, and this forms a Corporate Plan objective. Policy BNE3 also aims to develop and maintain a District-wide ecological Network, support and contribute to the targets set out in the National Forest Biodiversity Action Plan (BAP) for priority habitats and species, and protect ancient woodland and

veteran trees from loss (unless the need for and benefits of the development clearly outweigh the loss). Proposals that could have a direct or indirect effect on sites with potential or actual ecological importance, including protected and priority habitats and species, must be supported by appropriate surveys or assessments, and where mitigation measures, or exceptionally, compensation cannot sufficiently offset the significant resulting harm, planning permission should be refused.

Policy BNE7 states where development that could affect trees, woodland and/or hedgerows which are important in terms of their amenity, ecological, landscape or historic value, developers will be expected to demonstrate that the layout and form of development have been informed by appropriate surveys, development would not suffer from undue shading either now or in the future, and appropriate measures are secured to ensure adequate root protection and buffers.

The applicant has noted within the submitted supporting documentation that Phase 1 of the proposed development, which broadly reflected the Illustrative Masterplan approved as part of the outline application, was unable to deliver biodiversity net-gain on-site. The proposed development was shown to result with the loss of 2.91 units (22.95% loss). Moreover, an assessment to calculate the land take required to deliver a net-gain was submitted to the Council and confirmed that a loss of 1.03 hectares of developable area is required. This would represent a loss of 33% in developable area and a loss of 25 of the 70 proposed dwellings for Phase 1. It is therefore clear that biodiversity net-gain cannot be delivered as part of this development as previously suggested. Alternative measures to secure net-gain are therefore required hence the re-wording of Condition no. 3b (Biodiversity Net Gain) of the permission referenced DMPA/2019/0931.

Local Plan Policy BNE3 does not require biodiversity net-gain to be delivered on-site and refers to wider ecological networks and corridors. Further to this, the biodiversity net-gain provisions within the Environment Act (2021) allow for biodiversity net-gain to be delivered via a combination of on-site habitat measures and off-site contributions. Off-site habitat gains can be secured either via habitat creation and enhancements to an off-site area or via a financial contribution to purchase biodiversity credits. The amended wording for Condition no. 3b (Biodiversity Net Gain) would enable the delivery of biodiversity net-gain for each phase of development at off-site locations. The primary intention of Condition no. 3b (Biodiversity Net Gain) would be on-site delivery, albeit with a greater flexibility for the route of delivery should on-site delivery not be possible.

Technical consultation input on this variation of condition planning application has been requested and received from the Derbyshire Wildlife Trust with regards to the proposed amendment to the wording of Condition no. 3b (Biodiversity Net Gain) to enable the delivery of biodiversity net-gain to off-site locations, through either a financial contribution or off-site biodiversity improvements.

The Derbyshire Wildlife Trust have advised that there are no fundamental objections to the variation of the condition as proposed. The development would need to follow the mitigation hierarchy as far as possible. Clearly the avoidance and retention of features of biodiversity value within the site is preferable to the provision of off-site compensation which should be a last resort only. A Biodiversity Metric assessment has not been completed for the site and the extent of net loss on-site is not clear. However, given the size of the site, it could be quite substantial requiring significant compensation.

The site is predominantly grassland so the likelihood is that grassland habitat creation will be a central feature of any off-site measures. If a suitable receptor site is found, the Biodiversity metric should include an assessment of the existing (baseline) value of the receptor site and the 'uplift' from whatever habitat creation and enhancement measures are employed. This should aim to provide a measurable net gain in line with the NPPF guidance set out under paragraph 174 and 180.

The submission and approval of these details would be required at the discharge of condition stage when the applicant comes to discharge details with regards to Condition no. 3b (Biodiversity Net Gain) as amended.

#### Other Matters

Should planning approval be recommended the wording of Condition no. 3b (Biodiversity Net Gain) of the original Outline planning decision notice will be updated together with any conditions which have been addressed since the permission was granted. A full and up to date decision notice would then be formally issued.

### Conclusion

The proposed variation of Condition no. 3b (Biodiversity Net Gain) of the Outline planning permission referenced DMPA/2019/0931 at the site under the address of Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote is considered to be acceptable, and is considered to be in accordance with the relevant local and national level planning policy. None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

### **Recommendation**

**Approve** subject to the following conditions:

Condition no. 3b (Biodiversity Net Gain) of the Outline permission referenced DMPA/2019/0931 has been amended to read as follows:

*Condition 3 - The reserved matters shall be designed broadly in accordance with the illustrative plan ref. P16-1422\_004 revision B and section 5 of the Design & Access Statement ref. P18-0670\_200B dated August 2019 with the exception of pages 44 to 45 where the principle and extent of 3 and 4 storey dwellings would need to be justified through detailed design analysis, and include the following specific requirements and/or be supported by the following documents in so far as relevant to that matter:*

*Part b - a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain), which in the first instance should be provided on site as part of any phase of the development, or subject to agreement with the LPA and Derbyshire Wildlife Trust on a suitable off-site location or via a financial contribution, compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework. For the avoidance of doubt, each phase should positively contribute to the delivery of a biodiversity net gain;*

### **Updated Conditions of the Outline planning consent under the reference of DMPA/2019/0931...**

1. (a) Application for the first approval of the reserved matters listed at condition 2 shall be made to the Local Planning Authority before the expiration of two years from the date of this permission, whilst application for all subsequent approvals of the reserved matters shall be made to the Local Planning Authority before the expiration of eight years from the date of this permission; and  
(b) The development hereby permitted shall be commenced before the expiration of two years from the date of approval of the first of the reserved matters to be approved, whilst in respect of all subsequent approvals the development subject of those approvals shall be commenced before the expiration of one year from the relevant date of approval of those reserved matters.

Reason: To conform with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004), noting that a timely commencement on site is required to capture existing land value and bring forward employment opportunities at an early stage, whilst also allowing adequate time for detailed approval of and delivery of the site in phases.

2. Before any development is commenced the further approval of the Local Planning Authority is required with respect to the following matters (herein referred to as 'the reserved matters') on an application made in that regard, with the exception of matters of access to phase 1 (which shall serve no more than 75 dwellings from Moira Road and be constructed in accordance with the 1:250 tracking detail on drawing ref. 067895-CUR-00-00-DR-TP-05001-P01, having a 5.5 metre wide carriageway, two 2 metre wide footways and 8 metre radii):

- (a) access,
- (b) appearance,
- (c) landscaping,
- (d) layout, and
- (e) scale.

Reason: With the exception of the matter of access to phase 1, this permission is granted in outline under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015 and section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

3. The reserved matters shall be designed broadly in accordance with the illustrative plan ref. P16-1422\_004 revision B and section 5 of the Design & Access Statement ref. P18-0670\_200B dated August 2019 with the exception of pages 44 to 45 where the principle and extent of 3 and 4 storey dwellings would need to be justified through detailed design analysis, and include the following specific requirements and/or be supported by the following documents in so far as relevant to that matter:

- (a) a Landscape and Ecological Management Plan (LEMP) for all retained and created habitats demonstrating provision for the establishment of the approved landscaping scheme for a period of no less than thirty years and details of the legal and funding mechanism(s) by which the long-term implementation of the LEMP will be secured by the developer with the management body(ies) responsible for its delivery;
- (b) *a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain), which in the first instance should be provided on site as part of any phase of the development, or subject to agreement with the LPA and Derbyshire Wildlife Trust on a suitable off-site location or via a financial contribution, compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework. For the avoidance of doubt, each phase should positively contribute to the delivery of a biodiversity net gain;*
- (c) a suitable off-site compensatory habitat scheme for ground nesting priority bird species, including skylark;
- (d) details of enhancement measures for bats and birds in the form of incorporated bat boxes/bat bricks and nesting boxes both on existing mature and early-mature trees and within the fabric of the new buildings, as appropriate, set out in paragraph 6.2 of the Ecological Appraisal dated July 2019 (revision A);
- (e) details of hedgehog holes/tunnels within boundary fences and walls at ground level to residential gardens;
- (f) the layout shall accord with the Highway Authority's 6C's Design Guide (or equivalent guidance that may update or replace it); and national guidance laid out in Manual for Streets issued by the Departments for Transport and Environment and Local Government (or equivalent guidance that may update or replace it);
- (g) the gradient of any access shall not exceed 1:30 for the first 10m into the site from the existing highway boundary and/or the Woodville to Swadlincote Regeneration Route (WSRR) and 1:20 thereafter;
- (h) pedestrian and cycle links between residential cul-de-sacs and Occupation Lane, Moira Road and the WSRR, as well as pedestrian and cycle links between the local centre car parking/pedestrian circulation areas and the WSRR;
- (i) each dwelling to be provided with designated space for the parking of 1.5 vehicles per 1 bedroom dwelling, two vehicles per 2-3 bedroom dwelling and three vehicles per 4+ bedroom dwelling. Parking spaces shall be no less than 5.5m in depth and 2.4m in width, increasing to 3m in width where the space is abutted by a building or boundary treatment. Where a garage or car port is counted as a parking space, the internal dimensions shall not be less than 3m x 6m, whilst

further spaces in front of garage doors shall be no less than 6m in depth;

(j) domestic bin collection points, sufficient for holding no less than 2 bins per dwelling on collection days, at the entrance to shared private accesses to prevent refuse bins and collection vehicles standing on the new estate street(s) for longer than necessary causing an obstruction or inconvenience for other road users;

(k) commercial bin stores, positioned discretely within the curtilage of the proposed premises so to allow refuse vehicles to enter, collect and leave in a forward gear;

(l) the provision of an employment estate road up to and including the western site boundary so to facilitate a contiguous adoptable highway into the remaining land forming part of the policy E6 allocation in the Local Plan Part 1;

(m) a revised Travel Plan for that phase or premises, as the case may be, based upon the Framework Travel Plan submitted in support of this application;

(n) bike stores/racks with weather shelters located close to the pedestrian entrances to employment and retail, café/restaurant and public house premises;

(o) a Local Area for Play (LAP) as part of the phase 1 residential scheme and a Local Equipped Area for Play (LEAP) as part of the phase 2 residential scheme;

(p) public footpaths to be retained on their existing line where practicable and complimented by new routes through areas of public open space, with a compacted and/or bound surface applied for the length of these routes (supplemented by root protection measures/techniques where these routes pass through woodland);

(q) position, cross-sections and construction details of no less than three footbridges to span the existing watercourse running through the residential element of the site;

(r) a green corridor and new pond designed specifically for Common toad to the east of the WSRR as part of the Common Toad mitigation strategy required under the WSRR permission so to allow unimpeded movement of common toads across the site from the scrub/woodland areas alongside the public footpath on the eastern boundary of the site to the existing breeding pond;

(s) a landscape management plan (LMP) for all non-domestic areas of landscaping created on the site (i.e. public open spaces, shared gardens and landscaped areas to non-domestic premises), including the location and type of litter and dog waste bins along with benches throughout the areas of public open spaces within the site;

(t) retained hedgerows and trees shall not form boundaries to gardens to proposed dwellings and be incorporated into public spaces/green infrastructure;

(u) details of subterranean tree and hedgerow root growth facilitation measures, including use of subterranean cage methods in or adjoining areas of hardstanding; and

(v) details of the proposed glazing and ventilation specifications to proposed dwellings and the specification and location of any noise/acoustic barriers.

Reason: In the interests of achieving sustainable development, having particular regard to the potential impact of the development on the character of the surrounding area, biodiversity protection and net gain, highway safety and sustainable modes of transport and site connectivity.

4. No development, including preparatory works, shall commence until a site-wide phasing programme including the proposed sequence of providing:

(a) housing phases including associated parking and boundary treatments,

(b) employment units including associated parking and landscaping,

(c) the local centre including associated parking and landscaping,

(d) public and private highways including street lighting, including those provided by others,

(e) sustainable drainage systems and associated infrastructure, and

(f) public open space including play areas and footpath links,

has been first submitted to and approved in writing by the Local Planning Authority. The details shall be provided cognisant of the delivery of the WSRR (timing and location of junctions/access points) and with reference to plan(s) and a Gantt chart.

Other than applications for enabling works, each Reserved Matters application made pursuant to this permission shall be accompanied with an update to any previously approved phasing programme(s) with the same details, as relevant, and define the extent and location of individual development phases or sub-phases and any associated interim arrangements for access, drainage, etc. The development relevant to that reserved matters approval shall not be carried out other than in accordance with the approved programme for that development.



Reason: To ensure that the impacts of the development are appropriately mitigated at all stages of the construction phase, and so occupiers of the development are able to reach and access services and facilities at an appropriate time, in the interests of achieving sustainable development.

5. No development involving the construction of a dwelling shall commence until a marketing scheme to market the availability of the employment land/plots has been submitted to and approved in writing by the Local Planning Authority. The approved marketing scheme shall thereafter be implemented and carried out for a period of no less than 5 years unless all employment land/plots has been transferred for development. The owner of any undeveloped employment land/plots shall submit to the Local Planning Authority quarterly updates on all remaining employment land/plots for a period of up to 5 years outlining the range and scale of interest in said land/plots.

Reason: To secure the continual promotion of employment land and timely delivery of the employment units in accordance with policy E6 of the Local Plan Part 1.

6. During the period of construction, no ground, construction or fitting out works shall take place and no deliveries shall be taken at or dispatched from the site other than between 0800 and 1800 hours Monday to Friday and 0800 and 1300 hours on Saturdays. There shall be no construction works (except for works to address an emergency) or deliveries on Sundays or Bank Holidays.

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

7. The mitigation measures described in Table 7.1 of the Air Quality Assessment submitted in support of the application (WYG Air Quality Assessment July 2019 ref. A112309 Issue 1) shall be adopted for the duration of the construction phase of the development.

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

8. a) No development shall commence within a phase or sub-phase until a remediation scheme to control all forms of contamination identified in the Ground Investigation Report (ref. 067895.101-CUR-00-XX-RP-GE-001) dated 23 July 2019 has been submitted to and approved in writing by the Local Planning Authority. The measures approved in the remediation scheme shall be implemented in full unless the Local Planning Authority dispenses with any such requirement specifically and in writing.

b) Prior to occupation of the development (or parts thereof) an independent verification report which meets the requirements given in Box 2 of Section 3.1 of Council's 'Guidance on submitting planning applications for land that may be contaminated' (herein referred to as 'the Guidance') shall be submitted to and approved in writing by the Local Planning Authority. With the prior written agreement of the Local Planning Authority pursuant to part (a) of this condition, this may be carried out on a plot-by-plot basis.

c) In the event that it is proposed to import soil onto site in connection with the development, this shall comply with the specifications given in Box 3 of Section 3.1 of the Guidance.

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

9. The mitigation strategy as detailed in Section 10 of Ground Investigation Report (ref. 067895.101-CUR-00-XX-RP-GE-001) dated 23 July 2019 shall be implemented as set out therein unless an alternative mitigation strategy is first submitted to and approved in writing by the Local Planning Authority, whereafter that approved mitigation strategy shall be implemented.

Reason: To protect the health of the public and the environment from hazards arising from coal mining legacy, recognising that failure to address such matters prior to construction of buildings and subsequent occupation/use could lead to unacceptable impacts.

10. If during development of a phase or sub-phase any contamination or evidence of likely



contamination is identified that has not previously been identified or considered, a written scheme to identify and control that contamination within a phase or sub-phase shall be submitted to and approved in writing by the Local Planning Authority prior to any further works taking place on the phase or sub-phase. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA (or equivalent guidance which may subsequently update or replace it), and appropriate remediation/mitigation proposals. The approved scheme shall be implemented in accordance with the approved remediation/mitigation proposals.

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.

11. No development, including preparatory works, shall commence within a phase or sub-phase until details of measures indicating how additional surface water run-off from the phase or sub-phase will be avoided during the construction works have been submitted to and approved in writing by the Local Planning Authority. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved measures and systems shall be brought into operation before any works to create buildings or hard surfaces within that phase or sub-phase commence.

Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development itself; recognising that initial works to prepare the site could bring about unacceptable impacts.

12. No construction of a building or hard surface, setting of site levels or installation of drainage services/utilities within a phase or sub-phase shall take place until a detailed design of, and associated management and maintenance plan for, surface water drainage of the phase or subphase, in accordance with the technical notes and principles outlined within:

- a) the Flood Risk Assessment and Outline Drainage Strategy (06785-CUR-00-XX-RP-D-001 Revision 4) dated 24th July 2019 and the Technical Note (067895-CUR-00-XX-RP-D-72901-P01) dated 2nd April 2020, including any subsequent amendments or updates to those documents as approved by the Lead Local Flood Authority;
- b) Defra non-statutory technical standards for sustainable drainage systems; and
- c) Development Proposals within the River Mease Catchment: Standing Advice for Local Planning Authorities (LPAs) - Third Issue Including Detailed Advice on Sustainable Urban Drainage Systems (SuDS)

has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that, as a minimum, suitable capacity is proposed to attenuate peak flows from the phase or sub-phase, making allowance for climate change and urban creep, and where necessary include measures to capture overland flows between proposed and existing properties.

The scheme shall also include drawings and details, including the colour and appearance of safety railings, of all inlet and outfall structures to attenuation ponds, as well as details of any management company, responsible person(s), the mechanism of funding of the management company (including the details of any proposed service charge payable by the owners of the dwellings, justification for any amount proposed and the mechanism for calculating future increases in the service charge) so that the management company will be capable of carrying out the inspection, management and maintenance of the retained surface water drainage features.

Attenuation ponds shall be fully designed and constructed in line with CIRIA SuDS manual C753. The surface water drainage infrastructure shall be installed in conformity with the approved details prior to the first occupation/use of each respective building/road/hard surface served by the surface water drainage system within that phase or sub-phase or in accordance with a phasing plan first submitted to and approved in writing by the Local Planning Authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.

Reason: To ensure that the principles of sustainable drainage can be incorporated into the development, noting that initial preparatory and/or construction works may compromise the ability to mitigate harmful impacts.

13. Upon completion of the surface water drainage system, in part or in whole, including any attenuation ponds and swales, and prior to their adoption by a statutory undertaker or management company; a survey and report from an independent surveyor shall be submitted to and approved in writing by the Local Planning Authority. The survey and report shall be carried out by an appropriately qualified Chartered Surveyor or Chartered Engineer and demonstrate that the surface water drainage system has been constructed in accordance with the details approved pursuant to condition 12. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be included for approval in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed by an independent surveyor, with their findings submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the effective operation of the surface water drainage scheme following construction of the development.

14. No construction of a building or hard surface, setting of site levels or installation of drainage services/utilities shall take place within a phase or sub-phase until details of the finished floor levels of the building(s) or hard surface(s), and of the proposed ground levels of the site relative to the finished floor levels and adjoining land levels, for that phase or sub-phase has been submitted to and approved in writing by the Local Planning Authority. Such details shall be supplemented with locations, cross-sections and appearance of any retaining features required to facilitate the proposed levels. The development shall be constructed in accordance with the approved details.

Reason: To protect the amenities of adjoining properties and the appearance of the area generally, recognising that site levels across the site as a whole are crucial to establishing infrastructure routing/positions.

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

Reason: To ensure that future water resource needs, wastewater treatment and drainage infrastructure are managed effectively, so to satisfy the requirements of policy SD3 of the Local Plan Part 1.

16. No removal of trees, hedges, shrubs, buildings or structures shall take place between 1st March and 31st August inclusive unless a survey to assess the nesting bird activity on the site during this period and a scheme to protect the nesting birds has first been submitted to and approved in writing by the Local Planning Authority. No trees, hedges, shrubs, buildings or structures shall be removed between 1st March and 31st August inclusive other than in accordance with the approved bird nesting protection scheme.

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

17. No development, including preparatory works, shall commence within a phase or sub-phase until a Construction Environmental Management Plan for biodiversity (CEMP) for that phase or sub-phase has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:

(a) a risk assessment of potentially damaging construction activities;

(b) identification of biodiversity protection zones (e.g. buffers to trees and hedges or to protected wildlife habitat);

(c) practical measures (both physical measures and sensitive working practices, such as protective fencing, exclusion barriers and warning signs) to avoid or reduce impacts during construction (particularly in relation to works within canopy and root protection areas for hedgerows or protected trees);

(d) the location and timing of sensitive works to avoid harm to biodiversity features (in relation to breeding birds in particular);

(e) the times during construction when specialist ecologists need to be present on site to oversee

works (as required);

(f) responsible persons and lines of communication; and

(g) the role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person (as necessary).

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless the ECoW otherwise sets out alternative details which are subsequently agreed by the Local Planning Authority.

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

18. No development, including preparatory works, shall commence within a phase or sub-phase until a scheme for the protection of trees and hedgerows for that phase or sub-phase has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be based on best practice as set out in British Standard 5837:2012 (or equivalent document which may update or supersede that Standard) and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The approved scheme of protection shall be implemented prior to any works commencing on site and thereafter retained throughout the construction period.

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

19. No development shall take place within a phase or sub-phase until a construction management plan or construction method statement for that phase or sub-phase has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for the storage of plant and materials, site accommodation, loading, unloading of goods' vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway and any proposed temporary traffic management.

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

20. No development, excluding demolition and site clearance, shall take place within a phase or subphase 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 detailed design shall include measures for warning other highway users of construction traffic entering or emerging from the access. The access shall be retained in accordance with the approved scheme throughout the construction period free from any impediment to its designated use until it is either replaced/completed pursuant to an approval of reserved matters or the requirements of condition 2 (as the case may be).

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

21. The access to Moira Road hereby approved shall be provided with visibility sightlines of 100 metres in a northerly direction and 108 metres in a southerly direction, both measured to the nearside edge of the carriageway, as measured from a point located centrally and 2.4 metres back into the access, the area forward of which shall be levelled and constructed as footway/verge and put forward for adoption as part of the public highway and thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level, unless a scheme to reduce vehicle speed limits along Moira Road can first be agreed with the Local Highway Authority by way of first submitting details to the Local Planning Authority for their approval in writing and first implemented in full including relocation of associated signage, etc., allowing for visibility splays of 43 metres in both northerly and southerly directions. The area within the approved sightlines shall be levelled and constructed as footway/verge and put forward for adoption as part of the public highway and thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.

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

22. No development shall commence on site, excluding site clearance, remediation and other such preparatory works necessary for the future development of the land, relating to phase 2 of the development hereby permitted (as described in paragraph 3.3 of the Planning Statement ref. P18-0670 dated July 2019) until the new link road, permitted under County planning permission ref. CD9/0519/20 (or any subsequent variation to or equivalent of that permission) has been constructed and taken into use.

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

23. Prior to the first occupation of each dwelling or employment/commercial premises, the new street(s) between each respective plot/unit and the existing public highway shall be laid out in accordance with the plan(s) approved under condition 2, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageway and footway(s) in front of each respective plot/unit shall be completed with the final surface course within 12 months (or 3 months in the case of a shared surface road) from the first occupation of that plot/unit.

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

24. Prior to the first occupation of a dwelling or employment/commercial premises of a phase or subphase, a revised Travel Plan comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use shall be submitted to and 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 sustainable modes of transport.

25. Prior to the first occupation of each employment unit, a Low Emissions Strategy providing full details of controls from fleet transport emissions shall be submitted to and approved in writing by the Local Planning Authority. The Strategy shall include details about the mix of the vehicle engine and fuel types and fleet management measures which will be taken to minimise the emissions of respirable particulate (PM) and nitrogen dioxide (NO<sub>2</sub>). The Strategy shall include specific targets and timescales. The measures in the agreed Strategy shall be delivered in accordance with the agreed timescales and maintained throughout the life of the development.

Reason: In order to safeguard the amenities of the occupiers of the proposed development and wider area in respect of atmospheric pollution.

26. Prior to the first occupation of a dwelling within Zone A as identified in Figure 7 of the Odour Assessment (ref. A112309 dated July 2019) until at least 1 of the 3 requirements below has been satisfied:

- i) a mitigation scheme for the control of odour within or to the proposed dwellings and/or external residential amenity spaces has been submitted to and approved by the Local Planning Authority and subsequently implemented;
- ii) a mitigation scheme for the control of odour at the has been submitted to and approved by the Local Planning Authority and subsequently implemented; or
- iii) updated assessments or surveys can satisfactorily prove that average odour levels within Zone A have fallen to below 3 OUE/m<sup>3</sup>.

Where mitigation is applied, such measures shall be subsequently retained in situ and maintained in working order.

Reason: In order to safeguard the amenities of the occupiers of the proposed development in respect of atmospheric pollution.

27. Prior to the first occupation of each respective dwelling, the glazing and ventilation as approved pursuant to the requirements of condition 3 shall be installed. Such glazing and ventilation shall be retained as approved and maintained accordingly and thereafter, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, where replacement windows

or means of ventilation are required these shall achieve the same or better in terms of noise attenuation. Where complimentary noise/acoustic barriers are required and also approved pursuant to the requirements of condition 3, then these barriers shall be installed in accordance with the approved details prior to the first occupation of any dwelling they are intended to attenuate noise to and thereafter, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, maintained accordingly.

Reason: In order to safeguard the amenities of the occupiers of the proposed development in respect of noise pollution.

28. The rating level of sound emitted from any fixed plant and/or machinery associated with the A1, A3, A4, B2 and B8 elements of the development shall not exceed the following noise levels at the façade of any noise sensitive residential receptor location:

- 07:00 – 23:00 hours: 40dBA Measured as LAeq(15mins)
- 23:00 – 07:00 hours: 35dBA Measured as LAeq(5mins)

All measurements shall be made in accordance with the methodology of BS4142:2014 Methods for rating and assessing industrial and commercial sound and/or its subsequent amendments. Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property.

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

29. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, or any order revoking and re-enacting that Order with or without modification, the B1(b), B1(c), B2 and B8 units shall be used only for B1(b), B1(c), B2 and B8 uses of the Town and Country Planning (Use Classes) Order 1987, as amended, or any order revoking and re-enacting that Order with or without modification, and for no other purpose in Class B of the schedule to that Order.

Reason: In recognition of the purpose of the employment allocation at this location and that any main town centre uses hereby permitted have been established by way of a Sequential Test, their presence otherwise contrary to the Development Plan and sustainable delivery of growth.

30. The retail unit hereby permitted (use class A1) shall not exceed 1,600 sq m gross internal area floorspace and the net sales area (defined as all internal areas to which customers have access) shall not exceed 1,280 sq m. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, or any order revoking and re-enacting that Order with or without modification, the retail unit shall be used primarily for the sale of convenience goods, with a maximum of 320 sq m of the net sales area being devoted to the sale and display of comparison goods.

Reason: In recognition that this main town centre use has been established by way of a Sequential Test and Retail Impact Assessment, so to ensure that the projected impact on existing town/local centres remains acceptable.

31. Recharge points for electric vehicles shall be provided within the development to comply with the following criteria:

- Residential: 1 charging point dwelling with dedicated parking and 1 charging point per 10 spaces where the individual units have no allocated parking;
- Non-residential: 1 charging point for every 10 parking spaces (this may be phased with 5% provision initially and a further 5% trigger).

Residential charging points shall be provided with an IP65 rated domestic socket 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket should be located where it can later be changed to a 32amp EVCP. Non-residential charging points shall be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2.

Alternative provision to the above specification must first be submitted to and approved in writing by the Local Planning Authority. To prepare for increased demand in future years suitable and appropriate cable provision shall be included in the scheme design in accordance with details first

submitted to and approved in writing by the Local Planning Authority.

The electric vehicle charging points shall be provided in accordance with the stated criteria and approved details prior to the first occupation or use of the respective premises and shall thereafter be maintained in working order and remain available for use throughout the life of the development.

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

**Item No.** 1.2

**Ref. No.** DMPA/2023/0583

**Valid date:** 12/05/2023

**Applicant:** Robbie Locke (Cora)

**Proposal:** The variation of condition no. 3b (Biodiversity Net Gain) of permission ref. DMPA/2019/0931

**Ward:** Woodville

### Reason for committee determination

This planning submission is being reported to Planning Committee in conjunction with the planning application referenced DMPA/2022/1159 which covers Phase 1 of the wider site.

### Update Report

The application was previously considered at the meeting held on 08 August 2023 but was deferred to allow further details and clarifications with regard to Biodiversity Net Gain and these are presented below. The previous report is attached as an appendix.

### Updated Details/ Clarifications

#### 1. Land Area for Phase 1.

Phase 1 of the Wider Woodville Regeneration Area is a parcel of land measuring 3.14 hectares. The wider site, excluding the relief road measures 19.74 hectares. Phase 1 therefore represents circa 16% of the total site area. In its existing form, the site is predominantly comprised of grassland, hedgerows and a small area of woodland to the north-west of the site.

The biodiversity metric confirms that the grassland accounts for 87% of the site, with 4% woodland and the remaining 9% from mixed and bramble scrub.

#### 2. Units of habitat lost and created from the development.

The existing baseline is comprised of 12.68 habitat units. The biodiversity net-gain calculator confirms the proposed development will cause a loss of existing habitats of 10.88 units. This leaves a total of 1.8 units retained. Following development, a total of 8.22 habitats will be created, alongside improvements to the quality of the existing woodland of 0.82 units. The development will therefore deliver a total of 10.35 (rounded) units against the existing baseline of 12.68; a shortfall of 2.33 units. These details are shown in the table below.

Summary table showing the existing habitat and the new habitat created.

Existing Habitat	Area (HA)	Number of Biodiversity Units	Habitat Creation	Area (HA)	Number of Biodiversity Units
Modified Grassland	2.75	11	Vegetable Garden	0.65	1.25
Other Woodland Broadleaf	0.13	0.52	Sustainable Urban Drainage	0.21	0.71

			Feature		
Bramble Scrub	0.25	1.00	Other Neutral Grassland	0.14	0.94
Mixed Scrub	0.04	0.16	Modified Grassland	0.29	0.82
			Urban Trees	1.47	4.49
<b>Total</b>	<b>3.17</b>	<b>12.68</b>		<b>2.76</b>	<b>8.22</b>

### 3. Number of units that can't be provided on site.

There is an outstanding net-gain requirement of 2.33 units to be delivered off-site. Conversations have taken place with Gareth Price of South Derbyshire DC who has identified a suitable off-site location on SDDC owned land and has confirmed the cost required for delivering the 2.33 units in an off-site location.

### 4. What this equates to in land take

A Biodiversity Plan was submitted which shows the land take required for achieving no net-loss is a further 1.03 hectares.

### 5. What this equates to in regard to housing provision

This would equate to a loss of 25 dwellings.

### **Conclusion**

Considering the above, the Committee is asked to resolve that planning permission be granted in accordance with the recommendations in the previous report.



**Item No:** 1.2

**Ref. No:** [DMPA/2022/1159](#)

**Valid date:** 20/10/2022

**Applicant:** Barwood Homes

**Proposal:** Approval of Reserved Matters (Landscaping, Layout, Scale and Appearance) pursuant to phase 1 (residential development of up to 75 dwellings) of outline application DMPA/2019/0931 for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure

**Ward:** Woodville

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

This item is presented to the Committee given it is a major application and seeks off site BNG provision.

#### **Update Report**

This application reference DMPA/2022/1159 has been heard twice previously at committee; firstly, at the meeting held on the 08<sup>th</sup> August 2023 and then again on the 22<sup>nd</sup> August.

Both times to allow further details and clarifications with regards to Biodiversity Net Gain (BNG) delivery on site.

In response to the latest deferral, the applicant has provided an Ecology Enhancement Note, Biodiversity Net Gain Assessment and Metric covering the entire site in support of the application reference DMPA/2023/0583.

DMPA/2023/0583 seeks to amend condition 3b attached to DMPA/2019/0931, which seeks BNG on site.

For clarity there are three applications –

DMPA/2022/1159 – This application for the reserved matters of Phase 1 (to which this report relates)

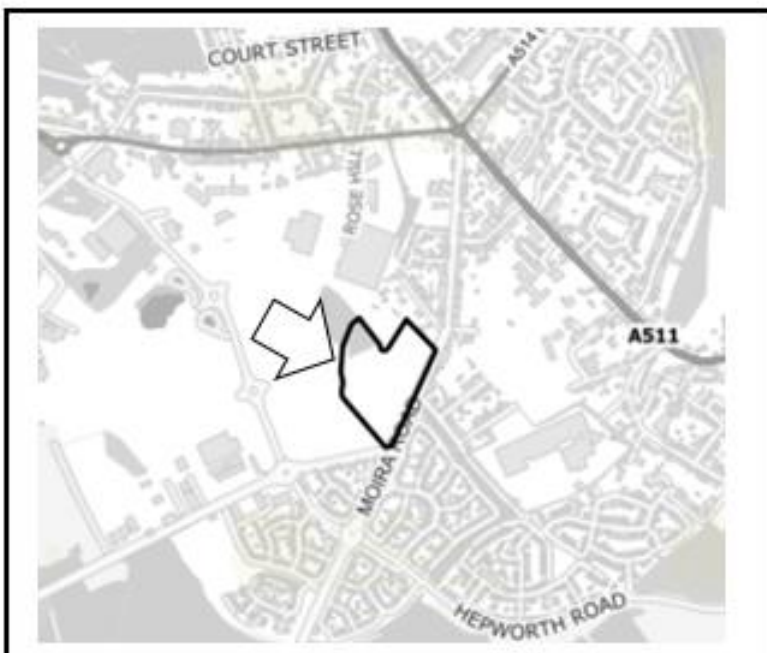
DMPA/2019/0931 – The original outline application for the comprehensive Woodville Regeneration development

DMPA/2023/0583 – An application to amend a condition attached to DMPA/2019/0931 to allow off site BNG which has come about during the assessment of DMPA/2022/1159

For application reference DMPA/2022/1159 to be determined it needs DMPA/2023/0583 to be approved to allow off site delivery of BNG.

For background, this application DMPA/2022/1159 is the 'reserved matters' application for Phase 1 of the large mixed use 'Woodville Regeneration' development DMPA/2019/0931

**DMPA/2022/1159 – Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote**



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The Woodville Regeneration development was approved in outline and allows comprehensive development across some 21.5ha for:

- up to 300 homes
- 14000sqm of employment space; and,
- 2850sqm of retail space.

The impact of such a development on biodiversity and ecology was considered at the time of approving DMPA/2019/0931. The Committee report notes –

*'The response of the Wildlife Trust indicates there would be impacts on protected and priority species... it is noted that suitable off site compensatory habitat for ground nesting species including Skylark would need to be provided and this can be conditioned accordingly'.*

Subsequently, there were conditions attached to the decision. Specifically, Condition 3 which outlines the following relevant matters and underneath how the application responds:

*3. The reserved matters shall be designed broadly in accordance with the illustrative plan ref. P16-1422 004 revision B and section 5 of the Design & Access Statement ref. P18-0670 200B dated August 2019 with the exception of pages 44 to 45 where the principle and extent of 3 and 4 storey dwellings would need to be justified through detailed design analysis, and include the following specific requirements and/or be supported by the following documents in so far as relevant to that matter:*

The reserved matters for phase 1 follows the extent of the developable area as approved in the outline. The reserved matters maintains the Public Rights of Way, open woodland and indicated area for play.

*3(a) a Landscape and Ecological Management Plan (LEMP) for all retained and created habitats demonstrating provision for the establishment of the approved landscaping scheme for a period of no less than thirty years and details of the legal and funding mechanism(s) by which the long-term implementation of the LEMP will be secured by the developer with the management body(ies) responsible for its delivery;*

The application is supported by a LEMP which is accepted by Derbyshire Wildlife Trust – see comments in original committee report supplied as an appendix. The LEMP will secure the habitats for a minimum of 30 years.

*3(b) a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain) compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework;*

This element of the condition is subject to the application reference DMPA/2023/0583 referred to above. The application seeks to amend the wording to enable off site provision of BNG. It should be noted that off-site provision is allowed by the Environment Act subject to on-site provision being maximised.

The further information in support of DMPA/2023/0583 shows that a significant amount of the regeneration proposed in terms of housing delivery, employment and town centre amenities for residents would be lost if a 10% BNG was to be delivered on site. This would in turn make the scheme unviable and likely result in no development.

DWT have confirmed that this application DMPA/2022/1159 has maximised its onsite BNG delivery and therefore in accordance with the Environment Act it is permissible to consider off site. The applicant has outlined how there would be the loss of c. 20 dwellings if the 3 BNG units (which will currently be lost on site through the proposed development) were to be provided on site. Officers have worked with the applicant and a legal agreement will secure an offsite contribution resulting in an overall 10% net gain in BNG.

Members are reminded that it is not SDDC planning policy to require a 10% biodiversity net gain, the Environment Act, whilst a consideration, is not law at this time and the wording of the condition also does not require a 10% net gain.

Overall, there is an approach to secure a Biodiversity Net Gain via the retention of the important habitats, trees and supplementary enhancements across the site, and then a further gain of 3 habitat units off site. Derbyshire Wildlife Trust (DWT) has considered the supporting Ecological Impact Assessment and approach to securing Biodiversity Net Gain and raises no objection subject to conditions and legal agreement during which Officers will be in correspondence with DWT.

For the reasons above the application is considered to address this element of the condition.

*3(c) a suitable off-site compensatory habitat scheme for ground nesting priority bird species, including skylark:*

It is considered by virtue of this condition that it was clear that habitat for ground nesting birds including Skylarks on site would be lost by approving the outline application. The condition mitigates this impact.

In determining this application the fundamental matter is therefore considering compliance with the condition and not the possible loss of the habitats.

The application is supported by a Skylark Mitigation Report – edp7597\_r001-A. The report was considered by DWT who raised no objection subject to the following condition:

*Prior to the commencement of any works on site, evidence and details showing Skylark Mitigation and ongoing management/retention where required has been accepted by Derbyshire Wildlife Trust. The details and mitigation shall be submitted to and approved in by the Local Planning Authority.*

*Reason: To ensure the development complies with the outline permission reference DMPA/2019/0931*  
For the reasons above the application is considered to address this element of the condition.

*3(d) details of enhancement measures for bats and birds in the form of incorporated bat boxes/bat bricks and nesting boxes both on existing mature and early-mature trees and within the fabric of the new buildings, as appropriate, set out in paragraph 6.2 of the Ecological Appraisal dated July 2019 (revision A):*

The application outlines that the development will provide bird and bat boxes on every dwelling. Which reflects the British Standard (BS 42021:2022 Integral nest boxes – Selection and installation for new developments) and will be secured by condition. DWT raises no objection to this point.

For the reasons above the application is considered to address this element of the condition.

*3(e) details of hedgehog holes/tunnels within boundary fences and walls at ground level to residential gardens:*

The application was supported by details outlining features to support the movement of hedgehogs around the proposed development. DWT raises no objection to this point.

For the reasons above the application is considered to address this element of the condition.

## **Conclusion**

For the reasons set out above and in the two prior reports showing this application maximises its onsite delivery of BNG, off site gains will be controlled and this will result in a 10% BNG overall which DWT raises no objection; and, alongside the matters set out above that wider elements of condition 3 attached to DMPA/2019/0931 are met, the Committee is asked to resolve that planning permission be granted in accordance with the recommendations in the previous report.

**Item No.** 1.3**Ref. No.** DMPA/2022/1159**Valid date:** 20/10/2022**Applicant:** Barwood Homes

**Proposal:** Approval of Reserved Matters (Landscaping, Layout, Scale and Appearance) pursuant to phase 1 (residential development of up to 75 dwellings) of outline application DMPA/2019/0931 for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure

**Ward:** Woodville**Reason for committee determination**

This item is presented to the Committee given it is a major application and seeks off site BNG provision.

**Update Report**

The application was previously considered at the meeting held on 08 August 2023 but was deferred to allow further details and clarifications with regard to Biodiversity Net Gain and these are presented in relation to the previous item on this committee agenda. The previous report is attached as an appendix.

**Conclusion**

Considering the findings in relation to the BNG details, the Committee is asked to resolve that planning permission be granted in accordance with the recommendations in the previous report.

**Item No.**

**Ref. No.** DMPA/2022/1159

**Valid date:** 20/10/2022

**Applicant:** Barwood Homes

**Proposal:** Approval of Reserved Matters (Landscaping, Layout, Scale and Appearance) pursuant to phase 1 (residential development of up to 75 dwellings) of outline application DMPA/2019/0931 for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure

**Ward:** Woodville

**Reason for committee determination**

This item is presented to the Committee given it is a major application and seeks off site BNG provision.

**Site Description**

The site is Phase 1 of the wider Woodville Regeneration Area which was granted outline permission for comprehensive redevelopment of the site including up to 300 dwellings a new local centre and significant employment space served by a new access through road as well as wider open space, landscaping and drainage.

The site is located in the east of the wider outline permission. The site is irregular in shape and approximately 3.1 hectares. It is north of the junction between Moira Road and Chapel Street. It is bound by Moira Road to the south east. The site boundary then running north west follows an established hedgerow and PROW SD51/5/1 both of which are included in the redline, and then cuts north east along a watercourse and through a woodland to the north eastern boundary of the south where it runs south following established plot line to Moira Road given the adjacent residential development at this point.

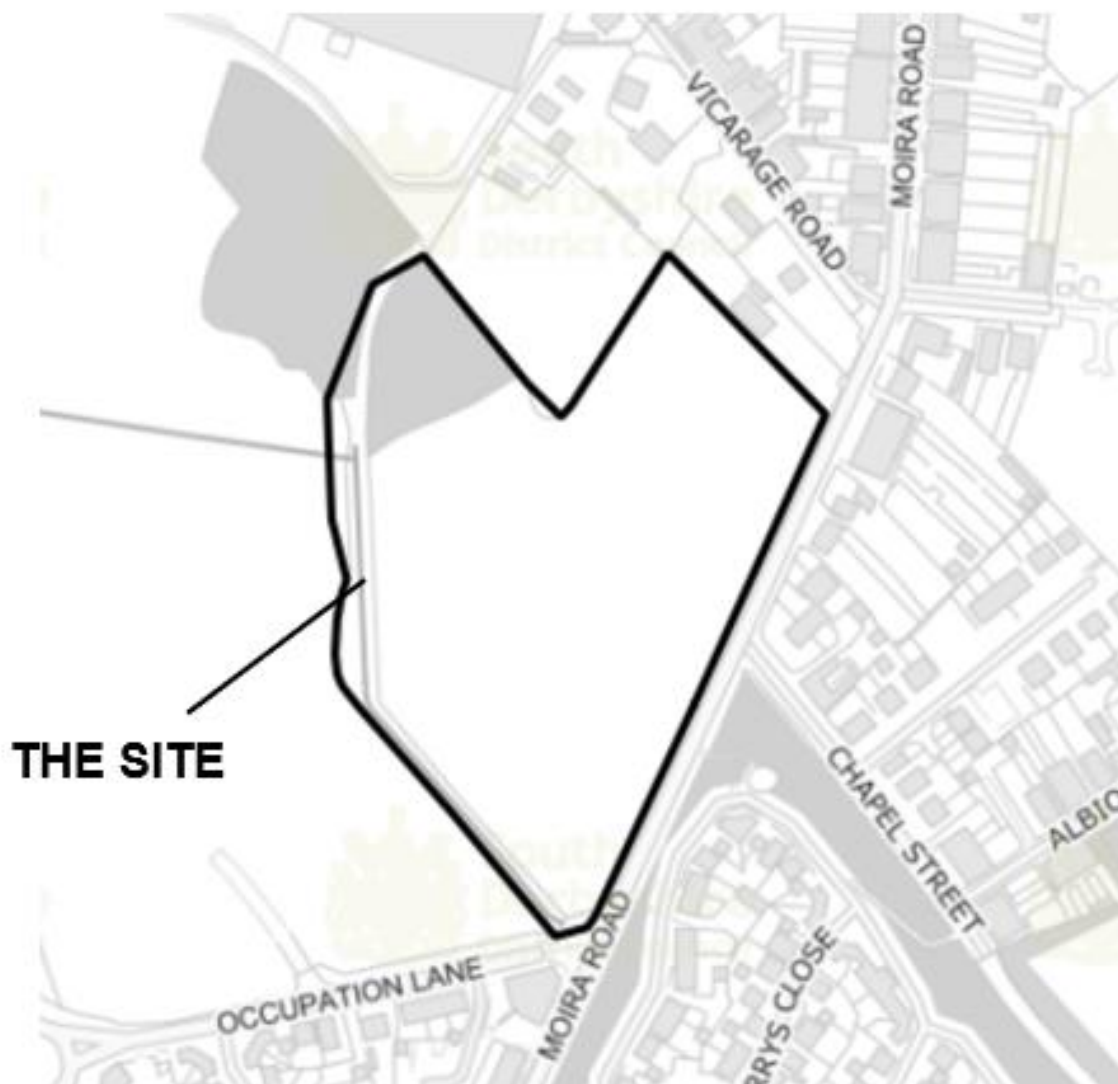
To the west is cleared vacant land within the wider outline permission. To the east is residential development and Moira Road. Moira Road provides access to a number of schools in the area.

Within the site, the land is predominantly clear. As set out there is an area of woodland straddling the north east of the site some of which is outside the site boundary. This is protected by TPO537. There are established hedgerows along the boundary with Moira Road and along the PROW. There is also sporadic tree planting along the north eastern boundary adjacent to the existing residential.

The site generally slopes down from north east to south west but there are undulations within the site.

The site is located within the Woodville area 2km east of Swadlincote. Woodville is identified as the urban area in the Local Plan policy SDT1 to which development will be focussed given its range of services and amenities, and greater accessibility.

DMPA/2022/1159 – Land north of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote



**THE SITE**



South  
Derbyshire  
District Council

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The site is not designated for any landscape value nor any intrinsic wildlife value. It is considered that the site has no heritage assets within or within the proximity. The water course on site is subject to a low risk of surface water flooding.

## The Proposal

The proposal is for all reserved matters except for access (agreed at outline) for residential development consisting of 70 dwellings (Use Class C3).

The development description is as follows:

*Approval of Reserved Matters (Landscaping, Layout, Scale and Appearance) pursuant to phase 1 (residential development of up to 75 dwellings) of outline application DMPA/2019/0931 for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure*

The scheme will provide the following mix of units:

14 no. 2beds 20%

27 no. 3beds 39%

29 no. 4beds 41%

Total 70 100%

The total site area amounts to 3.1ha with a total developable area of 2.11ha. This area provides a site density of c.35 dwellings per hectare (dph), based on total number of units equating to 70.

It should be noted that since submission the applicant has reduced the number of units at the request of the LPA to reduce the density and improve the internal distances and relationships between units.

The site will be accessed and egressed from Moira Road following the approved access. The layout flows from this access around the site creating a spine road with spurs and shared drives feeding off. The layout provides for a street scene of residential development facing Moira Road and the local area for play in the southern corner of the site which follows the outline indicative layout. The PROW will be maintained and pedestrian connections from Moira Road will be increased as per the conditions attached to the outline permission. There is the provision of an attenuation basin to the north around which pedestrian connections will flow from the existing PROW north providing access to later phases of the scheme and the retained woodland. The woodland and attenuation basin and local area for play will be provided as public open space.

The units will be in a range of detached and semi-detached dwellings each served by a front and rear amenity space, drives and/or garage from parking. Buildings will be kept to a maximum of 2 storeys inline with the outline permission and will be consistent in design with local vernacular.

Key buildings are proposed across the site and are designed so that they are distinct from the surrounding buildings. These are generally located to present a clearly defined public realm and legible route through the internal roads.

The main facing materials is proposed as red brick which is prominent to Woodville, with some examples of render to create variance. Plots will be detailed with reflections of local character with occasional features such as bay windows and an array of differing porch styles.

During the application, it has been confirmed that biodiversity net-gain cannot be delivered on site alone and therefore requires an approach to off site provision of 2 habitat units to make up the shortfall.



The approach has been consulted on with DWT and discussed further below. Given the restrictive conditions attached to the outline permission, the approach to secure an off site provision has triggered the need for a S73 which enables off site provision. This application is reference DMPA/2023/0583. In support of this application there has been the submission of the cover letter and technical note for information which comprises the S73 application.

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

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

#### Drawings and Plans:

Location Plan: P20-2301\_006

Planning Layout: 3746-002

Presentation Layout: 3746-003

Proposed Sections: 3746-011

Wood- PL- HOUSEPACK TYPE\_V1

Single Garage: 3746-51

Double Garage: 3746-50

Landscape and Ecology Management Plan: edp7597\_r001-A

Landscape Detailed Design – Residential Plots: edp7597\_d002-D

Landscape Detailed Design – LAP: edp7597\_d003-C

Landscape Detailed Design – POS: edp7597\_d001-F.

#### Supporting Documents:

Design and Access Statement

Biodiversity Net Gain Technical Note – Part 1 - edp7597\_r001-A

Biodiversity Net Gain Technical Note – Part 2

Skylark Mitigation Report – edp7597\_r001-A

Woodville Travel Pack

Woodville Green Travel Plan

### **Relevant planning history**

DMPA/2019/0931 - Outline application with all matters reserved, except for part access into the site from Moira Road, for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure on Land north of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote – Approved 8<sup>th</sup> April 2022

DMPA/2023/0583 - The variation of condition no. 3b (Biodiversity Net Gain) of permission ref. DMPA/2019/0931 on Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote – PENDING

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

The application was publicised via two round of consultation running from 21<sup>th</sup> October 2022 until 25<sup>th</sup> November 2022 and then again on the 6<sup>th</sup> June 2023 until 20<sup>th</sup> June 2023 during which letters were sent to neighbours and a site notice and press notices publicised the application.

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

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

#### Proposed layout

- Reduction of dwellings to 70 units
- Reconfiguration of the layout to provide an enhanced street scene, most readily seen at the site's northern boundary.
- Introduction of chimneys at key vistas.
- Introduced new footpath link to Moira Road
- Additional trees along street frontages
- Changes to proposed housetypes to deliver a more consistent typology of house types.
- Confirmation of rear garden depths
- Additional landscaping around

#### Open Space

- Introduction of additional footpath links within the site, connecting to existing public rights of way to the north and south, and proposed footpath links within the wider development.
- Confirmation of on-site delivery of open space exceeds requirements within the s106 agreement and LPA policy standards.

#### Highways

- Confirmation of Bin Collection Points at the end of private drives
- Change of materials on Street 01
- Removal of raised table from internal highway
- BNG Off site approach

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

Environmental Health – No comment

Environment Agency – No comment

No comments to make at this reserved matters stage, matters of concern covered by condition on outline permission.

North West Leicestershire District Council Planning – No objection

SDDC Planning Policy – No objection subject to amendments

Local Plan Part 2 Policy INF2 Part A states:

“i) Planning permission will be granted for development where:

- a) travel generated by development, including goods vehicle movement, should have no undue detrimental impact upon local amenity, the environment, highway safety, the efficiency of transport infrastructure and the efficiency and availability of public transport services; and
- b) appropriate provision is made for safe and convenient access to and within the development for pedestrians, cyclists, public transport users and the private car; and
- c) car travel generated by the development is minimised relative to the needs of the development”.

The outline planning application DMPA/2019/0931 decision notice, condition 3, states:

“The reserved matters shall be designed broadly in accordance with the illustrative plan ref. P16-1422\_004 revision B and section 5 of the Design & Access Statement ref. P18-0670\_200B dated August 2019....”

Condition 3 (h) of the above states:

“pedestrian and cycle links between residential cul-de-sacs and Occupation Lane, Moira Road and the WSRR, as well as pedestrian and cycle links between the local centre car parking/pedestrian

circulation areas and the WSRR;”

On this basis, additional routes through the site and widening of routes to 3m for use as shared paths with bound surfaces was requested. No access barriers should be erected at the entrances to these routes.

DCC Archeology – No objection

Conservation Officer – No objection

Not within the setting of a Listed Asset, and given previous Outline permission, no further assessment required.

DCC Highways – No objection subject to access and parking provision

Secure By Design – Comments

- majority of reserved matters detail is good from a community safety perspective.
- query regarding the Moira Road boundary and enclosure of the two shared drives for plots 12-15 and 16-20. The proposal shows an easement along the Moira Road edge, but no boundary treatment for either the roadside or the two shared driveways. Two shared drives should be defined by post and rail fencing (as the other shared drives on site are) and that there should be a stronger definition to the Moira Road edge, easement permitting.

Subsequent comment

- Moira Road boundary treatment now be defined by a 1.2m high wooden post and rail fence.
- Lack of clarity for other boundaries, with the LAP area edged with timber post and rail fence on site plan revision D, but shown as with an estate rail on landscaping plans.
- All house types are now named rather than numbered, with no additional floor plans that I can see, footprints seem to be different, need clarity.

Derbyshire County Council - Local Lead Flood Authority (LLFA) – No comments

*The applicant should ensure that the proposed development layout reflects the outline application and that the relevant surface water conditions can be discharged.*

Natural England – No comments

Sever Trent Water – No comments/objection subject to condition on capacity

Foul is proposed to connect into the public foul water sewer, which will be subject to a formal section 106 sewer connection approval. As a pumped solution is being proposed for foul water discharge from this site, a sewer modelling assessment may be required to determine what impact the generated flows from this site will have on the network and to determine the maximum pump rate that could be accommodated within the existing network without worsening the existing sewer performance in rainfall events. Severn Trent may need to undertake a more comprehensive study of the catchment to determine if capital improvements are required. If Severn Trent needs to undertake capital improvements, a reasonable amount of time will need to be determined to allow these works to be completed before any additional flows are connected.

Derbyshire County Council – No objection / comments

Adult Social Care and Health - unable to provide specific feedback based on number and type of housing. However, we would like the following general design principles considered to comply with the NPPF's requirement for developments to 'create places that are safe, inclusive and accessible and which promote health and well-being, with high standards of amenity and flexibility for existing and future users.'

- Dwellings meet national space and/or M4(2) standards to encourage independent living for all ability and mobility levels
- Good internal space standards, ceiling heights, natural light levels
- Stairways, walls and ceilings capable of accommodating stair lifts or hoists should these be required in future; large internal cupboards which could be converted for through floor lifts at a future date
- A mix of tenures and types: affordable accommodation is important to help ensure the stability of the

domiciliary care market

• Having a proportion of dwellings built on one level (stacked or bungalow) and ensuring this type of provision is located near public transport routes and/or urban centres”.

National Forest Company – No objection subject to S106 monies

- The outline (DMPA/2019/0931) acknowledged that there would be shortfall planting across the whole site area, and accordingly the outline was approved subject to a s106 agreement which requires any shortfall of the required 6.45ha of on-site National Forest planting to be met by a financial contribution.
- This contribution should be met for each reserved matters phase to provide the proportion of National Forest planting that the site area of that phase would trigger. Given that phase 1 does not include woodland planting and landscaping, the NFC considers that the National Forest planting requirement should be met by a financial contribution, based on 30% of the site area, calculated at a rate of £35,000 per hectare.
- Previous comments need further consideration, noting amendments and that some elements could be conditioned.

Derbyshire Wildlife Trust – No objection subject to condition / accepts Off Site BNG provision

No major concerns regarding the off-site delivery in principle, but the details should be agreed.

Advise as follows:

1. Identify sites owned by the Council that might be able to deliver 3 habitat units.
2. Ask the applicant to visit the identified sites to confirm and record the ecological baseline habitats and their condition and to work up the details including costs and agree this with the Council. A financial contribution could then be made to the Council secured by a S106 agreement.
3. Once they applicants have done this they should update the biodiversity metric so that it shows a net gain (i.e. they need to include the details of the off-site compensation site).

Woodville Ward Councillor – Cllr Taylor

Considered 9<sup>th</sup> November 2022 by Woodville Parish Council with one of the questions that was most prominent being the proposed routes for HGV vehicles accessing and egressing the site understanding that weight limits are permitted for accessing the site where restrictions are in place namely Moira Road Woodville. To observe that Moira Road has a weight limit restriction, pupils attending school (2schools) twice daily, the narrow throughfare aggravated by legally parked vehicles, could you please advise the routing, 5 - 7 day workings, access rites and daily timings for activities at this site directions from Swadlincote and Ashby de la Zouch.

DCC Public Right of Way PROW – No objection / comments

- The footpath must remain open, unobstructed and on its legal alignment.
- There should be no disturbance to the path surface without prior authorisation from the Rights of Way Section. In planning the incorporation of the footpaths into the development, preference should be given to the use of made-up paths through landscaped or open space areas away from vehicular traffic.
- Consideration should be given to the safety of members of the public using the paths during the works. A temporary closure of the footpath may be granted to facilitate public safety during the construction phase subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section. The applicant should be made aware that at least 5 weeks' notice is required to process the closure and an alternative route should be provided if possible.
- A temporary closure of paths will be permitted on application to DCC where the path(s) remain unaffected on completion of the development. Or, where a diversion is required under the provisions of the Town and Country Planning Act 1990, that the Order has been Confirmed. The applicant should be advised that an application can be submitted for the diversion of the public footpaths in advance of planning permission being granted.

- Finally, I would request that consideration is given to funding being provided to improve the paths linking to and surrounding the development which will receive increased use on completion of the development.

The application received no public responses in objection or support.

One comment made the following point which was considered neither in support or objection to the proposal:

*Conditions to state that priority must be given to establishing construction traffic access to site off Moira Road or (better) Hepworth Road. Thereafter access off Occupation Lane must be prohibited at all times. No construction vehicles of any kind must be parked in Occupation Lane at any time.*

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

The relevant Development Plan policies are:

2016 Local Plan Part 1: S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); S3 (Environmental Performance); S4 (Housing Strategy); S6 (Sustainable Access); H1 (Settlement Hierarchy); H20 (Housing Balance); H21 (Affordable Housing); SD1 (Amenity and Environmental Quality); SD2 (Flood Risk); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); SD4 (Contaminated Land and Mining Legacy Issues); SD5 (Minerals Safeguarding); BNE1 (Design Excellence); BNE2 (Heritage Assets); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness); INF1 (Infrastructure and Developer Contributions); INF2 (Sustainable Transport); INF7 (Green Infrastructure); INF8 (The National Forest), INF9 (Open Space, Sport and Recreation).

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

The relevant local guidance is:

South Derbyshire Design Guide SPD

South Derbyshire District Council Strategic Housing Market Assessment January 2020 (SHMA)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF) (as updated)

Planning Practice Guidance (NPPG)

### **Planning considerations**

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

- Principle of development
- Housing Need and Tenure
- Impact on residential amenity
- Effect on highways safety
- Design and impact on the character of the area
- Trees and ecology
- Other matters
- Section 106 obligations; and,
- Conclusion and Planning Balance

### **Planning assessment**

#### **Principle of development and compliance with the Outline permission**

The site is allocated for employment led regeneration via Policy E6. This reserved matters application is pursuant to the wider outline permission granted which reflects the objectives of employment led regeneration of E6 but also permitted up to 300 dwellings. The policy notes that housing would also be delivered and assist in the viability of the overall scheme.

The site is located within the settlement boundary of Woodville as set out in policy SDT1. Policy H1 outlines this area is the sole urban area within SDDC and where development of sites within the settlement boundary is considered appropriate in principle.

The principle of residential development is therefore acceptable as it accords with policy H1 and the wider housing strategy under policies S1 and SDT1.

The NPPF sets out a presumption in favour of sustainable development, in particular affording weight to significantly boosting housing delivery. The Local Plan relies on the housing provision arising from this site and has already been considered as sustainable in the round given the provision of facilities and services on site to support these provisions.

As with all proposals for planning permission, consideration needs to be given to its detail to ensure that it is in accordance with the relevant policies, however the principle of the development is considered to be acceptable.

The outline application was approved subject to several conditions. Condition 2 specifically outlines that the approved access from Moira Road shall not serve more than 75 dwellings and such access shall be delivered in accordance with the parameters set out in the subsequent approved drawing. The proposed access is discussed in further detail below however, the approved junction arrangement is in accordance with that approved, serves 73 dwellings and no objection is raised from Derbyshire Highways Authority.

Condition 3 requires the reserved matters to be broadly in accordance with the approved indicative plan ref.P16-1422\_004 Rev B and section 5 of the approved Design and Access Statement.

It is considered that the proposed layout is reflective of plan ref.P16-1422\_004 Rev B. In terms of compliance with section 5, Officers have reviewed this document. The DAS allows for residential development up to 36dph, in a scale up to 2 storeys, with a main residential road from Moira Road, tertiary streets and shared drives, provision of perimeter blocks with outward looking development over key spaces, responsive design along Moira Road with open space adjacent to Moira Road, green routes north through phase 1 and drainage along the existing watercourse all of which is reflected in the proposed development.

Furthermore condition 3 requires that reserved matters applications shall be supported by the following documents where relevant:

*Condition 3a: Include a Landscape and Ecological Management Plan (LEMP) for all retained and created habitats.*

*Condition 3b: Include a Biodiversity Metric Calculation to confirm the extent to which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain.*

*Condition 3c: Include a suitable off-site compensatory habitat scheme for ground nesting priority bird species, including skylark.*

*Condition 3d: Include details of enhancement measures for bats and birds in the form of incorporated bat boxes/bat bricks and nesting boxes on existing mature trees and within the fabric of the new buildings*

*Condition 3e: Include details of hedgehog holes/tunnels within boundary fences and walls at ground level to residential gardens*

A LEMP, Biodiversity Report and Skylark Assessment are included within the RM submission. The Landscaping plans show details of bird/bat boxes, along with hedgehog tunnels. All of which have been

consulted on by DWT who raise no objections. The process and provision for off site BNG is discussed below.

*Condition 3f: the layout shall accord with the Highway Authority's 6C's Design Guide and national guidance laid out in the Manual for Streets.*

*Condition 3g: the gradient of any site access shall not exceed 1:30 for the first 10m into the site from the existing highway boundary and/or the Woodville to Swadlincote Regeneration Route (WSRR) and 1:20 thereafter.*

*Condition 3h: Include pedestrian and cycle links between residential cul-de-sacs and Occupation Lane, Moira Road and the WSRR.*

*Condition 3i: Each dwelling to be provided with designated space for the parking of 1.5 vehicles per 1 bedroom dwelling, two vehicle spaces per 2-3 bedroom dwelling and three vehicles per 4+ bedroom dwelling.*

*Condition 3j: Include domestic bin collection points, sufficient for holding no less than 2 bins per dwelling on collection days, at the entrance of shared private accesses.*

It is considered that the submitted layout accords with adopted Highway's guidance discussed further below and the proposed roads will not exceed the stated gradient limits. Pedestrian and Cycle links are provided within the site layout to Moira Road. Parking provision accords with minimum standards and Bin Collection Points are shown on the Planning and Presentation layout.

*Condition 3k & 3l: Not relevant. Condition 3m: Include a revised Travel Plan for that phase or premises, based upon the approved framework Travel Plan.*

A Revised Travel Plan is included in the application submission which has been considered by DCC highways and no objection raised.

*Condition 3n: Not relevant.*

*Condition 3o: Inclusion of a Local Area for Play (LAP) as part of the phase 1 residential scheme.*

*Condition 3p, 3q, 3r & 3s: Not relevant*

*Condition 3t: Retained hedgerows and trees shall not form boundaries to gardens to proposed dwellings and shall be incorporated into green infrastructure.*

*Condition 3u: Include details of subterranean tree and hedgerow root growth facilitation measures.*

A suite of detailed landscaping plans have been submitted in support of the application, which show the LAP provision, retained hedgerows and management of existing landscaping. No objection has been raised by the Landscape Officer, Open Space Officer or DWT to the submission.

For the reasons set out above the application is considered acceptable in principle in that it follows the outline permission in its delivery of residential development, it is laid out in broad compliance with the relevant approved documents and the application is supported by the necessary information. There is the need for an off site provision of BNG but this considered to be acceptable and discussed in more detail below.

### **Housing Mix and Tenure**

Policy H20 aims to ensure a balance of housing that includes a mix of dwellings, tenure, size and density. This mix is also promoted to accommodate for different groups of people, which includes an ageing population. Policy H21 seeks developments to provide up to 30% of new housing as affordable as defined by the NPPF on sites with over 15 dwellings.

The proposed development provides a range of dwelling types with the majority focussed as 3 and 4 bed which aligns with the expected need for market housing as set out in Table 36 of the Strategic

Housing Market Assessment. On this basis, the proposed housing mix is aligned to and would help meet the expected need for larger family housing which weighs in favour of the application.

The proposed development would provide both detached and semi detached housing at a density c.35 dwellings per hectare (dph), based on total number of units equating to 70. This offer is considered to maximise the delivery of housing, in a layout that reflects the outline and provide a mix of dwelling types in line with Policy H20.

The proposed development is solely for market housing. The viability of delivering affordable housing on this site was tested at outline stage, concluded that it would be unviable for both S106 monies as well as affordable housing, most notably due to the land contamination cost given the previous use of the site. The Officer recommendation was to approve with no affordable housing noting that Homes England funding may come forward for provision at reserved matters stage. In line with the outline permission the application will provide a range of S106 contributions and no affordable housing. The S106 contributions are to social infrastructure and this is set out later in this report.

In conclusion, the Applicant has confirmed that discussions with local affordable housing partners are ongoing and there is a desire to provide an element of the proposed homes as affordable housing. This will be dependent on the level of grant funding available from Homes England. Notwithstanding this, the application is not bound to provide affordable housing, it is compliant with the outline permission and legal agreement, and it is not considered to be in conflict with Policy H21 as it is subject to the viability of the proposal.

Overall, it is considered the proposal responds to a demonstrable need and would align with policy H20 by providing a range of typologies, which subject to condition will also provide accessible units. Whilst it is unfortunate affordable housing is not being proposed in this phase, there remains wider phases, and the application is not considered to conflict with the Local Plan on this point given the outline was permitted on the basis of no fixed affordable offer, anything that did come forward would be a benefit, but not a benchmark to assess the application against.

On this basis, the application is considered to be compliant with the Local Plan and the benefit of meeting a to a demonstrable housing need is given weight in favour of the application.

### **Design, Layout and Density**

LP1 policy BNE1 requires all new development to be well designed, to embrace the principles of sustainable development, to encourage healthy lifestyles and enhance people's quality of life by adhering to design principles relating to community safety, street design, movement and legibility, diversity and community cohesion, ease of use, local character and pride, visual attractiveness, neighbouring uses and amenity, healthy lifestyles and resource use. All proposals for new development are assessed against the Council's Design SPD.

Policy S6 Sustainable Access states that the Council will seek to minimise the need to travel and encourage modal shift away from private car to walking, cycling and public transport. To do this they will seek the provision of new or enhanced walking, cycling and public transport infrastructure.

#### *Layout and Housing Design*

The proposed layout for the site shows a new access from Moira Road via a new junction as permitted at outline permission, with a tree lined spine road running into the site leading to spurs and further shared drives which is in line with outline and considered to result in a high quality public realm when entering the site. The layout is considered to maximise development but generally conforming to SPD principles of overlooking and separation distances. There are a range of house types proposed all of which have been considered as reflective of the vernacular of the area, with some dwellings at key locations along the spine road being key typologies and expected to have varied detail to provide variance which is again considered positive and in line with the outline design principles. The site is considered too small to provide specific character areas but the spine road is tree lined which is welcomed and considered to improve the public realm here.



The layout provides for a street scene along Moira Road which is welcomed and where properties are adjacent to POS these are largely positioned such that they face onto these areas, presenting a more active, attractive streetscene and natural surveillance of the spaces.

All dwellings are positioned so as to enjoy off-street parking and amenity provision to the rear of the property. Some dwellings also enjoy some amenity space to the front/side of their respective plots. Where achievable, all gardens have a minimum depth of 10m, there are however some that fall below this figure, but this does not result in undue harm or unacceptable amenity to the host property.

Overall, the layout is considered inline with the outline design principle and should result in a high quality public realm and residential units.

### *Density*

The proposed density is c.35dph which is considered inline with the outline consent given conditions 3's reference to Section 5 of the DAS where it states this up to 36dph for Phase 1. The amount of development has also been reduced in discussion with the applicant and the mix amended to help tailor the housing offer and address some original concerns regarding density and internal housing relationships. Now the application is considered to reflect the outline and maximise the capacity of the site delivering a suitable housing offer, not to the determinant of the quality of units or public realm.

### Landscaping, Open space and Connections

A landscaping strategy (including proposed landscaping plans, POS detail, including children's play areas and specimens) has been submitted to support the application which shows the existing landscape assets which are to be retained. These are largely the PROWs, existing hedgerows and woodland. The water course on site is to be enhanced to provide an attenuation basin. Pedestrian connections will be provided by enhancing the PROW FP5, a link will be provided through the site linking FP5 to the existing FP4 running through the retained woodland, in addition there will be connections through to Moira Road onto the shared driveways of the houses and the public realm provides access northwards through the site. There are indicative spurs shown on the routes to provide connections to the later phases. In addition, routes have been sized to 3m which provides for dual use by pedestrian and cyclists.

The Local Area Play is to be provided in the southern corner of the site which aligns with the indicative layout plan. This space contains perimeter planting and pathways. It is considered that it is appropriately spaced and located within the site. A condition will be added to secure the final detail of the play equipment and its build out prior to the occupation of any dwelling.

The POS offer includes the LAP as well as the attenuation basins and retained woodland. Given the connections provided through these spaces and with suitable street furniture the provision is considered to provide a range of spaces to meet various needs from which and as such the POS provision is considered to be acceptable.

The Council's Landscape Officer offers comments on the application requiring the use of native hedgerows and more tree planting both within some of the hedgerows, around and within the POS, within the rear gardens of properties and with the front/side gardens of properties. They also comment on the use of boundaries and the need to include hedgehog access points and the need to include inclusive play equipment. That said they offer no in principle objections to the proposals, and it is considered that the additional planting and information can be secured by condition.

### Access, parking and servicing

The site layout follows that indicated at outlined stage with internal roads and shared drives. Condition 3f requires the roads to be built to DCC compliant standards. The internal roads proposed are for the majority built to DCC compliant adoption standards. The two minor spur lanes will be 5m wide instead of 5.5m wide. This point has been raised with DCC as the applicant is seeking adoption for all internal roads except for shared drives. DCC have accepted this road width at this point on the basis that the width is to allow up to HGV movements and given the scale and type of units served by such is unlikely to be needed.

The site layout provides for a number of pedestrian routes from the shared drives along Moira Road into the site. This is inline with outline condition 3h.

The access will be from Moira Road and meets condition 21 attached to the outline and states:

*21. The access to Moira Road hereby approved shall be provided with visibility sightlines of 100 metres in a northerly direction and 108 metres in a southerly direction, both measured to the nearside edge of the carriageway, as measured from a point located centrally and 2.4 metres back into the access, the area forward of which shall be levelled and constructed as footway/verge and put forward for adoption as part of the public highway and thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level, unless a scheme to reduce vehicle speed limits along Moira Road can first be agreed with the Local Highway Authority by way of first submitting details to the Local Planning Authority for their approval in writing and first implemented in full including relocation of associated signage, etc., allowing for visibility splays of 43 metres in both northerly and southerly directions. The area within the approved sightlines shall be levelled and constructed as footway/verge and put forward for adoption as part of the public highway and thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.*

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

A further condition 23 attached to the outline requires prior to occupation the internal roads to be constructed to base level, drained and lit, with a footway and such will be completed within 12 months (or 3 months in the case of a shared surface road) from the first occupation of that plot/unit. This will continue to control Phase 1 on this matter.

Parking is proposed off street with each dwelling having either driveway and/or garage parking. The dimensions of the parking has been provided on the proposed layout plans which has been considered by DCC Highways who raise no objection on this matter. The proposed parking aligns with the standards set out by Condition 3i attached to the outline and furthermore the dimensions will be controlled by virtue of being on approved plans.

Further to this with regards to parking condition 3l requires 1 dedicated point per dwelling with dedicated parking as it is in this instance and sets out the specification for this EV charging point. This condition will continue to control Phase 1 and ensure EV charging in each unit proposed which is welcomed.

In the amendments made to the proposed layouts and plans, spaces have been indicated with sufficient sizing at the end of shared drives to allow for the storage of bins for accessible collection. This is now inline with condition 3j attached to the outline, which is welcomed and such detail will be controlled by virtue of being on approved plans.

A Travel Plan this has been submitted as per the outline condition 3m. The TP follows the framework travel plan approved at outline setting out a series of measures to reduce the need to travel and if successful, would reduce the need to own a car. The TP measures in the TP will be conditioned and the annual monitoring and monies are already secured as part of the Section 106 agreement to the outline which continue to bind this land.

The application has been considered by Derbyshire County Council Highways, who raised no issues regarding highways impacts or trip generation. The proposed parking is inline with standards and there is the provision of cycle and indication of EV parking points, which conditions will or are already attached to relevant permissions.

Overall, it is considered that the proposal will not give rise to undue impacts on network capacity, provision of parking, cycle and EV parking is acceptable subject to condition and there is an agreed legal agreement controlling Travel Plan measures. On this basis, the application is considered acceptable in terms of highways, access and sustainable transport.

### Drainage, Flooding and the River Mease

Policy SD2 Flood Risk states when considering development proposals the Council will follow a sequential approach to flood risk management, giving priority to the development of sites with the lowest risk of flooding. Developments in areas that are identified as being at risk of flooding will be expected to:

- i) Be resilient to flooding through design and layout;
- ii) Incorporate appropriate mitigation measures, such as on-site flood defence works and/or a contribution towards or a commitment to undertake and/or maintain off-site measures;
- iii) Not increase flood risk to other properties or surrounding areas; and
- iv) Not affect the integrity or continuity of existing flood defences Suitable measures to deal with surface water will be required on all sites in order to minimise the likelihood of new development increasing flood risk locally.

Any developments that could lead to changes in surface water flows or increase flood risk should be managed through the incorporation of Sustainable Drainage Systems (SUDS), which mimic natural drainage patterns, unless this is not technically feasible.

Proposals that lower the risk of flooding will be supported, subject to the proposal having no other adverse effects on local amenity and/or flood risk elsewhere. Where new flood related infrastructure is proposed, opportunities for delivering environmental improvements, including biodiversity gain and green infrastructure delivery, should be fully considered by those delivering the project.

Policy SD3 Sustainable Water Supply, Drainage and Sewerage Infrastructure requires the Council and other stakeholders to ensure future water resource needs, wastewater treatment and drainage infrastructure are managed effectively in a coordinated manner by:

- i) Ensuring that adequate water supply, sewerage and drainage infrastructure needed to service new development is delivered in tandem with identified growth;
- ii) Supporting activities by the Water Companies to reduce demand for water and in turn suppress sewerage and discharge effluent volumes;
- iii) Working with the County Council (as Lead Local Flood Authority or other appropriate body), to ensure new developments incorporate sustainable drainage schemes that reduce the demand for potable water supplies and mimic natural drainage, wherever practicable.

Foul flows generated by new development will be expected to connect to the mains sewer. Surface water from new development will be expected to be managed using SUDS; discharge to watercourse; or connection to surface water mains sewer.

The site lies within Flood Zone 1 on the Environment Agency's flood map. Consequently, the area is deemed to be at the least risk to flooding. However, there is a watercourse running through the site north south, which is subject to low risk of surface water flooding.

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

The indicative layout at outline stage showed drainage attenuation along the existing watercourse and located at the southern corner at the entrance of the site alongside open space. This is now proposed as Local Area Playspace (LAP) alone, and this arrangement is considered to offer a more inviting and accessible space to the local community. The attenuation will be located on the route of the watercourse where it is already susceptible to surface water flooding which is considered to be a pragmatic design solution and still inline with the outline strategy.

The outline permission was subject to the following drainage conditions:

*No development, including preparatory works, shall commence within a phase or sub-phase until details of measures indicating how additional surface water run-off from the phase or sub-phase will be avoided during the construction works have been submitted to and approved in writing by the Local*

*Planning Authority. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved measures and systems shall be brought into operation before any works to create buildings or hard surfaces within that phase or sub-phase commence.*

*No construction of a building or hard surface, setting of site levels or installation of drainage services/utilities within a phase or sub-phase shall take place until a detailed design of, and associated management and maintenance plan for, surface water drainage of the phase or sub-phase, in accordance with the technical notes and principles outlined within:*

*a) the Flood Risk Assessment and Outline Drainage Strategy (06785-CUR-00-XX-RP-D-001 Revision 4) dated 24th July 2019 and the Technical Note (067895-CUR-00-XX-RP-D-72901-P01) dated 2nd April 2020, including any subsequent amendments or updates to those documents as approved by the Lead Local Flood Authority;*

*b) Defra non-statutory technical standards for sustainable drainage systems; and*

*c) Development Proposals within the River Mease Catchment: Standing Advice for Local Planning Authorities (LPAs) - Third Issue Including Detailed Advice on Sustainable Urban Drainage Systems (SuDS)*

*has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that, as a minimum, suitable capacity is proposed to attenuate peak flows from the phase or sub-phase, making allowance for climate change and urban creep, and where necessary include measures to capture overland flows between proposed and existing properties.*

*The scheme shall also include drawings and details, including the colour and appearance of safety railings, of all inlet and outfall structures to attenuation ponds, as well as details of any management company, responsible person(s), the mechanism of funding of the management company (including the details of any proposed service charge payable by the owners of the dwellings, justification for any amount proposed and the mechanism for calculating future increases in the service charge) so that the management company will be capable of carrying out the inspection, management and maintenance of the retained surface water drainage features. Attenuation ponds shall be fully designed and constructed in line with CIRIA SuDS manual C753.*

*The surface water drainage infrastructure shall be installed in conformity with the approved details prior to the first occupation/use of each respective building/road/hard surface served by the surface water drainage system within that phase or sub-phase or in accordance with a phasing plan first submitted to and approved in writing by the Local Planning Authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.*

*Upon completion of the surface water drainage system, in part or in whole, including any attenuation ponds and swales, and prior to their adoption by a statutory undertaker or management company; a survey and report from an independent surveyor shall be submitted to and approved in writing by the Local Planning Authority. The survey and report shall be carried out by an appropriately qualified Chartered Surveyor or Chartered Engineer and demonstrate that the surface water drainage system has been constructed in accordance with the details approved pursuant to condition 12. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be included for approval in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed by an independent surveyor, with their findings submitted to and approved in writing by the Local Planning Authority.*

*No construction of a building or hard surface, setting of site levels or installation of drainage services/utilities shall take place within a phase or sub-phase until details of the finished floor levels of the building(s) or hard surface(s), and of the proposed ground levels of the site relative to the finished floor levels and adjoining land levels, for that phase or sub-phase has been submitted to and approved in writing by the Local Planning Authority. Such details shall be supplemented with locations, cross-sections and appearance of any retaining features required to facilitate the proposed levels. The development shall be constructed in accordance with the approved details.*

*These conditions control drainage on site during construction and operation and provide control to ensure the strategy is built out in accordance with and prior to occupation. The proposed development*

aligns with the drainage strategy principles and objectives, and it is understood that an attenuation basin has been sized to accommodate the expected run off and delay drainage at a suitable rate. On this basis, the outline strategy is not undermined by the reserved matters. Given the pre-commencement nature of the conditions, development cannot commence until the final drainage is acceptable.

The LLFA was consulted on the proposal and raises no objection given the existing conditions applicable and the control on the matter offered by them.

Foul water would be managed via a connection to the lower sewer network to which Severn Trent Water raises no objection subject to a capacity study being undertaken prior to commencement and any remedial works being undertaken, which could be controlled by conditioned.

**Given the proximity of tributaries feeding the River Mease**, an appropriate assessment as per the Habitat Regulations of the proposed development was undertaken at the outline stage. There has been no material changes to the context to undermine this assessment. The assessment details that the foul discharges from the development will discharge outside the catchment; thus, foul water will not cause an adverse impact on the River Mease SAC. In terms of the surface water again these matters are suitably conditioned, and the Natural England raises no objection beyond requesting consultation on the discharge of these conditions, as/when information for their discharge is brought forward, to ensure there will not be an impact on the River Mease from the development.

**Overall, it is considered that the reserved matters align to the approved drainage strategy. Natural England raise no objection and the HRA undertaken for the outline permission is still applicable here in so far as the outline conditions bind this consent too which limit the pathway for possible impacts.**

In summary, the proposed development is not at significant flood risk and a suitable drainage strategy can be implemented. The proposed development therefore accords with LPP1 Policies SD2 and SD3 and Section 14 of the NPPF.

### **Biodiversity, Ecology and Trees**

The application is supported by a Biodiversity Report and Assessment, Landscape and Ecological Management Plan (LEMP) for all retained and created habitats, an off-site Skylark assessment and the supporting landscaping plan shows details of bat and bird boxes and hedgehog tunnels. This is in line with condition 3a-e in terms of required information.

The existing woodland is retained, and onsite grassland would be provided in terms of public open areas, further to this there would be soft landscaping hedgerows and an attenuation basin. Notwithstanding this, the ability of further gain is limited and the application seeks a Biodiversity Net Gain, both on and off site.

The outline permission granted a clear development parcel within the site, within which residential development would come forward, and the reserved matters layout is reflective of this indicative layout, retaining areas of open space, play and woodland. In addition to this Condition 3b states:

*(b) a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain) compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework;*

The effect of this condition as worded is that it is considered to only enable on site provision of BNG. The timing of the decision is noted and it is considered that on site provision of BNG may not have been fully appreciated at the time given the infancy of the Environment Act at that time, which is unfortunate as it has led to this matter.

The Environment Act which is the legislation behind which BNG is founded, allows for off site provision if on site gain has been maximised and even a commuted sum if further criteria are met, so it is not the case that off site provision should automatically lead to the refusal of an application on this basis.

Discussions have taken place with Derbyshire Wildlife Trust during the course of the application and their position on the matter is as follows:

*I have reviewed the letter from EDP Ltd (22nd March 2023) which sets out an approach to biodiversity net gain to comply with condition 3b. I've also reviewed the existing proposals on-site and the LEMP that was submitted earlier in the process. The net loss of 2.33 habitat units is acknowledged in the letter and previously within the Biodiversity Technical Note prepared by EDP. This loss has been calculated using a Biodiversity Metric. It is noted that some woodland habitat is retained on site and that the on-site proposals already include creating areas of species rich grassland as part of the public open space and in association with the drainage system. Further biodiversity gain on-site would be challenging unless the scale of the development was reduced.*

The shortfall of habitat units to secure a gain is 3 units rounded. An assessment was requested by Officers to confirm the extent of land required to achieve an on site net gain which found an additional 33% (1.03hectares) of the site would be required to deliver no net loss. This would result in a significant loss of housing. The housing delivery was considered in the outline application and was accepted to a greater degree across the outline site on the basis that such would enable the wider employment led regeneration in line with policy by making it viable. On this basis, it is considered unreasonable to provide an on site gain to the detriment of housing delivery and likely the viability of the entire outline permission. Overall, given DWT raise no objection and agree, it is considered that on site gain has been maximised and this opens the pathway for off site provision.

Subsequently, to enable both on and off site provision, the wording of Condition 3b is now proposed to be amended as follows:

*“b) a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain), which in the first instance should be provided on site as part of any phase of the development, or subject to agreement with the LPA and Derbyshire Wildlife Trust on a suitable off-site location or via a financial contribution, compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework. For the avoidance of doubt, each phase should positively contribute to the delivery of a biodiversity net gain;”*

This is the subject of the application reference DMPA/2023/0583, which is also to be considered by Committee.

On this basis, the on site BNG will be managed by the approval of the submitted LEMP. The off site delivery will require land outside of the redline, the matter will be controlled by a legal agreement. The matter has been discussed with the applicant and they are in agreement with this approach.

SDDC's legal team have been instructed on this matter and are in discussion with the applicant's solicitors.

The current drafting of the heads of terms is based on the following principles. These principles follow the standard LEMP condition wording provided by Derbyshire Wildlife Trust:

BNG Off Site Provisions:

1. to provide (insert size/area/habitat units as per DEFRA metric) of land off site
2. to provide the off-site land situated within the Parish of Woodville and if that cannot be satisfied, the District Ward and if that cannot be satisfied within the centre or south east of the District and if this cannot be satisfied in the south of the District and if this cannot be satisfied in the District
3. to submit to the Council for approval the BNG plan which shall include:
  - a. Description and location of features to be retained, created, enhanced and managed.
  - b. Details of bat and bird boxes to be installed including location, type and number
  - c. Details of hedgehog connectivity gaps including a plan showing locations

- d. *Aims and objectives of on-site and off-site management.*
  - e. *Ecological trends and constraints on site that might influence management.*
  - f. *Appropriate management methods and practices to achieve aims and objectives.*
  - g. *Prescriptions for management actions.*
  - h. *Preparation of a work schedule (including a five-year work plan capable of being rolled forward*
  - i. *in perpetuity).*
  - j. *Details of the body or organization responsible for implementation of the plan.*
  - k. *Ongoing monitoring and remedial measures including benchmarking of the site enhancement areas against the DEFRA conditions sheets reportable to the authority at 5-, 10-, 15- and 30- years post completion*
4. *details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.*
  5. *These obligations to be satisfied before occupation and in consideration with DWT*

It is considered that an obligation drafted inline with the principles above would be sufficient to control the off site provision of biodiversity net gain. In summary then there is a process which would secure BNG inline with the provisions of the Environment Act and the application is acceptable in this regard.

Further comments from DWT have raised that the Council should seek further information from the applicant regarding a location and agreement with the landowner for the delivery of the skylark mitigation. This has been forthcoming from the applicant and is being considered by DWT. It was also recommended that the number of integrated swift bricks is increased to 75 in line with the British Standard (BS 42021:2022 Integral nest boxes – Selection and installation for new developments) which can be secured by condition.

With regards to trees, the extent of tree retention and tree loss has been accepted at outline stage. The application site is within the National Forest Company (NFC) as designated by policy INF8. The outline permission accepted the principle of commuted sum for payments to the NFC if substantial woodland isn't planted on site. As set out above there are a number of pressures on Phase 1. It is considered that Phase 1 does not include woodland planting and discounts sporadic tree planting for the purposes of assessing contributions to the NFC. On this basis, *the NFC considers that the National Forest planting requirement should be met by a financial contribution, based on 30% of the site area, calculated at a rate of £35,000 per hectare. This is as per the provision in the outline S106 and the applicant has outlined that this is accepted.*

SDDC Tree Officer does not raise an objection and the proposed additional planting and trees proposed along the main residential street is welcomed and considered inline with BNE4.

It is accepted that there would be disruption to habitats and ecological impacts during construction. On this matter there are a suite of conditions attached to the outline which are considered to suitably manage the construction process; Condition 16 requires certain construction works to be undertaken outside of nesting season, Condition 17 requires a construction environmental plan which would include the information below and Condition 18 requires proposed tree and hedgerow protection measures as per best practice as set out in British Standard 5837:2012 prior to commencement.

Condition 17 criteria:

- (a) a risk assessment of potentially damaging construction activities;*
- (b) identification of biodiversity protection zones (e.g. buffers to trees and hedges or to protected wildlife habitat);*
- (c) practical measures (both physical measures and sensitive working practices, such as protective fencing, exclusion barriers and warning signs) to avoid or reduce impacts during construction (particularly in relation to works within canopy and root protection areas for hedgerows or protected trees);*
- (d) the location and timing of sensitive works to avoid harm to biodiversity features (in relation to breeding birds in particular);*

- (e) the times during construction when specialist ecologists need to be present on site to oversee works (as required);*
- (f) responsible persons and lines of communication; and*
- (g) the role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person (as necessary).*

Overall, there is an approach is to secure a Biodiversity Net Gain via the retention of the important habitats, trees and supplementary enhancements across the site, and then a further gain of 3 habitat units off site. Derbyshire Wildlife Trust (DWT) has considered the supporting Ecological Impact Assessment and approach to securing Biodiversity Net Gain and raises no objection subject to conditions and legal agreement during which Officers will be in correspondence with DWT. Wider ecological impacts and impacts to trees and hedgerows have been considered and subject to conditions are considered to be adequately addressed, subject to a further update on Skylarks.

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

### **Cultural heritage**

There are no heritage assets within the application site, nor is it considered that the development would impact any heritage settings.

The application has been consulted on with the Derbyshire County Council (DCC) Archaeologist given the potential for archaeological remains. The DCC Archaeologist has confirmed no objection subject to a written statement of investigation to guide archaeological field work and subsequent mitigation.

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

### **Other Matters**

**There are a range of further conditions attached to the outline permission that relate to Phase 1 and would still control matters. Where not already addressed within the report these are as follows:**

**Condition 4 requires an update to an agreed phasing which is required prior to commencement. No phasing has yet been agreed and phase 1 was already earmarked on this section of the wider outline and accessed by Miora Road by the outline permission to which this proposal accords.**

**Condition 5 relates to employment marketing and is not relevant.**

**Condition 6 limits the hours of construction limiting hours to standard working hours M-F and Saturday mornings. This condition will continue to control the construction of phase 1.**

**Condition 7 requires mitigation measures for air quality to be employed during construction. This condition will continue to control the construction of Phase 1.**

**Condition 8 relates to contamination and would require a remediation scheme for Phase 1 prior to commencement and subsequent verification prior to occupation. This condition will continue to control Phase 1 and is considered to satisfactorily address the risk of contamination on site.**

**Condition 9 requires the mitigation strategy to manage coal mining risk to be employed. This condition will continue to control the construction of Phase 1 and is considered to suitably address the risk of of hazards arising from coal mining legacy on the site.**



**Condition 10 requires the complete stop of construction and further investigation if further unidentified contamination is found during construction. This condition will continue to control Phase 1.**

**Condition 15 limits the amount of water usages through efficient fixtures and fittings in line with Building Regulation Part G2. This condition will continue to apply to the 73 dwellings constructed during Phase 1.**

**Condition 27 requires ventilation and glazing details approved via condition 3 to be retained and removes PD rights to amend these details. Whilst unlikely targeted at residential dwellings such as those proposed in Phase 1, this condition is still considered to bind Phase 1.**

**Condition 22, 23, 25, 26, 28 and 29 are not relevant and relate to other phases, employment uses, odour areas not within phase 1, mechanical plant, removal of PD rights for commercial uses and commercial floorplates respectively.**

**Construction access was raised in consultation with the ward Councillor and by a local resident. The points made was that: Moira Road given its restrictions, width, usage and that it provides access to schools was not suitable for construction access for such a significant development; and, Occupation Road to the south west of the site by virtue of it being a spur lane now closed off after highways works also is not suitable for construction access. The proposed most suitable route was from the new road built to serve the site which is to the west of the site.**

**The point was raised with the applicant who outlined that the wider site is under third party ownership, however they would be willing to explore the issue with the landowner especially given that this land is also likely to be subject to further phases development. It is not considered reasonable at this time to fix a condition requiring the use of access across third party land.**

**There is already condition 20 requiring the details of a temporary construction access, condition 19 requiring a construction management plan attached to the outline and whilst neither specifically preclude access from Moira or Occupation Road, this matter can be explored at the time of discharge. In addition, a further condition will be attached to this permission requiring evidencing that the applicant has asked for temporary access over third party land, but it would be unreasonable to require them to do so.**

### **Section 106 obligations**

**As set out above it has been accepted that Biodiversity Net Gain will be achieved in part off site which will be secured via a legal agreement.**

**The application was considered by Derbyshire County Council and the NHS for its impacts on service provision who both raised no objections. It should be noted by members that there are already provisions in the outline consent to local infrastructure, services and open space. By way of summary, the total S106 contributions are as follows (\*based on 70 dwellings):**

**Infant education\* - 7 845.71  
Junior education\* – 133,337.10  
Secondary education\* - 82 754.11  
Recreation outdoor sports facilities – 220.00 per bedroom  
Recreation built facilities – 122.80 per bedroom  
Healthcare\* - 33 600**

**In addition to this the S106 also sets out arrangements for the long-term ownership and management of public open spaces and non-highway drainage on site as well as the funding for any management company/ies.**

Further to this, open space contribution for on site was also considered however this was discounted on the basis of on-site provision was as per the outline permission.

### **Conclusion and Planning Balance**

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

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

The outline permission has approved this site for residential development which meets certain parameters. The report outlines that the proposal reflects the principle, layout, design approach, density, provision of open space and connections, drainage strategy, access and parking. It is compliant with the outline permission, subject to conditions and will realise in part the significant benefits upon which the outline permission was granted. This realisation of these benefits weighs heavily in favour of the application.

There are no objections from statutory consultees, and no public objections. Members are reminded that no affordable housing was approved at outline given what was at the time fragile viability. In response it is understood the applicant to date has been discussing additional funding and the proposal with RPs, who has been requested to update members at committee. On this basis, whilst not required there is also the possibility of affordable housing arising which would be a further benefit. The public benefits of S106 monies by virtue of the outline legal agreement are also outlined to members.

BNG is the sole reason for this application being heard at committee. The provision has been robustly discussed by the tripartite of SDDC, the applicant and DWT. The Environment Act which is the legislation upon which BNG is founded allows for off site provision. The requests of SDDC and DWT in evidencing on site is maximised have been satisfied and subsequently the criteria to allow off site provision. Subject to both conditions and legal agreement this matter is suitably addressed. Subject to an update on Skylarks, all other ecological impacts are addressed.

With specific regard to the historic environment, this proposed development has been considered with due regard for Section 66 and 72 of the Act and found to be acceptable.

Several conditions attached to the outline remain to control development and further conditions where relevant will be attached to this reserved matters to suitably control matters.

Overall, for the reasons set out above, the proposed development is considered inline with the outline permission, compliant with the Local Plan and will give rise to significant benefits as part of the wider outline permission. It is therefore recommended that the application is approved subject to conditions and the legal agreement securing BNG provision off site.

### **Equality Implications**

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

### **Recommendation**

- A. Grant delegated authority to the Head of Planning and Strategic Housing to conclude negotiations on and complete an agreement under section 106 of the Town and Country Planning Act 1990 as outlined in the

- report; and  
B. Subject to A, **Approve** the application subject to the following condition(s):

Standard

1. The development hereby permitted shall be carried out in accordance with plans/drawings:

Drawings and Plans:

Location Plan: P20-2301\_006  
Planning Layout: 3746-002 Rev E  
Presentation Layout: 3746-003 Rev E  
Proposed Sections: 3746-011  
Wood- PL- HOUSEPACK TYPE\_V1  
Single Garage: 3746-51  
Double Garage: 3746-50  
Landscape and Ecology Management Plan: edp7597\_r001-A  
Landscape Detailed Design – Residential Plots: edp7597\_d002-D  
Landscape Detailed Design – LAP: edp7597\_d003-E  
Landscape Detailed Design – POS: edp7597\_d001-F

Supporting Documents:

Design and Access Statement  
Biodiversity Net Gain Technical Note – Part 1 - edp7597\_r001-A  
Biodiversity Net Gain Technical Note – Part 2  
Biodiversity Net Impact Plan (Wood-PL-014)  
Biodiversity Net Gain Letter  
Skylark Mitigation Report – edp7597\_r001-A  
Woodville Travel Pack  
Woodville Green Travel Plan

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

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

2. Prior to the site being access by HGV vehicles for construction, evidence of reasonable endeavours seeking to secure construction access from the west of the site shall be submitted to the Local Planning Authority and approved in writing.

Reason: In the interests of securing the optimal construction access into the site and in the interests of highway safety and residential amenity.

3. Prior to the commencement of any works on site, evidence and details showing Skylark Mitigation and ongoing management/retention where required has been accepted by Derbyshire Wildlife Trust. The details and mitigation shall be submitted to and approved in by the Local Planning Authority.

Reason: To ensure the development complies with the outline permission reference DMPA/2019/0931

4. Prior to any works to the identified Public Rights of Way on site or in the event that construction is deemed to make the route unsafe, evidence to show necessary temporary closures agreed with Derbyshire County Council shall be provided, alongside the details of the proposed works which where directly affecting the route shall have prior authorisation from the Rights of Way Section at Derbyshire County Council. Any diversion shall first be discussed with the Local Planning Authority in consultation with Derbyshire County Council. All details shall be approved in writing by the Local Planning Authority and shall thereafter be constructed in accordance with the approved details.

Reason: In the interests of securing high quality public routes and minimising disruption during construction.

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

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

6. Prior to their incorporation into the buildings hereby approved, key details such as but not limited to:
  - Windows
  - Doors
  - Verges
  - RWG and Meter Boxes

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

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

7. The boundary treatments pursuant to condition 9 shall be completed before the respective dwelling(s) to which they serve is/are first occupied and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no further boundary treatments shall thereafter be erected between those approved and the highway or public open space(s)

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

8. No dwelling shall be occupied until the garages (as the case may be), parking and manoeuvring space has been provided within the curtilage of that property, in accordance with the approved plans. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the garaging/parking/turning facilities shall be retained throughout the life of the development free from any impediment to their designated use as such.

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

9. No development shall commence until details of hard landscaping works have been submitted to and approved in writing by the local planning authority. These details shall include:
  - a statement setting out the design objectives and how these will be delivered;
  - earthworks showing existing and proposed finished levels or contours;
  - means of enclosure and retaining structures;
  - boundary treatment[s];
  - hedgehog access points;
  - other vehicle and pedestrian access and circulation areas;
  - hard surfacing materials;
  - minor artefacts and structures [e.g. furniture, play equipment, refuse or other storage units, signs, etc.];
  - proposed and existing functional services above and below ground [e.g. drainage, power, communications cables, pipelines etc. indicating alignments, levels, access points, supports as relevant];
  - lighting, floodlighting and CCTV;
  - water features;
  - an implementation programme, [including phasing of work where relevant]
  - mechanism for the on going management and maintenance of the hard landscaping

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

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

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

10. Prior to the occupation of any dwelling the LAP shall be provided in accordance with drawing no. Landscape Detailed Design – LAP: edp7597\_d003-E will be laid out in accordance with these details and that area shall not thereafter be used for any purpose other than as a play area.

Reason: To secure and retain suitable playspace for the enjoyment and amenity of local occupiers of the development.

11. Notwithstanding the submitted details bin collection points shall be provided for residents on private drives, in accordance with a scheme to be submitted and approved by the Local Planning Authority. The facilities shall be provided prior to the first occupation of the related dwellings and shall be retained thereafter free from any impediment to their designated use.

Reason: To prevent refuse bins and collection vehicles standing on the new estate streets for longer than necessary causing an obstruction or inconvenience for other road users.

12. The carriageways of the proposed estate roads shall be constructed in accordance with Condition 1 above up to and including at least road base level prior to the commencement of the erection of any dwelling intended to take access from that road. The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surface course within twelve months (or three months in the case of a shared surface road) from the occupation of such dwelling, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety

13. Prior to the commencement of the development full details of the tree protection measures for all trees and hedges to be retained shall be submitted to and approved in writing by the Local Planning Authority. These measures shall be set out in a detailed Arboricultural Method Statement to include the specification of the location and type of protective fencing, the timings for the erection and removal of the protective fencing, the details of any hard surfacing and underground services proposed within the root protection areas, all to be in accordance with the British Standard for Trees in Relation to Construction 5837: 2012, and the monitoring of tree protection measures during construction. All tree protective measures shall be carried out as set out in the approved Arboricultural Method Statement.

Reason: To protect the retained trees and visual amenity of the area in accordance with the Local Plan.

14. The applicant shall make an application for S38 approval to the Highways Authority prior to the occupation of any dwelling. Until such time as the application has been approved by the County Council Highways Authority the applicant shall manage and maintain the roads within the development as set out in their email of 1st August 2022.

Reason: In the interests of highway safety

15. The garages/parking spaces hereby permitted shall be kept available for the parking of motor vehicles at all times. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) the garage/car parking space(s) hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.

Reason: In the interests of highway safety and to ensure that acceptable levels of parking are retained throughout the development.

16. Prior to the commencement of each phase of development including preparatory works, the details of any fencing (including temporary) including the specification of suitable mammal gaps within that phase shall be submitted to and approved in writing by the Local Planning Authority.

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

17. The development shall be built in accordance with the measures and habitats set out in Landscape and Ecology Management Plan: edp7597\_r001-A. The development shall be managed so that the monitoring and remedial measures including benchmarking of the site enhancement areas against the DEFRA conditions sheets are reported to the authority at 5-, 10-, 15- and 30-years post completion.

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

#### Informatives:

You are advised of the following matters:

a. For the avoidance of doubt this application does not discharge conditions 3 (in so far as it is relevant to later phases), 4, 5, 6, 7, 8, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 or 28 of the outline planning approval DMPA/2019/0931

#### *Highways*

- a. *Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk) email [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk) or telephone 01629 533190.*
- b. *Planning permission does not give you approval to work on the public highway. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written agreement of the County Council as Highway Authority. It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed, which may take up to 16 weeks. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the County Council via email – [ete.devcontrol@derbyshire.gov.uk](mailto:ete.devcontrol@derbyshire.gov.uk). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.*
- c. *If an adoption Agreement is not in place when the development is commenced, the Highway Authority is obliged to serve notice on the developer, under the provisions of the Advance*

*Payments Code part of the Highways Act 1980 (section 219 / 220), to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.*

- d. If the roads within the proposed development are to be offered for adoption by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980. Detailed plans will need to be submitted and approved, the Agreement signed and all sureties and fees paid prior to the commencement of development. The Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please contact the County Council's Implementation team – email [ete.devcontrol@derbyshire.gov.uk](mailto:ete.devcontrol@derbyshire.gov.uk)*
  - e. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.*
  - f. Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.*
  - g. The layout of swales within the proposed highway limits do not comply with the Highway Authority's Design Guide and the design indicated on the application drawings has not been used elsewhere in the County. The applicant should be aware that their provision will attract a commuted sum for future maintenance purposes and could compromise the future adoption of the new estate streets.*
- A. The County Council does not adopt any SuDS schemes at present (although may consider ones which are served by highway drainage only). As such, it should be confirmed prior to commencement of works who will be responsible for SuDS maintenance/management once the development is completed.*
- B. Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council. For further advice, or to make an application please contact [Flood.Team@derbyshire.gov.uk](mailto:Flood.Team@derbyshire.gov.uk).*
- C. No part of the proposed development shall be constructed within 5-8m of an ordinary watercourse and a minimum 3 m for a culverted watercourse (increases with size of culvert). It should be noted that DCC have an anti-culverting policy.*
- D. The applicant should be mindful to obtain all the relevant information pertaining to proposed discharge in land that is not within their control, which is fundamental to allow the drainage of the proposed development site.*
- E. The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water discharge, in line with Table 4.3 of the CIRIA SuDS Manual C753.*

*F. The County Council would prefer the applicant to utilise existing landform to manage surface water in mini/sub-catchments. The applicant is advised to contact the County Council's Flood Risk Management team should any guidance on the drainage strategy for the proposed development be required.*

*G. The applicant should provide a flood evacuation plan which outlines:*

- The flood warning procedure*
- A safe point of extraction*
- How users can safely evacuate the site upon receipt of a flood warning*
- The areas of responsibility for those participating in the plan*
- The procedures for implementing the plan*
- How users will be made aware of flood risk*
- How users will be made aware of flood resilience*
- Who will be responsible for the update of the flood evacuation plan*

*H. Flood resilience should be duly considered in the design of the new building(s) or renovation. Guidance may be found in BRE Digest 532 Parts 1 and 2, 2012 and BRE Good Building Guide 84.*

*I. Surface water drainage plans should include the following:*

- Rainwater pipes, gullies and drainage channels including cover levels.*
- Inspection chambers, manholes and silt traps including cover and invert levels.*
- Pipe sizes, pipe materials, gradients, flow directions and pipe numbers.*
- Soakaways, including size and material.*
- Typical inspection chamber / soakaway / silt trap and SW attenuation details.*
- Site ground levels and finished floor levels.*

*J. On Site Surface Water Management;*

*The site is required to accommodate rainfall volumes up to the 1% probability annual rainfall event (plus climate change) whilst ensuring no flooding to buildings or adjacent land.*

*The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas, etc, to demonstrate how the 30 year + 35% climate change and 100 year + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).*

*Production of a plan showing above ground flood pathways (where relevant) for events in excess of the 1% probability annual rainfall event, to ensure exceedance routes can be safely managed.*

*A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc), attenuation basins/balancing ponds are to be treated as an impermeable area.*

### **Peak Flow Control**

*For greenfield developments, the peak run-off rate from the development to any highway drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event, should never exceed the peak greenfield run-off rate for the same event.*



*For developments which were previously developed, the peak run-off rate from the development to any drain, sewer or surface water body for the 100% probability annual rainfall event and the 1% probability annual rainfall event must be as close as reasonably practicable to the greenfield run-off rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development, prior to redevelopment for that event.*

### **Volume Control**

*For greenfield developments, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must not exceed the greenfield runoff volume for the same event.*

*For developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must be constrained to a value as close as is reasonably practicable to the greenfield runoff volume for the same event, but must not exceed the runoff volume for the development site prior to redevelopment for that event.*

*Note:- If the greenfield run-off for a site is calculated at less than 2 l/s, then a minimum of 2 l/s could be used (subject to approval from the LLFA).*

*Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.*

*Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within the highway.*

*Guidance on flood pathways can be found in BS EN 752.*

*The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the drainage network, whatever the size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space, etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.*

*K. If infiltration systems are to be used for surface water disposal, the following information must be provided:*

- *Ground percolation tests to BRE 365.*
- *Ground water levels records. Minimum 1m clearance from maximum seasonal groundwater level to base of infiltration compound. This should include assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.*
- *Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689-1:2003.*
- *Volume design calculations to 1% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2.*
- *Location plans indicating position (soakaways serving more than one property must be located in an accessible position for maintenance). Soakaways should not be used within 5m of buildings or the highway or any other structure.*
- *Drawing details including sizes and material.*
- *Details of a sedimentation chamber (silt trap) upstream of the inlet should be included.*

- *Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.*

*L. All Micro Drainage calculations and results must be submitted in .MDX format, to the LPA.  
(Other methods of drainage calculations are acceptable.)*

*M. The applicant should submit a comprehensive management plan detailing how surface water shall be managed on site during the construction phase of the development ensuring there is no increase in flood risk off site or to occupied buildings within the development*

**Item No.** 1.3

**Ref. No.** [DMPA/2023/0814](#)

**Valid date:** 05/07/2023

**Applicant:** Mr L Evans

**Agent:** Mr T Beavin

**Proposal:** Provision of timber storage building, extension to existing timber and machinery store, installation of foul package treatment plant and laying out of parking spaces and revised yard access locations, together with new landscape screening for the existing woodyard and regularisation of historic log storage area at Buildings Farm, Ticknall Road, Hartshorne, Swadlincote, DE11 7AU.

**Ward:** Woodville Ward

### **Reason for committee determination**

This planning submission is being reported to Planning Committee due to comments of concern/objection received from members of the public.

### **Site Description**

The application site is addressed as Buildings Farm, Ticknall Road, Hartshorne, Swadlincote, DE11 7AU. The site is located to the west of and is accessed from the Ticknall Road (A514) which links Hartshorne to Ticknall.

The existing use of the site currently under considered and edged within the red line comprises of a woodyard and workshop, portacabin office, and open storage areas. The application site comprises of three defined areas within the control of the applicant. These are accessed from the restricted byway leading off the Ticknall Road (A514) highway opposite the junction with Coal Lane to the east. Site 1 is the proposed location for the new timber store. Site 2 comprises of the existing woodyard. Site 3 is an area adjacent to the Ticknall Road (A514) highway. The whole site application area comprises of 8,090 sqm/ 0.809 ha of land.

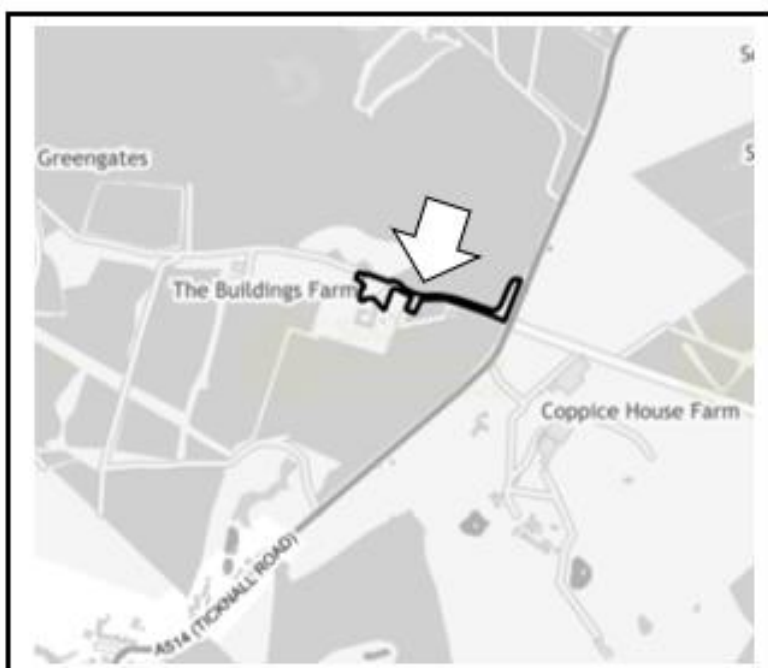
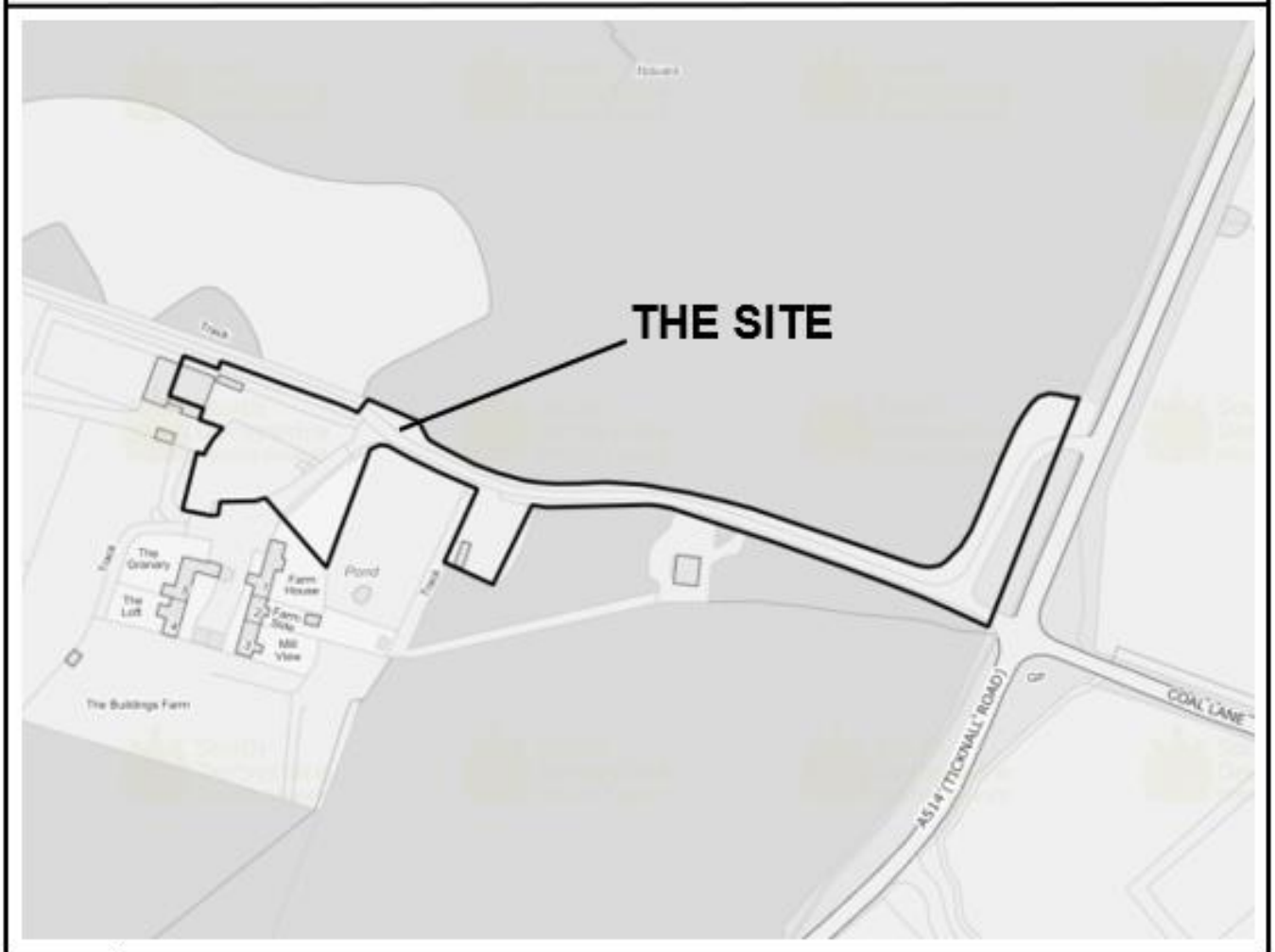
Residential properties under the addresses of No.1 to No.5, which comprise of Farm House, Farm Side, Mill View, The Loft and The Granary, are situated within relative proximity to the south of the site under consideration. No.1 Farm House has been edged within the blue line and falls under the ownerships of the applicant.

The application site hereby under consideration is located outside of a defined settlement boundary in the adopted local plan. Buildings Farm is not situated within a Conservation Area, does not fall within proximity of Listed Buildings, and does not fall within the River Mease Catchment. The site under consideration does not comprise of any Tree Preservation Orders. The site lies wholly within Flood Zone 1, which has the lowest probability of flooding. The site is situated within the National Forest.

### **The Proposal**

The applicant is seeking planning permission for the provision of timber storage building, extension to existing timber and machinery store, installation of foul package treatment plant and laying out of parking spaces and revised yard access locations, together with new landscape screening for the existing woodyard and regularisation of historic log storage area at Buildings Farm, Ticknall Road, Hartshorne, Swadlincote, DE11 7AU.

**DMPA/2023/0814 – Buildings Farm, Ticknall Road, Hartshorne, Swadlincote, DE11 7AU**



South  
Derbyshire  
District Council

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South Derbyshire District Council, LA 100019461, 2020

The proposal is for Midland Firewood Supplies Ltd to improve their existing operations, which are carried out across the sites, by way of purpose-built accommodation. This will increase site safety for operatives and contain noise. A re-aligning of the access from the byway is proposed to better screen the operations for the residents of Buildings Farm.

From a practical perspective for the business, the proposal will significantly improve storage and the wood drying process, through the provision of the dedicated wood storage building on Site 1. Currently wood is stored under tarpaulins. The importance of being able to effectively store and dry timber prior to sale is therefore a key driver for the applicant to ensure the wood sold by the company meets the legal requirements. The proposed log storage building is to be constructed like an agricultural barn with Yorkshire boarding to allow a free flow of air over the timber stored within. The siting is well screened by surrounding trees and will also incorporate additional planting.

The area of Site 2 proposes an extension to the existing timber yard machinery store to facilitate the moving of all timber processing operations indoors. This includes the creation of a wood processing area, workshop, and timber storage space. The extension will also provide a replacement ancillary first floor office and staff welfare facilities. The scheme seeks the formal laying out of parking spaces and a revised yard access location. New landscape screening is also proposed for the existing woodyard at Site 2. It is also proposed to install a package treatment plant to provide for foul drainage.

Site 3 confirms the existing site visibility from the byway to the highway and the formalisation of the historic log storage in this location, along with new planting. Across the whole site, edged within the Red Line, the scheme proposes to plant over 100 new trees. In addition, new hedgerow planting will add to the environmental enhancements from the scheme.

The following details of the proposed materials and finishes have been outlined by the applicant:

- Walls: Concrete Plank Walling, Yorkshire Boarding.
- Roof: Profile Sheeting/ PV panels.

The scheme of development under consideration does not incorporate any increase/ decrease in car parking provision. A total of x10 spaces are proposed as is the case as existing.

The scheme of development under consideration does not incorporate any increase/ decrease in number of employees. A total of x6 full time employees are proposed as is the case as existing.

The following hours of opening are proposed:

- Monday to Friday: 08:00am to 17:00pm
- Saturday: 08:00am to 13:00pm
- Sunday/ Bank Holiday: N/A

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

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

- Application Form - Ref: N/A - 23 June 2023
- Design and Access Statement - Ref: N/A - 23 June 2023
- Phase 1 Geo-Environmental Assessment - Ref: EAL.68.23 Version 1.0 - 05 July 2023
- Updated Certificate - Ref: N/A - 07 August 2023
- Existing Site Survey Site 1 - Ref: 222-68-01 - 23 June 2023
- Survey of Existing Site 2 - Ref: 222-68-02a - 23 June 2023
- Proposed Site Plan Overview - Ref: 222-68-03a - 23 June 2023
- Proposed Site Plan Site 1 - Ref: 222-68-04b - 07 August 2023
- Proposed Log Storage Building Site 1 - Ref: 222-68-05a - 23 June 2023
- Proposed Site Plan Site 2 - Ref: 222-68-06a - 23 June 2023
- Existing Building - Site 2 - Ref: 222-68-07 - 23 June 2023

- Proposed Extensions and Alterations - Ref: 222-68-08 - 23 June 2023
- Proposed Side, Rear and First Floor Plan - Ref: 222-68-09 - 23 June 2023
- Proposed Retention of Log Storage Area - Ref: 222-68-10 - 23 June 2023
- Location Plan - Ref: 222-68-11a - 07 August 2023

### **Relevant planning history**

9/2000/1175 - The erection of an agricultural storage building at The Buildings Farm Ticknall Road Hartshorne Swadlincote - Prior Approval Granted: 15/01/2001.

9/2013/1016 - Certificate of lawfulness for use of land and buildings as an equestrian/livery business including conversion of existing barn for use as stables, creation of manege, and siting of container and lorry trailer unit. - Lawful Development Certificate Granted: 03/02/14.

9/2013/1024 - Retrospective application for change of use of land from farm yard and farm machinery store to wood yard and timber/machinery store. - Approved: 03/03/14.

9/2017/1262 - Change of use of land for tourism purposes and erection of a yurt and a tipi with associated sauna and compost toilet structures with parking and hardstanding. - Approved: 09/05/2018.

9/2017/1365 - Development of new log cabin to create a live/work unit along with creation of parking and turning area and decking. - Refused: 20/03/2018.

9/2018/0506 - The erection of a log cabin for use as a work unit only with creation of parking and turning area and decking and the erection of a portacabin. - Refused: 07/08/2018.

9/2018/1268 - The erection of a building for use as a work unit and retrospective application for the erection of a temporary portacabin. - Refused: 03/05/2019.

9/2019/0542 - Continued use of land for ancillary open storage in connection with the existing logging business and the continued siting of temporary portacabin. - Approved: 18/07/2019.

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

#### Summary of consultation responses:

Woodville Ward -  
No comments received.

Hartshorne Parish -  
No comments received.

Hartshorne Residents Association -  
No comments received.

National Forest Company -  
Thank you for consulting the National Forest Company (NFC) on the above application. The NFC has no comment to make.  
(17 August 2023)

Derbyshire Wildlife Trust -  
Can confirm that although no specific ecology report has been provided, the application documents do include adequate information to assess likely impacts as well as details of proposed mitigation and enhancements.  
Potential impacts on protected species are anticipated to be limited to nesting birds, depending on the timing of clearance works. The small loss of existing hedgerow to facilitate new access points into the

yard would be offset by the proposed tree and hedgerow planting around the site boundaries and we recommend that this uses native species and includes a diverse range rather than single species. The proposed site plans provide sufficient information about locations and specifications for bird/ bat boxes, the only additional information we would like to request is in relation to planting and maintenance for the proposed tree & hedge planting so that this can be secured as part of the planning consent. Tree and hedgerow planting should be carried out at a suitable time of year and following best practice guidelines for management/ maintenance to minimise risk of failures. Any trees/ hedging plants that do fail before the habitat has matured should be replaced.

If consent is granted we recommend that the following conditions are attached:

-Retained trees and hedgerows shall be protected during construction.

-No vegetation clearance during the period March to August (inclusive) unless preceded by a check for nesting birds by a suitably experienced ecologist no earlier than 24hrs in advance of planned works. Any active nests shall be left in situ and undisturbed until the young have fledged.

-Biodiversity strategy including landscape planting and bird/bat boxes shall be implemented as per the layout plans (SG Design Studio drawings 222-68-06a dated 01/212/2022 and 222-68.04a dated 09/01/2023).

-Prior to commencement on site, supplementary information regarding tree and hedgerow planting shall be submitted to and approved in writing by the Council. Planting list to include at least 6 different native tree / hedge species. Any specimens that fail within the first five years shall be replaced.

(21 August 2023)

County Highways -

As the site is served by an existing access from the adopted public highway there are no highway objections to the planning application subject to logs being stored clear of the highway and do not obstruct any visibility splays as previously stated. It should also be noted that the application site is abutted by a Public Rights of Way Footpath Nos. 29, 30, 31 and 32 as shown on the Derbyshire Definitive Map. The routes must remain unobstructed on their legal alignment at all times and the safety of the public using them must not be prejudiced either during or after development works take place.

(04 September 2023)

County Public Rights of Way -

Can confirm that Hartshorne Restricted Byway No. 30 runs through the proposed development site, along the access, as shown on the attached plan. In addition, Hartshorne Public Footpath No. 31 runs adjacent to part of the proposed development and Hartshorne Public Footpaths No. 29 and No. 32 connect to the access / restricted byway 30. The Rights of Way Section has no objection to the proposals as it appears that the routes should be ultimately unaffected by the proposed works. However, I would request that a condition is placed on any consent, to the effect that not logs or machinery shall henceforth be stored along the restricted byway. This is in the interests of the safety of the public using the route. Advise for the attention of the applicant also provided.

(07 September 2023)

Peak and Northern Footpaths -

Do not have the technical expertise to comment properly on this application. The planning officer must be certain that the safety and amenity (noise and visual intrusion) of walkers using Hartshorne Restricted Byway 30 and Footpath 31 would not be affected by the development with the full widths of these rights of way being unobstructed at all times. Arrangements for vehicles entering and leaving the site from the main road and from the Restricted Byway must be safe for walkers.

(17 August 2023)

Environmental Health -

No concerns and do not propose any comments.

(15 September 2023)

Responses to publicity:

Following the formal consultation, which included neighbour notification letters, the publication of a press advert, and the displaying of a site notice, a total of x13 formal comment of representation have been received. These comments incorporate x7 comments of objection and x6 comments of no objection/ support. A summary of the key points arisen is presented below:

Comments of Objection:

- a) Development not in-keeping.
- b) Impacts on the open countryside.
- c) Size and height of proposed built form.
- d) Implications on surrounding properties.
- e) Impacts on daylight and sunlight.
- f) Noise, air quality and climate change concerns.
- g) Highway safety implications.
- h) Impacts on footpaths and bridleways.
- i) Tree protection and mitigation.
- j) Ecological concerns.
- k) Business justification unclear.
- l) Unauthorised works.

Comments of Support:

- a) Support for local businesses.
- b) Great service to the community.
- c) Charity work of the applicant.
- d) No issues at all.
- e) Supplies the whole community around from shops to garages, pubs etc.
- f) Employees people locally.
- g) Requirements to keep firewood dry with the new legislation.
- h) Reassured that the proposed developments will be an improvement.
- i) Will reduce the noise and ad hoc storage and parking arrangements.

These comments of representation have been considered in the assessment of this planning submission.

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

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

#### The relevant Development Plan policies are:

South Derbyshire Local Plan Part 1 - LP1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S5 (Employment Land Need), S6 (Sustainable Access), E2 (Other Industrial and Business Development), E7 (Rural Development), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), and INF8 (National Forest).

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

#### The relevant local guidance is:



The relevant national guidance is:

National Planning Policy Framework (NPPF)  
Planning Practice Guidance (PPG)  
National Design Guide (NDG)

**Planning considerations**

Considering the application made and the documentation submitted the main issues central to the determination of this application are:

- Principle of the Development
- Design, Character, and Appearance
- Amenity
- Access and Highway Safety
- Public Rights of Way
- Ecology and Biodiversity
- Drainage
- Other Matters

**Planning assessment**

Principle of the Development

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

Planning approval was granted on 18 July 2019, under the reference of 9/2019/0542, for the proposed continued use of land for ancillary open storage in connection with the existing logging business and the continued siting of temporary portacabin at the site under the address of Buildings Farm Ticknall Road Hartshorne Swadlincote Derbyshire.

The applicant is now seeking planning permission for the provision of timber storage building, extension to existing timber and machinery store, installation of foul package treatment plant and laying out of parking spaces and revised yard access locations, together with new landscape screening for the existing woodyard and regularisation of historic log storage area at Buildings Farm, Ticknall Road, Hartshorne, Swadlincote, DE11 7AU.

The scheme seeks to improve the operations of Midland Firewood Supplies Ltd which are carried out across the sites, as well as to increase site safety for operatives and to contain noise. Provisions are also proposed to better screen the operations from the nearest neighbouring residents. The proposal will significantly improve storage and the wood drying process, through the provision of the dedicated wood storage building enabling timber to be kept dry but also allowing the free flow of air over the timber stored facilitated by the Yorkshire boarding as proposed. The importance of being able to effectively store and dry timber prior to sale is a key driver for the applicant to ensure the wood sold by the company meets the legal requirements. The scheme of development under consideration does not incorporate any increase in car parking provision or overall numbers of employees.

The development of the existing site of Buildings Farm as proposed is considered to be acceptable in principle, and in accordance with Policy E2 (Other Industrial and Business Development) and Policy BNE5 (Development in Rural Areas) of the South Derbyshire Local Plan. These policies seek to support the expansion of existing businesses, and redevelopment of established industrial or business land or premises, provided such does not give rise to undue impacts on the landscape character of the area or residential amenity. Providing that material planning considerations are met, it is considered that the proposed scheme of development is acceptable in principle.

### Design, Character, and Appearance

The most applicable policies and guidance to consider with regards to the design, character, and appearance related considerations are Policy S2 (Presumption in Favour of Sustainable Development), Policy E7 (Rural Development), Policy BNE1 (Design Excellence), Policy BNE4 (Landscape Character and Local Distinctiveness), Policy INF8 (The National Forest), Policy BNE5 (Development in Rural Areas), and Policy BNE7 (Trees, Woodland and Hedgerows) of the South Derbyshire District Local Plan, the South Derbyshire Design Guide SPD, and the National Planning Policy Framework.

The National Planning Policy Framework attaches great importance to design of the built environment and sets out that high quality and inclusive design should be applied to all development, including individual buildings, private spaces, and wider area development schemes. It also states that development should respond to local character and history and reflect the identity of local surroundings.

The Council acknowledges and has considered comments and concerns arisen from the consultation undertaken regarding potential design related implications. In terms of scale, bulk, massing, and proportions the proposed scheme of development comprises of an acceptable form of design for a rural use. The scale and design of the built form as proposed is considered to be consistent with that expected for the use of the site. The materials as proposed and referenced above are considered to be appropriate for a development of this nature. Screening is provided by surrounding landscaping and planting. Further to this an improved provision of landscaping and planting is incorporated into the development proposal to further mitigate any potential design implications associated with this development proposal. Should planning approval be recommended planning conditions shall be incorporated to ensure that an acceptable level of design is retained and implemented at the build out stage, and to ensure the delivery and retention of a satisfactory scheme of landscaping and planting.

Overall, the proposal is considered to not result in unacceptable harm to the street-scene, neighbouring setting, or the wider locality, and is considered to be acceptable and in accordance with the relevant local and national level planning policies with regards to associated design, character, and appearance implications.

### Amenity

The most applicable policies and guidance to consider are Policy SD1 (Amenity and Environmental Quality) and Policy BNE1 (Design Excellence) of the South Derbyshire District Local Plan, and the South Derbyshire Design Guide SPD which between them seek that new development does not lead to adverse impacts on the environment or amenity of existing occupiers within or around proposed developments.

The site under consideration currently facilitates a woodyard and workshop, portacabin office and open storage areas which serve the established business of Midland Firewood Supplies Ltd. Residential properties are situated within relative proximity to the south of the site under consideration. No.1 Farm House has been edged within the blue line and falls under the ownerships of the applicant. The siting is well screened by surrounding trees and the proposed scheme of development also incorporates additional planting to further screen the proposed built form and enable such to assimilate into the landscape.

It is considered that the areas under consideration as part of this planning application are situated a reasonable distance away from the neighbouring residential properties. It is however accepted that due to the nature of the

business some amenity related implications may occur, but that this will not result in a significant detrimental loss of amenity to neighbouring residents. The Environmental Health team have commented that there are no objections and they do not propose any comments on environmental health related grounds.

Proposed hours of opening of Monday to Friday: 08:00am to 17:00pm, Saturday: 08:00am to 13:00pm, and Sunday/ Bank Holiday: N/A have been presented by the applicant. These hours of opening are considered to be reasonable and acceptable for this type of development. Should planning approval be recommended a planning condition shall be attached in this regard.

Overall, given the nature of the development proposal, the relationship with nearby properties, and the overall scale of that proposed, it is considered that significant unacceptable implications will not arise. The siting of the development proposal and the relationship with the nearest neighbouring properties ensures the proposed scheme of development is considered to not present significant detriment with regards to loss of daylight, loss of sunlight, overbearing, overlooking or noise disturbance. The proposed scheme of development is therefore considered to be acceptable on amenity related grounds.

### **Access and Highway Safety**

A technical assessment of the development proposal and a consideration of the potential associated access and highway related implications has been undertaken by the County Highways team at Derbyshire County Council. A formal consultation response has been provided with the County Highways team formally advising that as the site is served by an existing access from the adopted public highway there are no highway objections to the planning application subject to logs being stored clear of the highway and not obstructing any visibility splays as previously stated. The County Highways team have also noted that the application site is abutted by a Public Rights of Way. The Local Planning Authority acknowledges and has considered other comments and concerns arisen from the consultation undertaken including with regards to potential access and highways related implications.

Should the Council be minded to recommend planning approval a relevant planning condition shall be incorporated to ensure that logs being stored are clear of the highway and do not obstruct any visibility. Further to this the attention of the applicant shall be drawn to the presence of the Public Rights of Way.

It is worth noting that paragraph 111 of the National Planning Policy Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Following the receipt of the professional County Highways advice it would be unreasonable to suggest that the scheme of development would be unacceptable on highway related grounds. Subject to the incorporation of relevant planning conditions, the proposed scheme of development is considered to be acceptable on access and highways related grounds.

### **Public Rights of Way**

With regards to Public Rights of Way, Hartshorne Restricted Byway No. 30 runs through the proposed development site and along the access. In addition, Hartshorne Public Footpath No. 31 runs adjacent to part of the proposed development and Hartshorne Public Footpaths No. 29 and No. 32 connect to the access/ restricted byway 30. The Rights of Way team at Derbyshire County Council do not object to the proposals as it appears that the routes should be ultimately unaffected by the proposed works.

Should the Local Planning Authority be minded to recommend planning approval a condition shall be incorporated to the effect that no logs or machinery shall henceforth be stored along the restricted byway. This is in the interests of the safety of the public using the route.

Section 130 of the Highways Act places duties on the Highways Authority to protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority, including any roadside waste which forms part of it, and sub-section 3 of that section imposes a duty on them to prevent obstruction of any highway for which they are the authority. Section 137ZA empowers them to require the removal of any obstruction and Section 137 provides that obstructing a highway is an offence.

### Ecology and Biodiversity

The most applicable policies and guidance to consider with regards to the ecological and biodiversity consideration are Policy S2 (Presumption in Favour of Sustainable Development), Policy E7 (Rural Development), BNE3 (Biodiversity), Policy INF8 (The National Forest), Policy BNE5 (Development in Rural Areas), and Policy BNE7 (Trees, Woodland and Hedgerows) of the South Derbyshire Local Plan, the Natural Environment and Rural Communities Act, and the National Planning Policy Framework.

A technical assessment of the development proposal and a consideration of the potential associated ecology and biodiversity related implications has been undertaken by the Derbyshire Wildlife Trust at Derbyshire County Council. A formal consultation response has been provided with the Derbyshire Wildlife Trust formally advising that although no specific ecology report has been provided, the application documents do include adequate information to assess likely impacts as well as details of proposed mitigation and enhancements.

Potential impacts on protected species are anticipated to be limited to nesting birds, depending on the timing of clearance works. The small loss of existing hedgerow to facilitate new access points into the yard would be offset by the proposed tree and hedgerow planting around the site boundaries and we recommend that this uses native species and includes a diverse range rather than single species.

The Derbyshire Wildlife Trust have advised that the proposed site plans provide sufficient information about locations and specifications for bird/ bat boxes, the only additional information we would like to request is in relation to planting and maintenance for the proposed tree and hedge planting. Tree and hedgerow planting should be carried out at a suitable time of year and following best practice guidelines for management/ maintenance to minimise risk of failures. Any trees/ hedging plants that do fail before the habitat has matured should be replaced.

The Derbyshire Wildlife Trust have formally advised that if consent is granted the following planning conditions being imposed:

- Retained trees and hedgerows shall be protected during construction.
- No vegetation clearance during the period March to August (inclusive) unless preceded by a check for nesting birds by a suitably experienced ecologist no earlier than 24hrs in advance of planned works. Any active nests shall be left in situ and undisturbed until the young have fledged.
- Biodiversity strategy including landscape planting and bird/bat boxes shall be implemented as per the layout plans (SG Design Studio drawings 222-68-06a dated 01/212/2022 and 222-68.04a dated 09/01/2023).
- Prior to commencement on site, supplementary information regarding tree and hedgerow planting shall be submitted to and approved in writing by the Council. Planting list to include at least 6 different native tree / hedge species. Any specimens that fail within the first five years shall be replaced.

These proposed recommended relevant planning conditions have been reviewed and considered by the applicant/ agent. It has been formally advised that this is accepted, and should the Local Planning Authority be minded to recommend planning approval such shall be incorporated.

The whole site application area comprises of 8,090 sqm/ 0.809 ha of land. Policy INF8 (The National Forest) of the South Derbyshire District Local Plan sets out dedicated tree planting and landscaping requirements. In the instance of this planning application the site area is below the threshold requiring a

set percentage of National Forest planting. The policy sets out that Industrial, Commercial and Leisure Development under 1 ha requires normal landscaping appropriate to the sites setting rather than a set percentage of the development area to be woodland planting and landscaping. The National Forest Company have formally advised that there are no comments to make in regard to this planning application.

The Local Planning Authority have reviewed and considered the landscaping provision incorporated into the proposed scheme of development. It is considered that this is appropriate to the sites setting. Should planning approval be recommended planning conditions shall be incorporate to ensure the delivery and retention of the landscaping scheme. Subject to the above-mentioned planning conditions, the scheme of development is considered to be acceptable on ecology and biodiversity grounds.

### Drainage

The National Planning Policy Framework seeks to ensure that new development is not at risk from flooding, or does not increase flood risk elsewhere. The application site is situated within Flood Zone 1 and as such there are no flooding concerns in principle. Following consultation, the Environmental Health team have not provided any comment or advise with regards to drainage or flood risk related implications. It is considered that the proposals would accord with the relevant local and national level planning policy in this regard.

### Other Matters

No other matters to be considered.

### Planning Balance

The principle of the proposed scheme of development is firstly considered to be acceptable. An acceptable form of design is presented and further to this the proposal is considered to not have a significant adverse impact on the residential amenity of the nearest neighbouring properties. In addition to this the scheme of development as proposed is considered to be acceptable on access and highways safety grounds and has achieved the support of the County Highways team at Derbyshire County Council. Subject to relevant planning conditions, the development proposal is considered to be acceptable when considered against the aims and objectives of the South Derbyshire District Local Plan, Supplementary Planning Documentation, and the National Planning Policy Framework. There are no material considerations that would warrant refusal of planning permission in this instance.

### **Conclusion**

The proposed provision of timber storage building, extension to existing timber and machinery store, installation of foul package treatment plant and laying out of parking spaces and revised yard access locations, together with new landscape screening for the existing woodyard and regularisation of historic log storage area at Buildings Farm, Ticknall Road, Hartshorne, Swadlincote, DE11 7AU is considered to be acceptable, and is considered to be in accordance with the relevant local and national level planning policy. None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

### **Recommendation**

**Approve** subject to the following Conditions: -

1. The development hereby approved shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in full accordance with the following details:
  - Application Form - Ref: N/A - 23 June 2023
  - Design and Access Statement - Ref: N/A - 23 June 2023
  - Phase 1 Geo-Environmental Assessment - Ref: EAL.68.23 Version 1.0 - 05 July 2023
  - Updated Certificate - Ref: N/A - 07 August 2023
  - Existing Site Survey Site 1 - Ref: 222-68-01 - 23 June 2023
  - Survey of Existing Site 2 - Ref: 222-68-02a - 23 June 2023
  - Proposed Site Plan Overview - Ref: 222-68-03a - 23 June 2023
  - Proposed Site Plan Site 1 - Ref: 222-68-04b - 07 August 2023
  - Proposed Log Storage Building Site 1 - Ref: 222-68-05a - 23 June 2023
  - Proposed Site Plan Site 2 - Ref: 222-68-06a - 23 June 2023
  - Existing Building - Site 2 - Ref: 222-68-07 - 23 June 2023
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  - Proposed Side, Rear and First Floor Plan - Ref: 222-68-09 - 23 June 2023
  - Proposed Retention of Log Storage Area - Ref: 222-68-10 - 23 June 2023
  - Location Plan - Ref: 222-68-11a - 07 August 2023unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.  
Reason: For the avoidance of doubt and in the interests of achieving sustainable development.
3. All external materials used in the development shall match those detailed within the approved plans and documentation. Any alternative details shall be first submitted to and approved in writing by the Local Planning Authority, whereafter the approved alternative details shall be incorporated into the development.  
Reason: In the visual interest of the built form and the surrounding area.
4. The use hereby permitted shall not be open outside of the times of Monday to Friday: 08:00am to 17:00pm, and Saturday: 08:00am to 13:00pm.  
Reason: To protect the amenities of neighbouring properties and the locality.
5. No logs or machinery shall be stored along the restricted byway. The visibility splays outlined within the approved documentation shall not be obstructed at any time.  
Reason: In the interests of access and the safety of the public using the route, and as recommended by the County Highways team and the Rights of Way team at Derbyshire County Council.
6. Retained trees and hedgerows shall be protected during construction.  
Reason: In the interests of ecology and biodiversity, to protect the amenity and visual interest of the locality, and as recommended by the Derbyshire Wildlife Trust at Derbyshire County Council.
7. No vegetation clearance during the period March to August (inclusive) unless preceded by a check for nesting birds by a suitably experienced ecologist no earlier than 24hrs in advance of planned works. Any active nests shall be left in situ and undisturbed until the young have fledged.  
Reason: In the interests of ecology and biodiversity, to protect the amenity and visual interest of the locality, and as recommended by the Derbyshire Wildlife Trust at Derbyshire County Council.
8. Biodiversity strategy including landscape planting and bird/bat boxes shall be implemented as per the layout plans (SG Design Studio drawings 222-68-06a and 222-68.04b).  
Reason: In the interests of ecology and biodiversity, to protect the amenity and visual interest of the locality, and as recommended by the Derbyshire Wildlife Trust at Derbyshire County Council.

9. Prior to the commencement of the development hereby permitted, a detailed full and comprehensive scheme of landscaping, planting, and turfing/ seeding shall be submitted to and approved in writing by the Local Planning Authority. Planting list to include at least 6 different native tree/ hedge species.

Reason: To ensure that the approved scheme is implemented in a speedy and diligent way, to protect the amenity of the locality, and in the visual interest of the surrounding locality.

10. The approved full and comprehensive scheme of landscaping, planting, and turfing/ seeding shall be implemented in full in the first planting and seeding season following the date of this planning approval. Any trees or plants which 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: To ensure that the approved scheme is implemented in a speedy and diligent way, to protect the amenity of the locality, and in the visual interest of the surrounding locality.

## **Informatives**

1. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
2. In the interests of existing Public Rights of Ways, and as recommended by the Rights of Way team at Derbyshire County Council:
  - The routes must remain open, unobstructed and on their legal alignments.
  - There should be no disturbance to the path surfaces without prior authorisation from the Rights of Way Section.
  - Consideration should be given to the safety of members of the public using the paths during the works. A temporary closure of paths will be permitted on application to DCC where the path(s) remain unaffected on completion of the development.
  - There should be no encroachment of the paths, and no fencing should be installed without consulting the Rights of Way Section.
3. The application site is abutted by a Public Rights of Way Footpath Nos. 29, 30, 31 and 32 as shown on the Derbyshire Definitive Map. The routes must remain unobstructed on their legal alignment at all times and the safety of the public using them must not be prejudiced either during or after development works take place. Further information can be obtained from the Rights of Way Duty Officer in the Economy, Transport and Environment Department at County Hall, Matlock or by emailing [ETE.PROW@derbyshire.gov.uk](mailto:ETE.PROW@derbyshire.gov.uk).

**Item No.** 1.4

**Ref. No.** [DMPA/2022/1080](#)

**Valid date:** 29/07/2022

**Applicant:** A Ward

**Agent:** Roger Yarwood Planning Consultant Ltd

**Proposal:** The erection of an amenity block Broughton Caravan Park, Plot 1a , Sutton Road, Church Broughton, Derby, DE65 5DB

**Ward:** Hilton

### **Reason for committee determination**

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

### **Site Description**

The application site is part of an existing traveller site for 5 families located within the open countryside, to the east of the settlement boundary of Church Broughton. Within the wider site there are a number of amenity buildings, hard surfacing and boundary treatments. The site is relatively flat and heavily screened from Sutton Road by hedgerows and trees, with a formal surfaced access and boundary wall and gates. There are no formal designations within the site with the closest residential properties being over 120m away to the north-west or over 250m away on Sutton Road.

### **The proposal**

The proposal relates to the construction of an amenity block within plot 1a on the site. This is one of the first plots within the site and the building would be located towards the north-western boundary of this specific plot. It would measure 6.2m x 8m with an overall height of 4.5m. Its design is simple in form, being single storey with a pitched roof and it would be constructed in brick and tiles.

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

The application is supported by the relevant application form, location, block, elevation and floor plans and a design and access statement.

### **Relevant planning history**

DMPA/2022/1498 - Change of use of agricultural land to a single pitch Traveller site and construction of a new access – Pending consideration.

DMPA/2021/1853 - The erection of an amenity block – Refused July 2022.

9/2018/0984 – The erection of amenity building incorporating a kitchen, bathroom and meeting room - Refused November 2018.

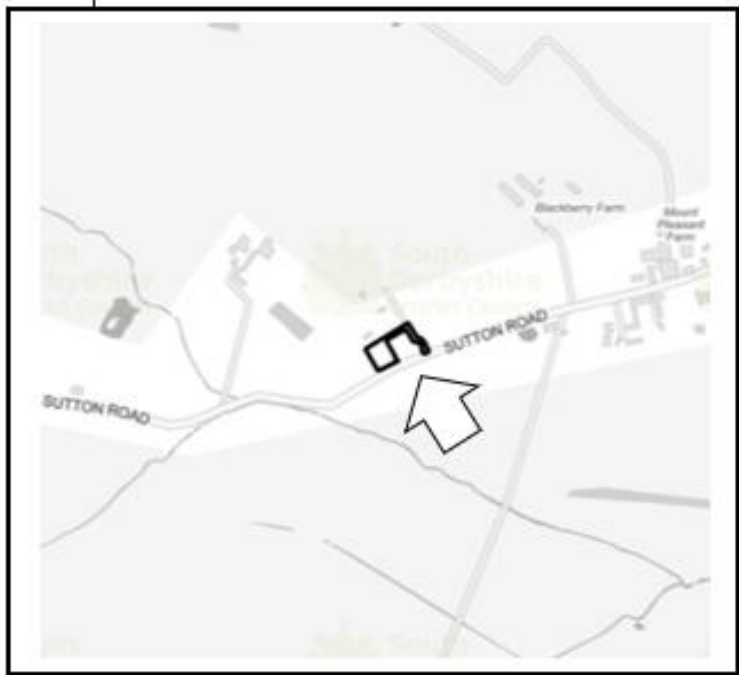
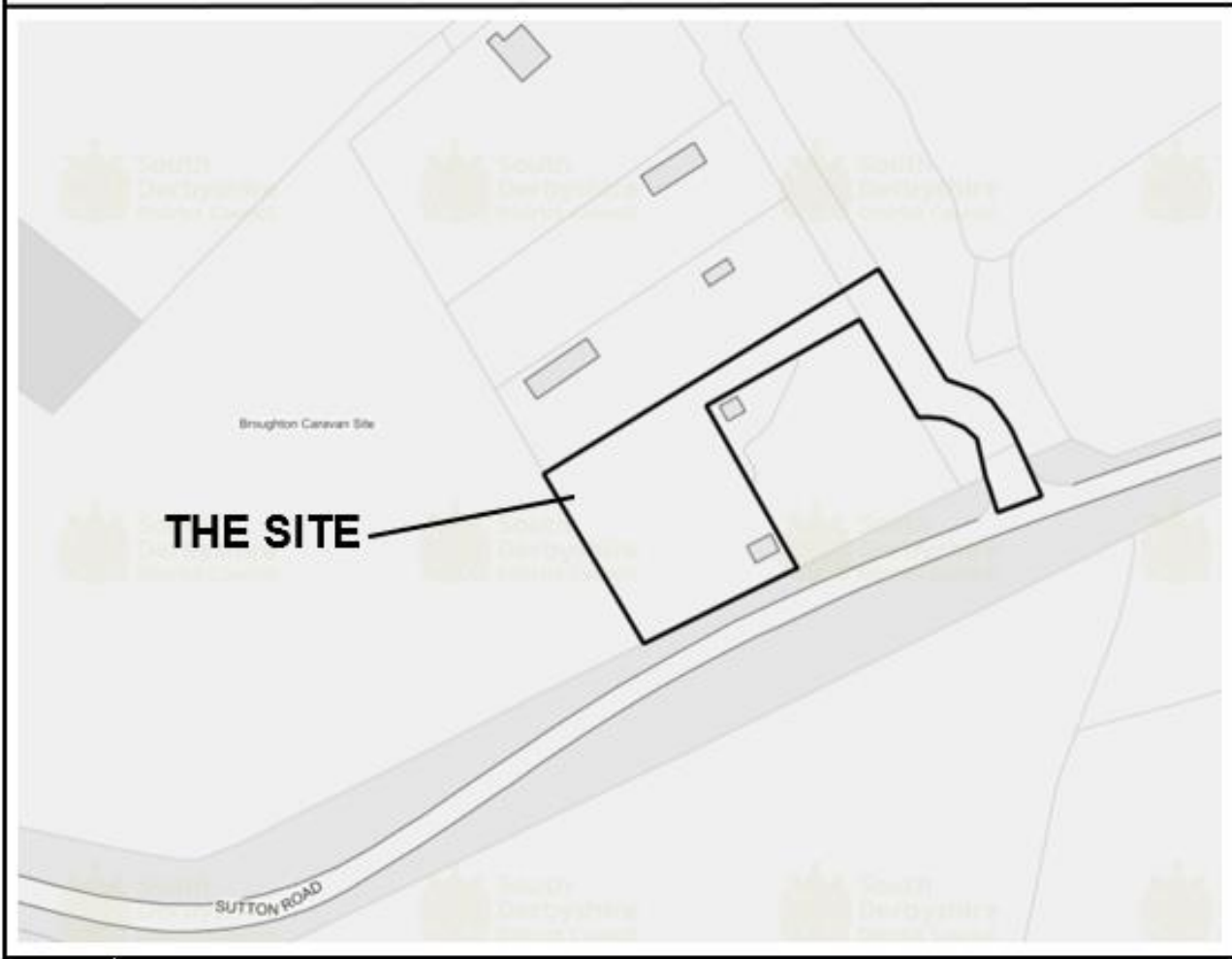
9/2016/0470 – The sub-division into 2 gypsy pitches and the erection of amenity buildings - Refused September 2016.

9/2014/0974 - The erection of an amenity block - Granted December 2014 (Amenity building measuring 8m x 4.5m of a height of 2.8m to eaves and 4.1m to the pitch).

9/2012 /0424 – Retrospective application for the retention of decking to plot one. application for proposed decking to plots 1a, 2, 3 & 4 and a timber shed to plots 1, 1a, 2, 3 & 4 - Approved, July 2012.



**DMPA/2022/1080 – Broughton Caravan Park, Plot 1a, Sutton Road, Church Broughton, Derby, DE65 5DB**



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**South Derbyshire District Council. LA 100019461.2020**

9/2010/1085 – Retrospective application for the change of use of land to use as a residential caravan site for four gypsy families, each with two caravans, including laying of hardstandings, improvement of access and erection of amenity blocks – Refused January 2011.

## **Responses to consultations and publicity**

Church Broughton Parish Council object to the proposal on the grounds of landscape impact, highways impact and broader enforcement concerns relating to the site.

One representation was received from neighbours as a result of publicity undertaken, objecting to the proposal on the grounds of landscape impact.

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

The relevant Development Plan policies are:

(2016) Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H22 (Sites for Gypsies and Travellers and for Travelling Showpeople) SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport).

(2017) Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas).

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document.

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Planning Policy for Traveller Sites (PPTS)

Noise Policy Statement for England (NPSE)

## **Planning considerations**

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

- Principle of development
- Scale, amount and design
- Landscape impact
- Highways impact

## **Planning assessment**

### Principle of development

The Development Plan forms the primary policy consideration, although the NPPF and Planning Policy for Travellers Site (PPTS) are material planning considerations capable of carrying weight. LP1 policy H22 sets criteria for assessment of the impact of such proposals and requires, amongst other things, that sites should not have an unacceptable impact on the surrounding landscape, and have adequate space for parking and turning, suitable landscaping and boundary enclosures and a safe and acceptable living environment. Policy H22 is not sensitive to settlement confines, recognising that such proposals often sit outside of settlements and/or adjoining them. Local Plan Part 2 policy BNE5 echoes these assessment criteria.

The principle of a larger amenity block on this plot has already been established in 2014 through the grant of planning permission for a 8m x 4.5m building. This application therefore relates primarily to the

proposed increase in floorspace beyond that initially consented.

#### Scale, amount and design

The previous application from 2021 was refused for the following reason:

'The necessary reduction in the footprint of the amenity block, in which to overcome the previous 2018 refusal reason, has not been made. The resulting visual impact is also exacerbated in this case by the relocation of the structure closer to the highway than the previous location to the rear of Plot 1A. The proposal therefore remains contrary to policies H22, BNE1 and BNE4 of the Local Plan Part 1, and Policy BNE5 of the Local Plan Part 2.'

Prior to this refusal, applications to increase the size of the amenity block were also refused in 2016 and 2018. The proposal that this application relates amounts to a reduction in size from the refused schemes but an increase from the one approved in 2014. Plot 1 to the east had an amenity block of 11m x 8m x 5.5m high granted prior to the appeal decision in August 2017. The Inspector in the 2017 appeal considered that the scale of the two amenity buildings would be the scale of a small bungalow (11m x 8m x 5.5m high). The Inspector considered having 2 amenity buildings of that scale on the one plot "would be materially intensive form of physical development on the overall site if this scale of amenity building was further repeated".

The 2018 application referenced proposed a series of buildings totalling 82sqm. The 2021 application proposed a reduction in floorspace of 9% at 75sqm. The proposal to which this application relates proposes a 39% reduction in floorspace compared to the 2018 application, with floorplans totalling just under 50sqm. This represents a 44% reduction in floorspace in relation to the larger amenity building approved at appeal on Plot 1. Whilst the building proposed is larger than that permitted in 2014 by 14sqm, overall it is considered that this is a substantial enough decrease in floorspace so that the proposal would be able to sit subserviently to the larger neighbouring amenity block.

The amount of development and the nature of spaces proposed are considered to be reasonable and proportionate for its intended end use, as amenity space for a large family residing on the plot within a static caravan. Accordingly, the proposal is aligned with the requirements of Policy H22 with regards to a safe and acceptable living environment.

#### Landscape impact

The Applicant has addressed concerns previously raised in relation to the building's siting and it has been moved further away from the road frontage. As a result, the proposed building is located closer to the existing cluster of development and more closely relates to the caravan park. Cumulatively, the addition of a further building on the site would not result in a significant detrimental visual impact on the surrounding landscape character. The proposal is enclosed within the existing development and would have negligible impact on already established long views to and across the site. As such, the proposal is considered to be in conformity with Policy H22.

#### Highways impact

The proposal relates to providing enhanced facilities for families already residing on the site and would therefore not result in any change or increase to vehicle movements. Notwithstanding the proposed additional building, there remains ample space for parking and turning within the curtilage of the plot. The proposal would therefore not result in detrimental highways safety impact and would accord with Policy INF2.

Taking these main issues into account, the proposal would not result in a conflict with the policy requirements of the Local Plan and is considered to be acceptable. The relevant constraints have been considered in the planning balance and no material harms have been identified that would warrant refusal of the application.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard

has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

### **Recommendation**

#### **Approve** subject to conditions

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

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

2. The development hereby permitted shall be carried out in accordance with the submitted plans, particulars and drawings validated on 29th July 2022; unless as otherwise required by condition attached to the permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

**Item No.** 1.5

**Ref. No.** [DMPA/2022/1498](#)

**Valid date:** 16/11/2022

**Applicant:** A Ward

**Agent:** Roger Yarwood Planning Consultant Ltd

**Proposal:** Change of use of agricultural land to a single pitch Traveller site and construction of a new access on Land West of Church Broughton Caravan Park, Sutton Road, Church Broughton, DE65 5DB

**Ward:** Hilton

### **Reason for committee determination**

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

### **Site Description**

The site is located within the open countryside adjacent to an existing traveller site which accommodates up to 5 families. It is relatively flat and heavily screened from Sutton Road by hedgerows and trees, with a hole punctuated into it to provide access to the site. Church Broughton PROW 8 runs south-east to north-west across the site. The site has been cleared and a close boarded fence now encloses it.

### **The proposal**

The proposal is for the retention of the site entrance, a 2m high close boarded timber fence which encloses the entire site and the change of use of the site to provide for a single pitch traveller site.

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

The application has been supported by the relevant application form, site location and block plans.

### **Relevant planning history**

There is no relevant planning history relating to the site available on the Council's record.

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

DCC Footpaths object on the grounds that the proposal makes no provision to divert the PROW running through the site and as such access would be restricted.

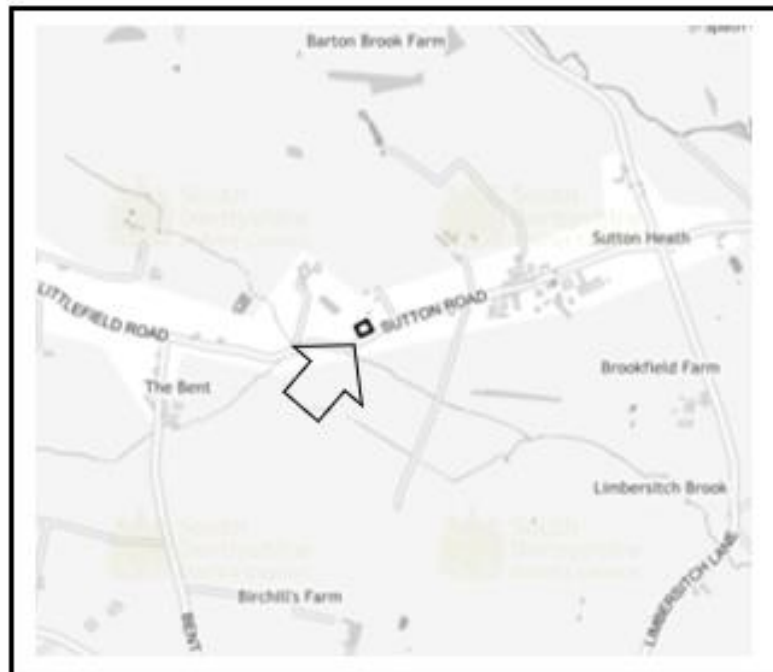
DCC Highways are unable to provide comments on the basis of insufficient information submitted in relation to parking layout, visibility splays and diversion of the PROW.

Church Broughton Parish Council object on the grounds of impact on the PROW, highways safety, the suitability of the site for residential development and occupier amenity.

8 representations have been received from the public, objecting to the scheme. These are summarised as follows:

- a) Ecological impact – destruction of mature hedgerows
- b) Highways safety – suitability of siting of access
- c) Drainage – surface water flooding
- d) Principle of development – loss of open countryside
- e) Principle of development – unsustainable location

**DMPA/2022/1498 – Land West of Church Broughton Caravan Park, Sutton Road, Church Broughton, DE65 5DB**



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f) Design – negative impact on the streetscene

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

The relevant Development Plan policies are:

(2016) Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H22 (Sites for Gypsies and Travellers and for Travelling Showpeople) SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport).

(2017) Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas).

The relevant local guidance is:

Derby, Derbyshire, Peak District National Park Authority and East Staffordshire Gypsy and Traveller Accommodation Assessment 2014 (GTAA)  
South Derbyshire Design Guide Supplementary Planning Document.

The relevant national policy and guidance is:

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

### **Planning considerations**

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

- Principle of development;
- Design and layout; and
- Highways and access.

### **Planning assessment**

#### Principle of development

This is a retrospective application relating to the construction of a single pitch Traveller site with associated access, comprising two caravans and with provision for two motor vehicles on agricultural land. The site is located westwards of and adjacent to the existing Broughton Caravan Park, of which the Applicant is also under ownership and a resident of.

As this application relates to Gypsy and Traveller development, along with the relevant Local Plan policies and the NPPF, the Planning Policy for Traveller Sites (PPTS) is also a material consideration. This national policy document carries the same weight as the planning policy for Traveller sites, with the aim of ensuring the fair and equal treatment of Travellers, in a way that facilitates their traditional and nomadic way of life whilst respecting the interests of the settled community. As stated within the PPTS, to benefit those engaged in planning for Traveller sites the Government considered it necessary to identify specific planning policies for Traveller sites, which are clearly set out in this separate document.

It is also key to mention the Derby, Derbyshire, Peak District National Park Authority and East Staffordshire Gypsy and Traveller Accommodation Assessment 2014 (GTAA). This study identifies the future accommodation needs within the geographical area referenced, and covers the period 2014/15 to 2034/35. In the case of South Derbyshire there is an identified need for 14 new pitches over the period April 2014 to March 2019, with a subsequent need for 7 pitches between April 2019 to March 2024 and following that, for the provision of 8 and 9 pitches for each 5-year period thereafter, up to

2034.

Insofar as the principle of development is concerned, in accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the development plan, which in this case includes the adopted South Derbyshire Local Plan Part 1 and Part 2.

The application site is situated within the countryside. Policy STD1 (Settlement Boundaries and Development) explains that within rural areas 'development will be limited to that considered acceptable inter alia by Policy BNE5'. Policy BNE5 (Development in Rural Areas) sets out that 'planning permission will be granted where the development is  
i) Allowed for by policies H1, H22, E7, INF10, H24, H26, H27 or H28...; and  
v) will not unduly impact on: landscaping character and quality, biodiversity, best and most versatile agricultural land, and heritage assets'.

Policy H22 (Sites for Gypsies and Travellers and for Travelling Showpeople' is a two-part policy. The initial part sets out that the Council will establish targets for new pitches on the basis of 'need' identified in the most recent GTAA and that this 'need' will be met through site allocations identified within a Site Allocations Development Plan Document. The second part of the policy is criteria based for the purpose of assessing site allocations and individual applications.

Given the proposal is situated adjacent to Broughton Caravan Park, an existing and established traveller site, the principle of development for this nature of use is already established and the proposal is in accordance with policies BNE5 and H22.

#### Design and layout

Local Plan Policy BNE1 seeks to ensure that all new developments are well designed and embrace the principles of sustainable development. Specifically in relation to Traveller sites, Criterion (iv) of Policy H22 requires that sites provide adequate space for parking, turning and servicing of vehicles.

The proposal is for a single pitch, with parking for two caravans and two associated vehicles. A 2m high panelled fence is proposed as boundary treatment. No further development by way of permanent buildings or landscaping is proposed. The scale and layout proposed is considered reasonable and would be commensurate with the number of residents proposed to occupy this site.

The site is located in a rural area but is not subject of any special landscape constraints. Specifically, in regards to Gypsy and Traveller development, policy H22 (vii) seeks to ensure that sites have suitable landscaping and boundary enclosures, to provide privacy to both occupiers and local residents. The addition of one further pitch is seen as a modest extension to the existing caravan site to the east, which would overall have negligible impact on the existing landscape character and would be seen, as a whole, as part of the adjacent site. The proposed 2m high timber fence would provide additional screening beyond the existing hedgerow fronting Sutton Road, to help minimise visual impact whilst not deliberately isolating the development from the rest of the community. As such, the proposal accords with the relevant criteria of policies BNE1 and H22.

#### Highways and access

A new, single access point is proposed from Sutton Road. This is approximately 65m west from the existing access point to the adjacent caravan site. Given the development proposes a single pitch, the associated vehicles movement to and from the site would not be significant. Although visibility splays have not been provided by the Applicant, the balanced view is taken that from the conditions presented along Sutton Road, it is reasonable to suggest that safe and suitable access can be taken from the site in this circumstance. In regards to parking and turning provision, more than adequate space would be provided on the site for the purpose, allowing vehicles to exit the site in a forward direction. Accordingly, the proposal meets the relevant criteria of policies H22 and INF2.

Representations have raised the requirement for the No.8 footpath, which runs diagonally through the application site, to be diverted. Whilst this process itself is independent to the planning assessment of



the application, provisions have been made within the proposed plans to appropriately divert the footpath. Rerouting around the application site's perimeter is considered to be a reasonable and deliverable diversion, without significant impact on users.

Taking these main issues into account, the proposal would not result in a conflict with the policy requirements of the Local Plan and is considered to be acceptable. The relevant constraints have been considered in the planning balance and no material harms have been identified that would warrant refusal of the application.

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

## **Recommendation**

**Approve** subject to conditions.

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

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

2. The development hereby permitted shall be carried out in accordance with the submitted plans, particulars and drawings validated on 16th November 2022; unless as otherwise required by condition attached to the permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. The site shall not be occupied by any persons other than gypsies and travellers as defined in the Government guidance 'Planning Policy for Traveller sites' (August 2015), or any Government guidance which amends or replaces that guidance.

Reason: The creation of a residential use in this location would not normally be permitted and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy these requirements.

4. There shall be no more than one pitch on the site and no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 (as amended) & the Caravan Sites Act 1968, shall be stationed at any time of which only one caravan per pitch shall be a residential mobile home/static caravan.

Reason: The creation of a residential use in this location would not normally be permitted and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy these requirements and to the number that has been justified, so to preserve the character of the locality and ensure the occupation of the site does not dominate the nearest settled community.

5. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

Reason: To safeguard the amenities of nearby occupiers and/or in the interests of highway safety.

Informatives:

1. The grant of planning permission does not entitle the developer to obstruct any Public Right(s) of Way (PRoW) affected by the proposal. An application to divert the footpath under the relevant Section of the Town and Country Planning Act 1990 shall be made. It should not be assumed that because planning permission has been granted an order will invariably be made or confirmed.

**Item No.** 1.6

**Ref. No.** [DMPA/2023/1043](#)

**Valid date:** 23/08/2023

**Applicant:** P Harris

**Agent:** Channel Design Limited

**Proposal:** Change of use to Sui Generis (cafe and drinking establishment) and proposed kitchen extract flue at Notsa, 7 Derby Road, Aston-on-Trent, DE72 2AE

**Ward:** Aston

### **Reason for committee determination**

This item is presented to the Committee as it has been called in by Councillor Corbin.

### **Site Description**

The application site is located on the western side of Derby Road, Aston-on-Trent. No. 7 Derby Road is part of a two-storey terrace row that fronts directly onto Derby Road and is primarily occupied by businesses, including Notsa. To the north of the site is the White Hart Inn public house and car park, which is separated from 7 Derby Road by a small strip of privately owned land. To the immediate north-west is a small residential building no. 21A Derby Road (White Hart Cottage), whilst the gardens of residential properties are located to the west and south. The southern part of the terrace row is also a dwelling. The site is located centrally within the settlement boundary for Aston-on-Trent and is also within the Conservation Area.

The site was granted planning permission in 2022 (ref. DMPA/2021/1281) for the change of use from B2 (garage) to Class E (café), insertion of new rooflight windows, insertion of new first floor window, erection of kitchen flue, and alterations to existing side elevation to replace window openings. A change to the approved plans was granted earlier this year (ref. DMPA/2022/1461) which permitted amendments to the exterior of the building.

The site has a premises licence (no. LAPRE/0403) which authorises the sale by retail of alcohol for consumption on and off the premises, late night refreshment, and live and recorded music (indoors). The licence was issued in February 2022 and was last amended in April 2023.

### **The proposal**

The current planning application has been submitted in response to an enforcement enquiry. The proposal is for the change of use of the building to Sui Generis (cafe and drinking establishment) and proposed kitchen extract flue. The principle of the café (use class E) and installation of a flue have been accepted under the previous planning permissions. This current application seeks to incorporate 'drinking establishment' as part of the approved use and to agree the detail of the flue.

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

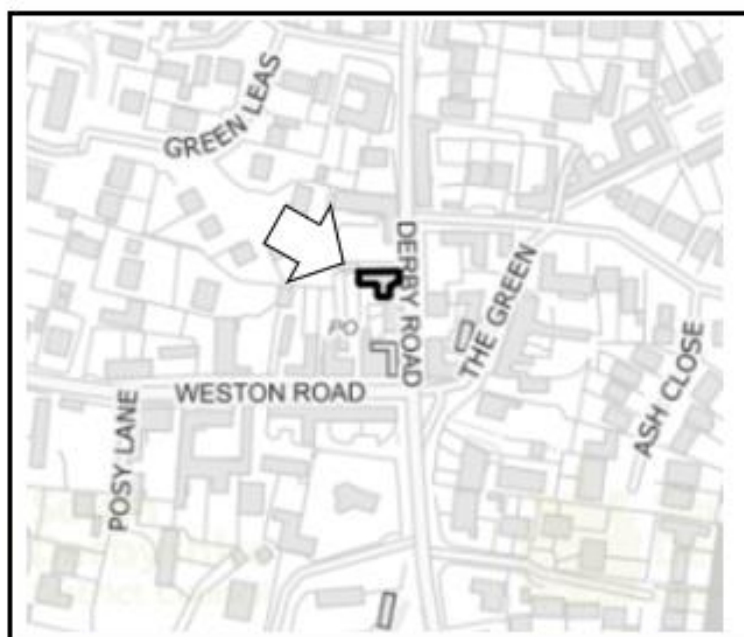
#### Planning Drawings

Existing Plans and Elevations 06C (final version received 25 September 2023)

Proposed Plans and Elevations 07B (final version received 25 September 2023)

It should be noted that some very minor alterations were made to the planning drawings between the original planning submission and point of recommendation including: incorporation of a first floor window on the northern elevation (an existing window that was omitted in error); labelling of the bin store on the plans; and some minor non-material amendments to the direction of door openings in response to neighbour comments.

**DMPA/2023/1043 – 7 Derby Road, Aston-on-Trent, DE72 2AE**



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## Heritage Statement (22 August 2023)

This document provides a brief assessment of the proposed flue on the Conservation Area by the applicant's agent.

### **Relevant planning history**

DMPA/2021/1281 Change of use from B2 (garage) to Class E (café), insertion of new rooflight windows, insertion of new first floor window, erection of kitchen flue, and alterations to existing side elevation to replace window openings - approved

DMPA/2022/1461 The variation of condition no.4 of permission ref. DMPA/2021/1281 (relating to approved plans) for change of use from B2 (garage) to Class E (café), insertion of new rooflight windows, insertion of new first floor window, erection of kitchen flue, and alterations to existing side elevation to replace window openings - change to design of the doors on the front elevation - approved

DMOT/2022/0592 Approval of details required by condition 4 (including details of the flue) attached to ref. DMPA/2021/1281 – pending consideration

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

#### Aston on Trent Parish Council

Sui Generis is not a requirement for this establishment and Class E (current classification) is sufficient for the needs. It is noted that Maloka are the owners and Derby Brewing Company are the tenants who wish to apply for the Sui Generis class. The Parish Council request a hold on any decision until satisfied of the justification for the request for Sui Generis class. The provided Heritage Statement relates to the flue alone but does not reflect the correct positioning of the flue. In addition, there are previous outstanding restrictions to be addressed including the position of the footway and associated tarmac to allow disabled access, which has been altered and despite request to remove, still remains. Request for this to be a full committee rather than delegated officer decision (27 September 2023).

#### Environmental Health

*Initial Response* – The response was based on the relevant technical reports submitted in support of the application. The key potential environmental impact of the development was identified as the potential exposure of existing sensitive receptors to new sources of noise / air quality / odour / light associated with the development. The response included the EHO's odour risk assessment which identified the odour control requirements as 'low'. The EHO was satisfied that the impacts of the proposed development will be acceptable in planning policy terms provided that conditions be attached related to the specification for the internal air extraction unit. (05/09/2023).

*Subsequent Response* (clarifications in light of some neighbour concerns) – For the purposes of the odour impact assessment the distance to receptor is taken as the distance between the flue and the façade of the nearest residential dwelling. I understand that the small building immediately to the north-west of the development site is considered to be a residential dwelling, I have therefore amended the proximity of receptors risk calculation to reflect this.

I agree that the terminus will be inside the canopy of an existing tree. I'm not qualified to offer an opinion about the potential impact of this on the flora and fauna associated with the tree and whether this is of any material relevance to planning policy. I agree that the tree canopy will inhibit the dispersion of cooking fumes and therefore this will increase the risk of adverse impacts from odour. If approved, the design of the odour controls associated with the extract ventilation will need to take account of this – so for example I would expect to see enhanced odour control techniques such as carbon filtration or electrostatic precipitation as part of the design spec.

The score for cooking type contained within my consultation response is based on the food menu published online NOTSA, ASTON ON TRENT - FOOD MENU — Derby Brewing and which is more akin to a tea-rooms than a pub producing a 'high level of fried food'. If the premises is generating high levels of fried food then this will increase the probability of odour production.

The risk assessment has been revised to provide a worst case risk calculation based on changes to the 'dispersion', 'proximity of receptors' and 'cooking type' criteria. The total risk score = 36. The odour control requirements are therefore considered to be 'very high'. The specification of the system will need to be proportionate to the level of risk and due regard will need to be given to the guidance in order to achieve an appropriate specification. (19/10/2023)

#### County Highways Authority

No objections (01/09/2023)

#### Conservation Officer

The proposal for the flue was discussed in a meeting with the Council's Conservation Officer on 6 September 2023. The flue would be to the rear of the building and not easily visible from public views within the Conservation Area. No objections were raised.

#### Tree Officer

I would suggest that the Applicant seeks guidance from the flue installer regarding the overhanging branches and the performance of the flue. The presence of the tree overhanging the roof is unlikely to be considered a material concern as the issue can be resolved by pruning the tree. The tree is on neighbouring land and under Common Law the Applicant could cut back the branches to the boundary but as the tree is in the Conservation Area they would require consent from SDDC. (24/10/2023).

#### Neighbour Reponses

Eleven comments were received from 9no. respondents within the local community raising concerns and objections related to the following matters.

- a) Ambiguity in the proposal – 'sui generis' is not a widely used term that may be misunderstood;
- b) Concern that the application would 'open the door' for the café use to be depleted and the business to operate purely as a drinking establishment;
- c) Uncertainty in the difference between the proposal and the current trading pattern;
- d) Inaccuracy in plans – doors opening outwards when they open inwards, and no bin store shown;
- e) Lack of kitchen ventilation and extraction unit and emphasis that previous planning permissions required this.
- f) Insufficiency of information related to the proposed extraction unit;
- g) Proposed location of flue contrary to standards for ventilation requirements;
- h) Impact of flue on flora and fauna with particular reference to a tree canopy that overhangs the building;
- i) Question as to whether the Council would monitor the impact of any future extraction unit;
- j) Some inaccuracy highlighted in the first EHO response;
- k) Complaints related to noise for passers by and neighbours, both from talking and music, exacerbated by open windows;
- l) Antisocial behaviour including public drinking on the pavement, fighting in the street and other 'drunken antics';
- m) Impact of antisocial behaviour on neighbouring businesses;
- n) Concern related to compliance of building, particularly door openings, with fire regulations;
- o) Unauthorised changes to exterior of the building including alteration to windows on northern elevation, and illuminated signage;

- p) Highways safety concerns arising from insufficient parking and increase in traffic;
- q) Bins are left on the pavement or road;
- r) Criticism of the Council – question as to whether planning and licensing departments liaise on issues, and suggestion that retrospective applications are subject to ‘rubber stamping’;
- s) Civil matters – no right of access over neighbouring land.

One neighbour raised concern that they had not received a letter of notification about the planning application; however a letter had been sent to the address of the building immediately bordering the site within the neighbour’s ownership. A site notice was installed and advertisement placed in the newspaper to fulfil statutory publicity requirements.

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

The relevant Development Plan policies are:

- Local Plan Parts 1 and 2: RTL1 (Retail Hierarchy), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE2 (Heritage), BNE10 (Heritage)

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

### **Planning considerations**

The determining issues are as follows:

1. Principle of the development;
2. Amenity;
3. Other Matters.

### **Planning assessment**

#### Principle of the Development

The application site is located within the settlement boundary for Aston-on-Trent which is a key service village in the Local Plan. Policy RTL1 sets the retail hierarchy and supports development within use classes ‘A1-A5’ within key and local service village centres, such as Aston-on-Trent.

The principle of the use of the building for a café with extraction unit flue was accepted as part of planning permission DMPA/2021/1281, approved in 2022.

There has been a change to the Use Classes Order since the Local Plan was adopted, which has resulted in a reclassification of some uses. This revoked classes A1-A5 and incorporated them into use classes F2, E and sui generis (the latter meaning ‘a class of its own’). Although now part of ‘sui generis’, ‘drinking establishment’ was formerly use class A4 and the incorporation of this use would therefore be in accordance with Policy RTL1 and acceptable in principle.

#### Amenity

Policy BNE1 sets out principles for design excellence, which is supported by the detail within the South Derbyshire Design Guide SPD. Policy SD1 states that the Council will support development that does

not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments.

The concerns of the local community are noted in respect to the noise, disturbance and odour impacts of the proposal. The Council's Environmental Health Officer (EHO) has been consulted as part of the planning process and raises no objections.

The Council's EHO raises no objection to the incorporation of drinking establishment into the uses of the building, which is already subject to controls set out in the requirements of the premises licence including hours to restrict the timing for music, provision of refreshments and the general opening hours of the premises, as well as other matters. It is recommended that the hours of operation from the premises licence be reflected in any forthcoming planning permission.

In relation to the flue, Officers would note that the requirement of a flue was established in principle under planning ref. DMPA/2021/1281. The current application therefore seeks to establish the acceptability of the placement of the flue only, which is primarily an aesthetic and visual matter related to the potential impact on the Conservation Area.

Notwithstanding this, the Council's EHO has undertaken a preliminary risk assessment related to the amenity impact of the extraction unit. This was revised in response to neighbour comments which highlighted that there were residential receptors in closer proximity to no. 7 Derby Road than previously anticipated. The EHO has recommended that a condition be attached to any forthcoming permission for the detailed specification of the flue to be agreed within 3 months of any decision and prior to installation. It is questionable whether this condition would be reasonable or necessary, when the principle of the flue was approved previously and a condition already exists to secure details of this, with live application under consideration (ref. DMOT/2022/0592). However, taking into account comments from the neighbours (that previous planning permissions required submission of the extractor unit details); also noting that details were not provided for the flue under DMOT/2022/0592, it is recommended that such a condition be added should the current application be approved by Planning Committee. (Note, the applicant has already requested a meeting with the EHO to discuss the extraction unit specification).

In the absence of adequate ventilation, a window on the northern elevation of the building appears to have been removed and replaced with a temporary plywood opening. It is recommended that a condition be attached to any forthcoming application to ensure that this window once the extraction unit is installed to ensure no harm to the Conservation Area in accordance with policies BNE2 and BNE10.

Subject to the conditions for timing of operations and to secure details of the extraction unit, it is considered that the proposal would meet the requirements of policies BNE1 and SD1.

### Other Matters

The Council's Conservation Officer raised no objection to the positioning of the flue within the Conservation Area. The flue would be to the rear of the building and not easily visible within public views from the Conservation Area.

Neighbours queried whether the proposed flue would meet Building Regulations and other standards. The requirements of Building Regulations would be considered separately and is not material in consideration of this application. The Council would not routinely monitor to ensure operation of the extractor and flue complies with the agreed specification and details, this could be investigated if complaints are raised. As well as planning enforcement, it is noted that the Council has separate powers under environmental and other laws related to statutory nuisance.

The Council's Tree Officer was consulted on the potential impact of the flue on the canopy of the tree that overhangs the building. This matter is not considered to be material in determination of the application. It is recommended that an informative be added to any forthcoming permission to highlight that pruning work to the tree would require consent as the tree is located in the Conservation Area.



The comments from neighbours related to the insufficiency of parking and related highways safety matters are noted. The sustainable location of the development in the Key Service Village of Aston-on-Trent is noted, and highways and parking matters were accepted previously under planning permission DMPA/2021/1281. The change in use from café to sui generis (café and drinking establishment) would not materially affect highway safety or the parking requirement for the development, as the capacity of the building and therefore intensity of use would not be affected.

Several comments were made related to antisocial behaviour in the streets from visitors to Notsa, including noise and general disruption. Whilst this is concerning, the planning application and role of the Planning Committee is to establish the acceptability of the proposed use. The acceptability of this use should be separated from the potential misbehaviour of individuals, which is outside the remit of planning control and would be regulated by the premises licence and police if necessary.

It is accepted that the term 'sui generis' is not widely used outside of planning and that the proposal may be misunderstood. The development description does however include 'café and drinking establishment' which are familiar terms. It is recommended that any forthcoming planning permission restrict the use of the building to this mix of uses with a suitably worded condition. Any material deviation, including to solely a 'drinking establishment', from this description or use would very likely require submission of a further planning application.

It is noted that there may be limited difference between the trading pattern observed currently and following any planning permission, given that the nature of the application is retrospective and thus the use is in place.

The inaccuracies in plans highlighted in relation to the direction of door openings are not material in the determination of the planning application, however the plans were updated to correct these matters nonetheless. The location of bin storage was also added to the final plans and with such storage in place there is no planning reason for bins to be left on the pavement.

Compliance of the building with fire and building regulations are not material planning considerations, nor are land ownership and access issues over neighbouring parties land. This includes the point raised by the Parish Council related to the footway and associated tarmac, which is said to have been altered. It is recommended that suitably worded informatives be incorporated into any forthcoming permission to make the applicant aware of these concerns and that planning permission would not preclude any requirements of separate legislation.

It is noted that there does appear to be illuminated signage attached to the building. A separate application under the Advertisement Regulations would be required to regularise this and it is recommended that an informative be added to any forthcoming permission to highlight this.

Some criticism was directed towards the Council, it was suggested that planning applications are 'rubber stamped' and questioned whether planning and licensing departments liaise. Officers report recommendations to the 'delegated authority' or Planning Committee in accordance with the Scheme of Delegation and constitution. Planning and licensing are covered by separate legislation and permission from both disciplines would be required in this case. Departments consult each other on such applications, in the way that the planning department has liaised with licensing on this case.

### Conclusion

Section 38 (6) of the Planning and Compulsory Purchase Act (2004) sets out that the determination of applications must be made in accordance with the development plan, unless material considerations indicate otherwise. The proposal to retain change the use of the building from café to café with drinking establishment would be in accordance with policy RTL1 and acceptable in principle. Amenity impacts related to the incorporation of drinking establishment into the use of the building and the flue would be able to be controlled subject to limits related to hours of operation and conditions to secure further detail of the proposed extraction unit. It is considered with conditions in place these matters could be appropriately managed. Accordingly, the application is recommended for approval subject to conditions.

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

## **Recommendation**

Approve with conditions.

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings ref: Existing Plans and Elevations 06C (final version received 25 September 2023), Proposed Plans and Elevations 07B (final version received 25 September 2023), unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: In accordance with policy BNE1 of the Local Plan and for the avoidance of doubt and in the interests of achieving sustainable development.

3. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Article 3 and Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), this permission shall relate to the use of the premises for café and drinking establishment (Sui Generis) as described in the application documentation and for no other purpose.

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

4. Prior to installation and commissioning, full details and specifications of the scheme for internal air extraction, odour control, and discharge to atmosphere from cooking operations, shall be submitted to and approved in writing by the local planning authority. The scheme shall include manufacturers plant noise levels. The equipment shall thereafter be maintained in accordance with the manufacturer's instructions and operated at all times when cooking is being carried out unless otherwise agreed beforehand in writing with the local planning authority.

Reason: To protect the amenities of nearby residents and comply with policy SD1 and policy BNE1.

5. Within 1 month following installation of the extraction unit, the arch framed window on the northern elevation that has been altered to provide temporary ventilation shall be reinstated with detailing as per the original window.

Reason: In the visual interest of the area and in accordance with policies BNE1, BNE2 and BNE10.

## Informatives:

- a. This permission is restricted to the use as applied for i.e. cafe with drinking establishment. Any changes to the use in future would be likely to require submission of a further planning application.

- b. This planning permission does not permit the applicant to erect any advertisements or signage. Signage on the exterior of the building, such as has been erected, would require a separate application under the Advertisement Regulations.
- c. The applicant is advised that concerns were raised by members of the local community related to the fire safety arrangements for the building, including the direction of opening of particular doorways. Also the Parish noted there may be an issue with the footway and tarmac in front of the property which are noted to have been altered. Planning permission does not override the requirements of other legislation such as the Building Regulations, Health and Safety Act etc. and it is recommended that the applicant seeks to comply with such requirements.
- d. The applicant's attention is drawn to the comments from the neighbours that there is no right of access over neighbouring land. It is recommended that the applicant liaise with the relevant parties regarding these civil matters.
- e. The applicant is advised that a tree canopy overhangs the building and that as the tree would be protected by virtue of its location in the Conservation Area, any pruning would require prior consent from the Local Planning Authority.

**Item No.** 1.7

**Ref. No.** [DMPA/2023/0979](#)

**Valid date:** 31/07/2023

**Applicant:** Gerard Pearce

**Agent:** Planning Design

**Proposal:** **Retrospective application for the creation of a maintenance track on Land at Badway Lane, Church Broughton, Derby**

**Ward:** Hilton

### **Reason for committee determination**

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

### **Site Description**

The site is a field to the north of Badway Lane to the east of the village of Church Broughton and to the east and north of the school playing field. The site slopes gently to the north away from Badway Lane and the village and the field is bounded by hedgerow and boundary trees.

### **The proposal**

This retrospective application seeks permission for the extension of the access track permitted by DMPA/2020/0727 which was part of the proposal for the change of use of the field from agricultural to equestrian use and involved the creation of a Menage, and the sub-division of the field into six separate paddocks. The extended track would be used for maintenance of the site boundaries.

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

The applicant has submitted the relevant application form, location plan and site plan as well as a covering letter setting out the need for the track which is stated as required for the maintenance of the boundaries.

### **Relevant planning history**

DMPA/2020/0727 - Change of use of an existing agricultural field to equestrian use along with creation of a manege and associated works - Approved 27/11/2020

DMOT/2021/0249 - Approval of details required by condition(s) 6 & 7 of permission ref: DMPA/2020/0727 relating to change of use of an existing agricultural field to equestrian use along with creation of a manege and associated works - Approved 14/11/2022

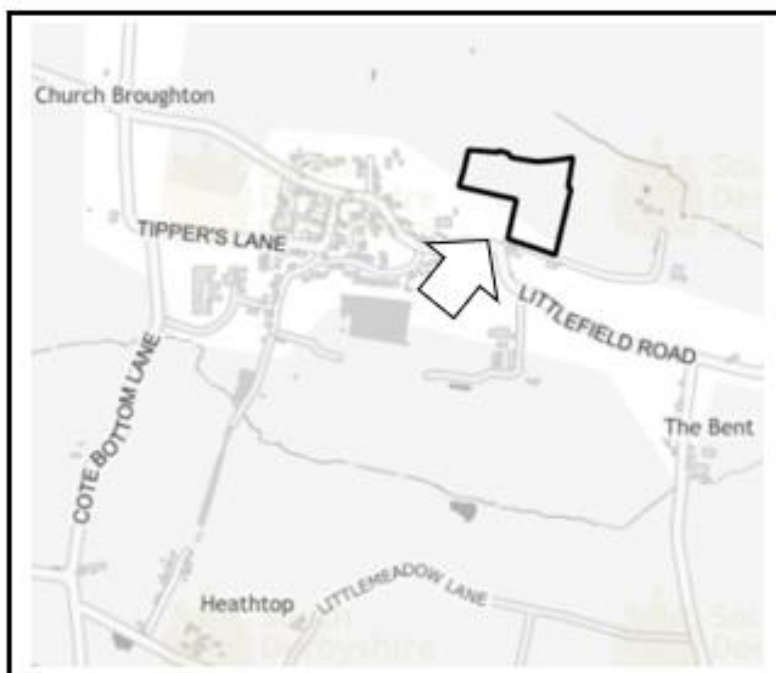
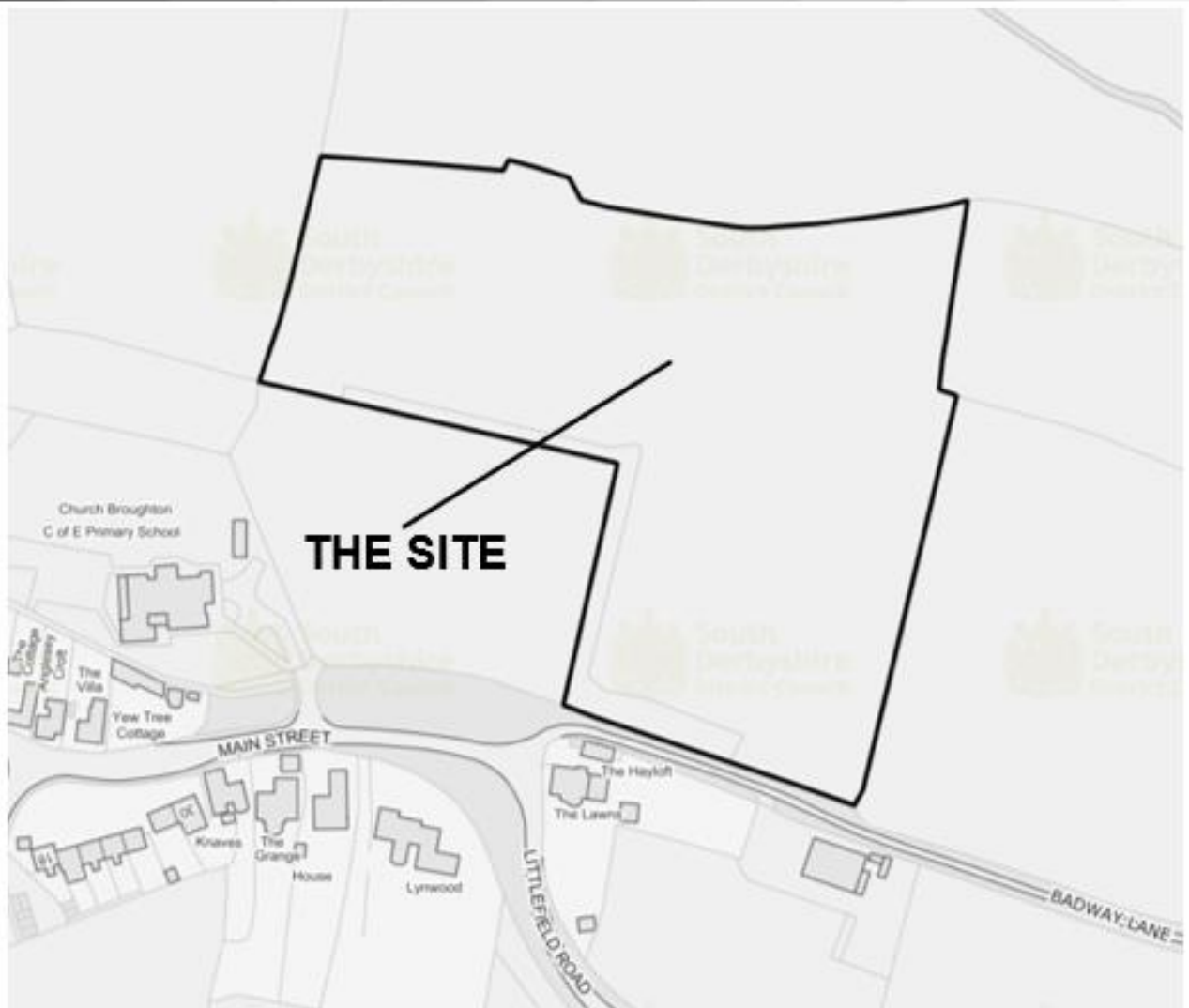
DMPA/2023/0981 - Retrospective application for the creation of bunds - Pending

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

County Highways - No response received at the time of writing this report.

Church Broughton Parish Council - objects to the planning applicaiton on the basis that the tracks were installed without permission and are completely unnecessary. Maintenance of these hedgerows like all others in the rural countryside has always been carried out from the field edge without the need for stone maintenance tracks.

**DMPA/2023/0979 – Land at Badway Lane, Church Broughton, Derby**



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South Derbyshire District Council

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Eight letters of objection have been received from members of the public these can be summarised as follows:

- a) Scale and state of the maintenance path out of proportion with the original permission;
- b) Not clear why a paddock for horses needs a track all the way round the field;
- c) Cant see why a paddock for horses needs anything other than the natural drainage it has always had;
- d) Questions whether there are alternative future plans for the site
- e) It is disingenuous to present as retrospective as the track is not 5.5m wide;
- f) 'Additional' track not required and excessive for the proposed use set out in the original approval;
- g) Site plan not clear in terms of where track is meant to be;
- h) Badway lane is only 4m wide, why would the track need to be wider.
- i) The applicant is presenting the 6 horse paddocks as each being 1 acre in area despite losing notable amounts of space to the maintenance track;
- j) Loss of grassed area raises questions of both animal welfare and the business case for the development;
- k) Bund and track will be very noticeable and impact on the landscape;
- l) Widening of entrance seems overspecified;
- m) Re-surfacing of Badway lane has made the site very accessible. Will this accessibility lead to further development in a few years time;
- n) Maintenance track not required for maintaining the hedgerow;
- o) adverse visual appearance
- p) Works undertaken without permission;
- q) Real use appears to be undisclosed;
- r) No justification for this vandalism and disregard for planning law;
- s) Bund will have an impact on drainage;
- t) Why does the width of Badway Lane need to be increased;

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

The relevant local policies are:

(2016) Local Plan Part 1 (LP1): S2 (Presumption in favour of sustainable development), E7 (Rural development), SD1 (Amenity and environmental quality), BNE1 (Design excellence), BNE3 (Biodiversity), BNE4 (Landscape character and local distinctiveness), INF2 (Sustainable Transport).

(2017) Local Plan Part 2 (LP2): SDT1 (Settlement boundaries and development), BNE5 (Development in rural areas).

The relevant national guidance is:

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

The relevant local guidance is:

Design Guide Supplementary Planning Document (SPD)

### **Planning considerations**

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

- Principle;
- Character and Visual Amenity; and
- Highways/Access;

## Planning assessment

### Principle

Policy SDT1 states that "Outside settlement boundaries and allocated sites, within the rural areas as defined in policy H1, development will be limited to that considered acceptable inter alia by Policy BNE5". Policies specifically referenced in BNE5 as well as other criteria are set out below:

- i. *allowed for by policies H1, H22, E7, INF10, H24, H25, H26, H27 or H28; or*
- ii. *Otherwise essential to a rural based activity; or*
- iii. *Unavoidable in the countryside; or*
- iv. *iv) considered to be infill that is in keeping with the character of the locality and represents the infilling of a small gap for not normally more than two dwellings, within small groups of housing; and*
- v. *will not unduly impact on: landscape character and quality, biodiversity, best and most versatile agricultural land, and heritage assets.*

The original consent for the change of use of the land was accepted as appropriate in the countryside as that proposal was considered to comply with criterion ii) being unavoidable outside settlement boundaries - as the keeping of horses requires the use of a large area of land. In addition, the proposal was submitted with a business case and therefore also demonstrated that the proposed new use would diversify and expand the range of employment activities on land outside settlement boundaries. Whilst it is not usually the case that a track is required to maintain field hedges, The addition of the extra track maintains a robust surface on which to maintain the boundaries without disturbing the equestrian use of the paddocks. Had this track been part of the original application it is considered that the track would have been accepted as part and parcel of the use.

### Character and Visual Amenity

Both Policies E7 and BNE5 have criteria which seek to ensure that proposals do not unduly impact on landscape character or the character of the locality. In addition BNE4 seeks to protect and enhance the character, local distinctiveness and quality of South Derbyshire's landscape.

It is considered that the track would be mostly screened by the hedgerow or barely visible from a distance. The track that has been laid is a continuation of that which has been approved and involves the removal of topsoil the laying of a plastic liner and gravel. In places grass is already growing through which will further minimise the visual intrusion of the track on the wider setting. Subject to a condition restricting the use of any other material for the surfacing of the track the proposal is considered to comply with BNE4 and criterion v) of E7 and v) of BNE5.

### Highways/Access

Badway Lane has recently been resurfaced to a good standard. Clearly the field has been used to store materials and equipment associated with this. Much of the material used for the re-surfacing has been left within the application site but this is not intended for use for the surfacing of the track. A condition, as proposed above, would ensure that it is not used in the construction of the track. The additional track has no impact on the highway network as it is proposed simply as a means of maintaining the field boundaries and the access from Badway Lane is not affected. The Highway Authority were consulted on the application but have not responded and it is not considered that there would be any highways concerns as a result of the proposals. The proposal is considered to comply with INF2.

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

## **Recommendation**

**Approve** subject to the following conditions.

1. The development hereby permitted shall be carried out in accordance with plans/drawings ref. 2925-003A (Proposed Site Plan) unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of doubt.

2. The access and maintenance track has been constructed using plastic underlay/membrane and gravel. No alternative materials or binding agent shall be used to create a bound material.

Reason: Field access tracks are normally created from unbound material and this type of construction allows for natural drainage to occur. Notwithstanding the use of a plastic membrane, surface water drainage is likely to be slower without the use of a bound material.

3. Notwithstanding the plans hereby approved, the boundary fence enclosing the paddocks running parallel with the track shall match that discharged by DMOT/2021/0249.

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

### Informatives:

- f. Any materials or equipment not associated with the original proposal shall be removed at the applicants earliest convenience. Failure to do so could incur enforcement action.



**Item No.** 1.8

**Ref. No.** [DMPA/2023/0930](#)

**Valid date:** 19/07/2023

**Applicant:** M Ross

**Agent:** TUK Rural

**Proposal:** The installation of a new access

**Ward:** Seales

### **Reason for committee determination**

This item is presented to the Committee as it has been called in by Councillor Wheelton.

### **Site Description**

The application site comprises a rectangular parcel of land located on the northern side of Coalpit Lane, to the east of the Bubble Inn and outside of the settlement boundary for Coton-in-the-Elms. The application site comprises an agricultural field that is bordered to the south, east and north by hedgerows. The site boundary to the west comprises a close boarded fence that separates the land from the adjacent public house car park. There is an existing access into the field from this western boundary, through the car park. The land levels of the site are raised compared to Coalpit Lane.

### **The proposal**

The proposal is for the installation of a new access point to the application site from Coalpit Lane. The access point would be set back from the highway and the proposal is for the existing hedgerow to be cut back to facilitate the requisite visibility splays as shown on the application drawings. The existing access point on the western boundary would be fenced off and a new hedgerow would be planted within the site boundary.

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

[Planning Drawing 'Proposed Access Details' \(Ref. 2307-MR101-A-PO1\)](#)

This drawing sets out the location plan, existing site plan, proposed site plan, access arrangements and details of the proposed gate.

[Planning and Heritage Statement \(TUK Rural, July 2023\)](#)

A statement prepared by the applicant's agent that provides information related to the proposed development in the context of relevant planning policies.

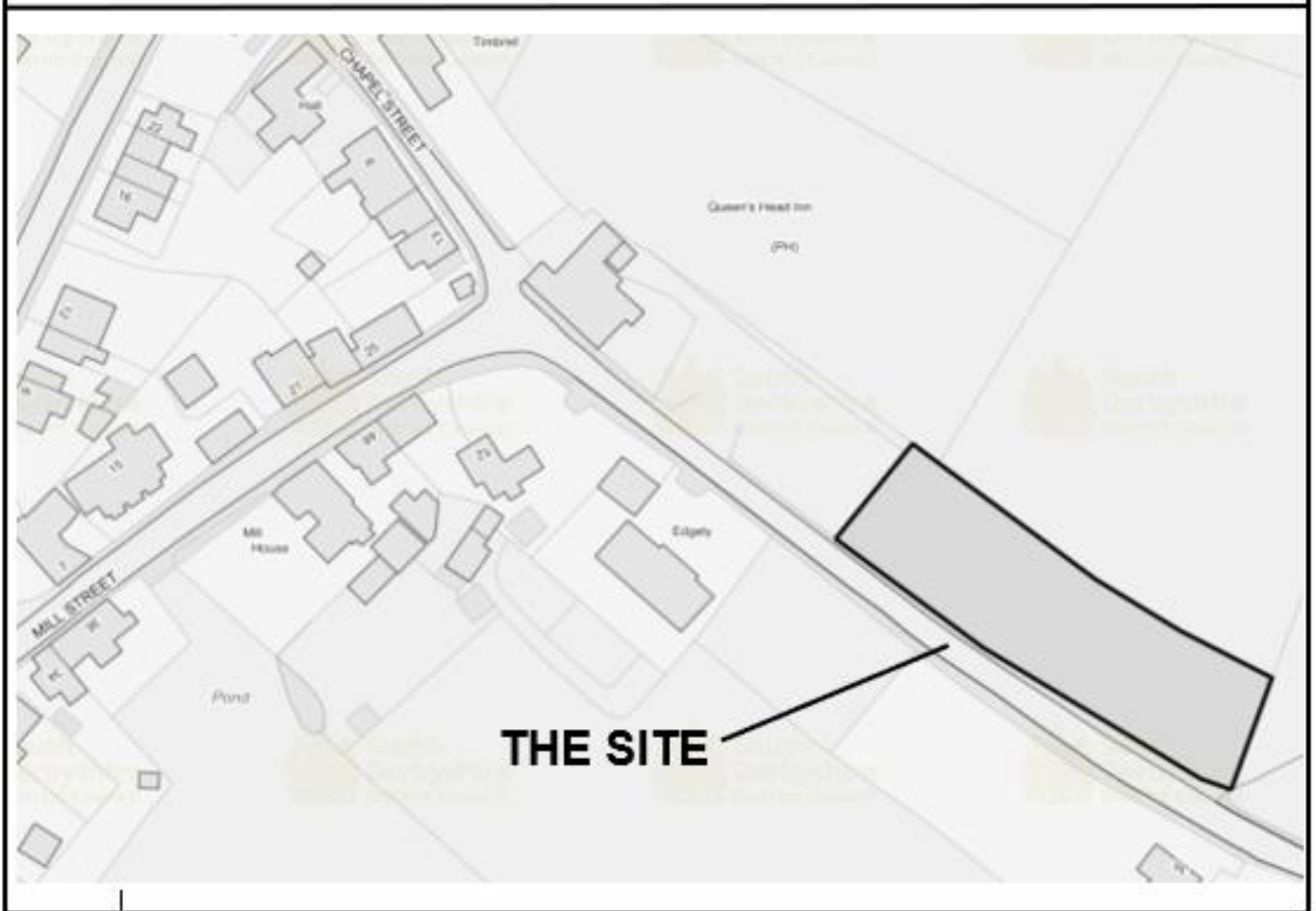
[Supplementary Information Statement \(TUK Rural, received 25 August 2023\)](#)

A statement provided by the applicant's agent that provides additional clarification as to the proposed use of the land, purpose of the access, impact on the hedgerow and justification for the type of gate.

### **Relevant planning history**

DMPN/2022/1370 Certificate of Lawfulness for proposed change of use from use class C3a to use class C2 – refused 09/05/2023.

**DMPA/2023/0930 – Land off Coalpit Lane, Coton-in-the-Elms**



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## Responses to consultations and publicity

### Coton in the Elms Parish Council

Coton in the Elms Parish Council wish to object to planning application DMPA/2023/0930 and comment as follows.

The Applicant states access to this site is 'not ideally located'. The Applicant would have been well aware when purchasing the land of the access arrangements via a right of way through a car park. They would have also had ample opportunity to assess the busyness or otherwise of the car park at various times. There has been no noticeable use of the land for many years, certainly no use requiring access for farm machinery. If the intended future use of the land is for agriculture it is not unreasonable to assume the existing access would be sufficient. Despite lying within the 30mph limits, the lane is notorious for speeding drivers, so much so that the local Safer Neighbourhood Team (SNT) of Derbyshire Constabulary carry out speed monitoring operations in this location. Adding a new access for vehicles onto this already dangerous road will have a negative impact on the safety of users of the road. The current access actually provides a safe entrance to the site, avoiding the need to manoeuvre agricultural vehicles on a narrow, but fast, lane that leads into the village.

It is claimed that at present 'access is often blocked by customers of the neighbouring business' - the car park of the neighbouring business (a public house) is rarely full, even when the pub is busy, as many of the patrons are local residents who walk there. In the unlikely event of access being blocked, the owners of any blocking vehicles would be on hand, and hence available to quickly move the vehicles if needed. The application states there is a right of access to the site via the car park. If that is the case, it is difficult to imagine an issue with this route to the site going forward for the infrequent access required to maintain the site as an agricultural field.

Reference is made to the site being outside the settlement boundary of the village. The Applicants will be aware of previous failed applications for development of the site. It would not be unreasonable to question whether this application for a new access from the highway, if granted, will be a precursor to a later application for housing.

The application would involve removing a large amount of mature hedgerow to create the necessary visibility splays. It states that the existing access gate would be fenced off with fencing to match the existing and a new hedge planted within the site boundary claiming a 'net biodiversity gain'. There is unlikely to be any net gain in biodiversity:

- the volume of hedgerow which will need to be removed in order to create the new access on Coal Pit Lane and to construct the associated visibility splays will be roughly equal to, if not greater than, that which will be planted along the boundary with the public house car park.
- the hedgerow proposed for removal is mature, long established whilst the new hedgerow will be immature; this will have a detrimental effect to the biodiversity rather than increasing it.
- the new hedgerow will be planted alongside a new boundary fence, most of which was recently installed. The garden style fence is timber supported by impermeable concrete gravel boards, effectively removing a wildlife corridor for small mammals including Biodiversity Action Plan priority species.

Coalpit Lane has a prevailing open and rural character and appearance. The existence of the settlement boundary is there, presumably, to protect and maintain the natural character of the land on the edges of the village. Removing hedgerow and replacing it with timber fencing and gates will negatively impact this. The style and size of the gates in this proposal are completely out of keeping with the appearance of this lane and are not at all typical of those used to secure access to agricultural land. Again, this questions the Applicant's proposed future use of the site.

In order to create the access and the associated visibility splays the proposal would remove important roadside hedgerow. This contributes to the aesthetic appeal of this entrance into the village, and its removal would seriously detract from the visual amenity enjoyed by passing pedestrians and cyclists. The proposal would therefore be detrimental to the overall character and appearance of this countryside location, contrary to policies BNE4 and S1 of the Local Plan Part 1, policies BNE5 and

BNE7 of the Local Plan Part 2, as well as paragraph 174 of the National Planning Policy Framework (21/08/2023).

### County Highways Authority

There are no objections to the proposal from the highway point of view subject to the incorporation of conditions being included in any consent in the interests of highway safety. The conditions would be related to the provision of appropriate visibility sightlines, surface water management, setting back of the gates and ensuring the materials used to create the access are suitably bound (08/03/2023).

### Derbyshire Wildlife Trust

The application does not include any details of the hedgerow composition (e.g. what species of tree and shrub are present and how many?) or features of the hedge such as standard trees, ditches, banks. It is assumed that this is a native hedgerow (the photos suggest that this is the case) and in the absence of survey information it should probably be treated as a Habitat of Principal Importance. The application proposes to replant a section of hedgerow and clearly the details for this need to be provided at some stage.

In order for there to be a biodiversity net gain the length of replanted hedgerow will need to be greater than the length lost, but the proposal appears to show a new hedge to be planted along the entire length of the north end of the field (where the current access through the pub is located). The new hedgerow should be comprised of at least 5 different native tree and shrub species and be similar composition to the existing hedgerows.

The proposed condition to address the possibility of further hedgerow loss looks O.K, but it would be better to have an ecological assessment of the hedgerow and a clear understanding of the extent of the impact (e.g. what trees and shrubs are we losing in the section to be removed). If the impact can be restricted to the access as shown on the plan it is probably relatively minor, but it is worrying that further hedgerow removal might be necessary or that the width of the hedgerow might be reduced to achieve the visibility needed.

It is noted that there is an opportunity to plant a new section of hedgerow. Regarding the condition I advise adding a requirement for an ecology report as well.

If permission is granted I would also suggest requesting the details of the hedgerow compensation (creation) including species composition, length, planting details and aftercare – this should probably form a separate condition.

Any further loss of the hedgerow or significant thinning of the hedgerow would be a concern and could make it more difficult for the applicant to compensate on-site (11/09/2023).

### Neighbour Responses

1no. neutral response and 5no. objections were received from the local community in response to the planning application consultation which raised the following matters:

- a) The existing access is rarely blocked by vehicles;
- b) Coalpit Lane is a poor condition, dangerous road with poor visibility that is notorious for speeding drivers, HGVs and an access would not be safe;
- c) Provision of the access would create additional road safety concerns affecting pedestrians that walk along the lane and cyclists;
- d) The applicant intends to use the land for housing and there is no capacity for further housing in the village;
- e) The amount of hedgerow to be removed would be greater than the amount planted on the western border and there would be no biodiversity gain;
- f) Replacement hedgerow planting would be immature and there would be a biodiversity loss;
- g) Loss of the hedgerow would affect the overall character and appearance of the countryside location.

## Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- Local Plan Parts 1 and 2: INF2 (Sustainable Transport), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE7 (Trees, Woodland, Hedgerows)

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

## Planning considerations

The determining issues are as follows:

1. Principle of the development;
2. Biodiversity;
3. Design;
4. Other Matters.

## Planning assessment

### Principle of the Development

The NPPF (Paragraph 111) states that: *'development should only be prevented or refused on highways ground if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'*

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

Coalpit Lane in this location comprises a lane that is subject to slight bend, bordered on both sides by hedgerows. The road is subject to a 30 mile per hour speed restriction. Several concerns were raised by members of the local community related to the provision of a new access and potential impact of this on the safety of users of Coalpit Lane. However, the County Highway Authority has been consulted as part of the planning process and raises no objection subject to provision of the requisite visibility splays and other conditions (e.g. surface water and the setting back of gates) and informatives. It was requested that the plans be updated to reflect the requirements of the Highway Authority, with specific reference to the setting back of the proposed gate and width of the access (the plan shows a 3m access point whereas 5m would be required). The applicant chose not to update the application drawing and requested that this detail be conditioned. With the conditions and informatives in place, it is considered that the proposal would be compliant with INF2 and acceptable in principle.

### Biodiversity

Policy BNE3 supports development which contributes to the protection, enhancement, management and restoration of biodiversity and delivers net gains in biodiversity wherever possible. Additionally, planning proposals that could have a direct or indirect effect on priority habitats and species will need to be supported by appropriate surveys or assessments.

Policy BNE7 states that where development could affect trees, woodland, and/or hedgerows which are important in terms of their amenity, ecological, landscape or historic value, developers will be expected to demonstrate that the layout and form of development have been informed by appropriate surveys.

The concerns of the Parish Council and local community related to the impact of the proposal on the existing hedgerow along the southern boundary of the site are acknowledged, particularly in the context

of delivering the requisite visibility splays. The advice of Derbyshire Wildlife Trust is also noted. Officers did request clarification from the applicant's agent on the extent of thinning or hedgerow removal that would be required and a hedgerow survey to confirm the species present. In response to this it was explained that the existing site plans are based on topographical survey information in which the extent of the hedgerow would have been measured, and that the intention is for the hedgerow to be cut back and not removed (except for the point of access). Officers have visited the site and it is acknowledged that the hedgerow is very wide. Measurements taken from the existing site plan illustrate that it ranges in width from 4.0m to 6.0m. The proposed site plan shows that the hedgerow would be cut back to 2.4m to 3.4m to facilitate the visibility splays, whilst the sections towards the east of the site would be unaffected by the visibility splays and would remain at approximately 5.0m. From the information submitted as part of the application it is considered that the hedgerow could be thinned rather than removed in order to create the visibility splays. A short section of 5.0m width would need to be removed for the point of access.

It is not ideal that the application does not incorporate survey information of the hedgerow to confirm the species present, and there would be some non-conformity with policies BNE3 and BNE7 in this respect. However, on the basis of the information provided it is accepted that the hedgerow would largely be retained (with a substantial width even where cut back), and that only the short section for the point of access would be fully removed. It is recommended that planning conditions be attached to any forthcoming permission that prevent works to the hedgerow during the breeding bird seasons, and a precautionary condition that requires further details to be submitted to the Local Planning Authority if it becomes apparent that further work to the hedgerow is required to establish the visibility splays than is stipulated on the application drawings.

With respect to biodiversity net gain, Derbyshire Wildlife Trust advises that the length of hedgerow on the western boundary would need to exceed the amount to be lost on the southern boundary. Only c. 5.0m would be fully removed and the western boundary of the site comprises c. 23m (based on measurements from the submitted plans). The supplementary information statement explains that the applicant intends to use part of the site to grow produce and the remaining area to be maintained as grassland. There would be sufficient scope to offset the loss of the southern hedgerow with planting along the western boundary, and if required for additional planting within the site to achieve a biodiversity net gain. If necessary, this could incorporate reinforcement planting to the hedgerow along the southern boundary too. It is recommended that a condition be attached to any forthcoming planning permission that requires submission of details of the proposed hedgerow planting as part of a landscaping and biodiversity enhancement plan to secure a net biodiversity gain for the site.

With these measures in place the proposal is, on balance, considered to comply with policies BNE3 and BNE7 of the Local Plan.

### Design

Policy BNE1 sets out principles for design excellence, which is supported by the detail within the South Derbyshire Design Guide SPD. Policy BNE1 requires that proposals respond to their context and have regard to valued landscape and other characteristics. It is noted that the application site is located on the edge of the settlement of Coton-in-the-Elms in a rural setting. This is emphasised in the Parish Council and local community responses. Many of the comments received were however made on the assertion that the hedgerow would be removed. The proposed plans show the hedgerow to be maintained along the southern site boundary, cut back to facilitate the visibility splays, but still of substantial width. The trimming back of the hedgerow would inevitably increase the sense of openness in this part of Coalpit Lane, which would be a noticeable change, but could offer some benefit in relation to the safety concerns that the community has raised with pedestrians and cyclists using this section of the lane.

The installation of an access point would not in itself be uncharacteristic for the locality, as there are other openings for the dwellings further to the east outside of the settlement boundary. The applicant was requested to amend the proposed timber gates with a standard field gate, which would be more fitting, however amendments were not received. Irrespective of this the gates would need to be set back as per the requirements of the Highway Authority and would not be prominent amidst the

hedgerow. It is considered that the proposal would comply with the requirements of Policy BNE1.

### Other Matters

The Parish Council and local community highlighted that the existing access to the field is rarely blocked and the need for a new access from Coalpit Lane is questioned. There is no planning policy that requires the need for such an access to be demonstrated.

A number of comments were received that suggested that the applicant intends to use the land for housing. Any subsequent development proposal would require a planning application, which would be assessed on its own basis for compliance with the development plan policies. The requirement for the decision-maker, in this case the Planning Committee, is to assess whether the plans for the proposed development (i.e. the installation of a new access) would be acceptable in the context of the development plan policies and material considerations. The potential for future uses of the land should not be material considerations in the determination of this case.

Concerns have been raised related to the safety of the proposal in respect of the level of traffic, visibility and related issues at Coalpit Lane, however the Highway Authority is satisfied that the required visibility splays can be achieved and that the access would be acceptable.

### Conclusion

Section 38 (6) of the Planning and Compulsory Purchase Act (2004) sets out that the determination of applications must be made in accordance with the development plan, unless material considerations indicate otherwise.

It is considered that the principle of a new access to the site from Coalpit Lane would be in accordance with the requirements of Policy INF2 and the NPPF, subject to incorporation of conditions that require the provision of appropriate visibility splays and other matters such as the setting back of the proposed gates. A key material consideration in this case is the extent to which removal of the existing hedgerow on the southern border would be required to establish the visibility splays. Based on the information provided it is apparent that the intention is for this to be retained except for the point of access. There would be sufficient space within the site to secure additional planting and a biodiversity net gain, subject to planning conditions. The cutting back of the hedgerow would increase the sense of openness in this location, which would be noticeable but not be detrimental to the rural character of the area and the proposal would comply with the requirements of Policy BNE1 related to design. On balance, whilst the application could have been supported by additional surveys to confirm the species present within the hedgerow, this would not in itself be sufficient reason to sustain a refusal on the case. The application is recommended for approval subject to conditions.

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

### **Recommendation**

Approve subject to conditions.

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

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

2. The development hereby permitted shall be carried out in accordance with the plans/drawings ref. Ref. 2307-MR101-A-PO1 unless otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: In accordance with policy BNE1 of the Local Plan and for the avoidance of doubt and in the interests of achieving sustainable development.

3. Prior to commencement, a detailed Landscaping and Biodiversity Plan shall be submitted to and approved in writing by the Local Planning Authority before the development is brought into use. The plan should aim to deliver no net loss in habitat and to secure an appropriate biodiversity net gain within the site. The development shall be implemented in accordance with the approved details.

Reason: To mitigate for the loss of trees and habitats within the site, to ensure no net loss and an appropriate biodiversity net gain in accordance with policies BNE3 and BNE7.

4. Notwithstanding the details on the approved plan Ref. 2307-MR101-A-PO1, the access shall have a minimum width of 5 m and be provided with visibility sightlines of 2.4 m x 40 m in the north westerly direction and 2.4 m x 51 m to the south east. The area forward of the sightlines shall be cleared and maintained of any obstruction exceeding 0.6m in height relative to the nearside carriageway edge. The access shall be constructed as a splayed vehicular crossover and provided with measures to ensure that surface water does not flow from within the site onto the public highway.

Reason: In accordance with policy INF2 of the Local Plan and in the interest of highway safety.

5. The gradient of the access shall not exceed 1 in 12 and there shall be no gates within 6m of the highway boundary.

Reason: In accordance with policy INF2 of the Local Plan and in the interest of highway safety.

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

Reason: In accordance with policy INF2 of the Local Plan and in the interest of highway safety.

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

Reason: In accordance with policy INF2 of the Local Plan and in the interest of highway safety.

8. The hedgerow on the southern site boundary shall be retained except for the short section that is to be removed to provide the point of access in accordance with the approved plans Ref. 2307-MR101-A-PO1. If further removal of the hedgerow is required than is shown on the approved plans Ref. 2307-MR101-A-PO1 in order to establish the required visibility splays this work shall be detailed and submitted to the Local Planning Authority together with an ecological assessment of the hedgerow for agreement prior to the works being undertaken. The hedgerow shall thereafter be retained in accordance with the approved details.

Reason: In accordance with policies BNE1, BNE3 and BNE7 and in recognition of the contribution that the hedgerow provides to the rural character of the area, landscape and biodiversity.

9. No vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented



and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

Reason: To avoid harm or disturbance to biodiversity in accordance with BNE3.

Informatives:

- g. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- h. Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- i. Planning permission does not give you approval to work on the public highway. To carry out works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk), email [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk) or telephone 01629 533190.

**Item No.** 1.9

**Ref. No.** [DMPA/2023/1162](#)

**Valid date:** 27 September 2023

**Applicant:** Mr L Fearn **Agent:** Anthony Buckley Architectural

**Proposal:** Demolition of existing and erection of a replacement bowls pavilion at Eureka Bowls Club, Eureka Park, Newhall Road, Swadlincote

**Ward:** Swadlincote

### **Reason for committee determination**

This item is presented to the Committee as South Derbyshire District Council owns the land to which the planning application relates.

### **Site Description**

The application site is located within Eureka Park, located to the south of Newhall Road, Swadlincote. The site incorporates the existing bowls pavilion which is located on the western side of the Bowling Green and adjacent to one of the footpaths that runs through the park. The existing pavilion is a modest rectangular building constructed from timber with a shallow pitch gable roof design. The approximate dimensions of the existing building are: L: 9.0m, W: 3.8m (excluding canopy), H: 3.0m to the top of the ridgeline. The building includes a bar and servery area of approximately 8.5m<sup>2</sup> and general meeting/circulation area of approximately 20.8m<sup>2</sup>. The site is located outside of the Swadlincote Conservation Area and is not within the setting of any listed buildings.

### **The proposal**

The proposal is to demolish the existing timber building and to replace this with a brick and tiled pavilion. The new building would be very similar in scale and massing to the existing pavilion. It would also have a shallow pitch gable roof design. The approximate dimensions of the new pavilion would be: L: 9.7m, W: 5.2m (excluding canopy), H: 3.9m to the top of the ridgeline. The building would include a bar and servery area of approximately 8.9m<sup>2</sup>, a general meeting/circulation area of approximately 21.3m<sup>2</sup>, a small kitchen of approximately 6.3m<sup>2</sup> and a W/C.

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

- Planning Application Form, received 27 September 2023;
- Planning Drawing 23-154-001 incorporating Location Plan, Block Plan, Existing and Proposed Plans and Elevations, and Materials Details, Received 27 September 2023.

### **Relevant planning history**

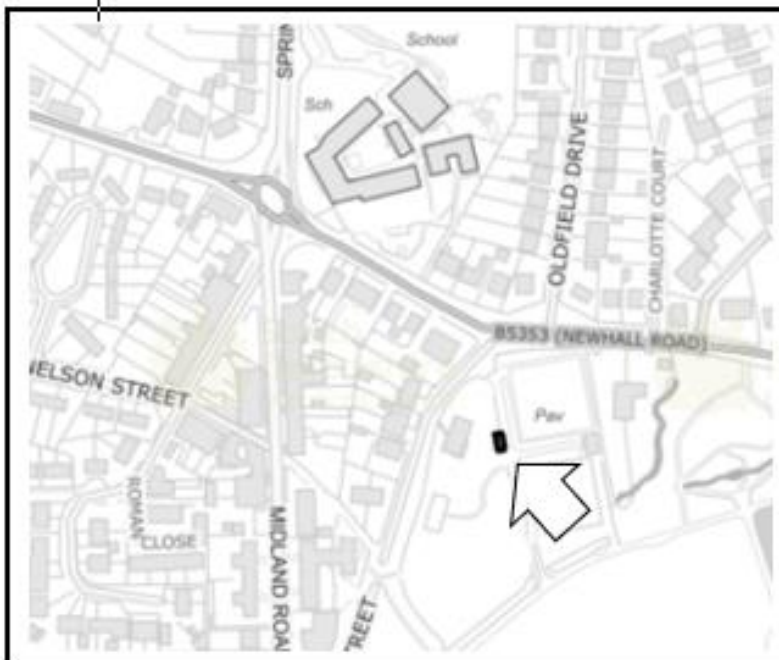
No relevant planning history.

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

#### The Coal Authority

The Coal Authority records indicate that the site lies in an area of probable unrecorded underground coal mine workings at shallow depth. If shallow workings are present then those may pose a potential risk to surface stability and public safety. As you will be aware, the Coal Authority's general approach in cases where development is proposed within the Development High Risk Area is to recommend that

**DMPA/2023/1162 – Eureka Bowls Club, Eureka Park, Newhall Road,  
Swadlincote, DE11 0BA**



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the applicant obtains coal mining information for the application site and submits a Coal Mining Risk Assessment to support the planning application. However, when considering the nature of this particular development proposal, it does not appear that the erection of a replacement bowls pavilion will require substantial foundations or earthworks. On this basis we do not consider that requiring a Coal Mining Risk Assessment would be proportionate to the nature of the development proposed in this particular case and do not object to this planning application. A number of informatives are recommended for inclusion in any forthcoming planning permission. (13/10/2023)

A site notice was installed to raise awareness of the application. No further responses were received.

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

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): INF9 (Open Space, Sports and Recreation Facilities); BNE1 (Design Excellence); SD4 (Contaminated Land and Mining Legacy)

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

### **Planning considerations**

The determining issues are as follows:

1. Principle of the development;
2. Design;
3. Ground Conditions;
4. Other Matters.

### **Planning assessment**

#### Principle of the Development

Policy INF9 of the Local Plan states that the current provision of open space, sports and recreation facilities in the District is not sufficient; and opportunities for creating new or enhanced facilities will be sought. The site is located within an established public park. The proposal for a revised bowls pavilion seeks to enhance the existing facilities available for the Bowling Club, with the incorporation of a new accessible W/C as well as small kitchen. The proposal would therefore be in accordance with the aims of policy INF9 and acceptable in principle.

#### Design

Policy BNE1 sets out principles for design excellence, which is supported by the detail within the South Derbyshire Design Guide SPD. The proposal is for a replacement bowls pavilion of broadly similar scale to the existing building. Materials would comprise red facing brickwork and grey concrete interlocking roof tiles. These materials would be in keeping with those used for the dwellings adjacent to the park on Newhall Road, including no. 24 which is visible from within the park, and along John Street. It is considered that the proposed development would represent an improvement from the existing timber building and that it would be appropriate within its context. The proposal would accord with the requirements for Policy BNE1 and the Design Guide SPD.

#### Ground Conditions

The proposed development lies within an area that has been defined by the Coal Authority as containing high risk for coal mining features at surface or shallow depth. These features may include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. The Coal Authority was consulted as part of the planning process and advised that the erection of a replacement bowls pavilion would be unlikely to require substantial foundations or earthworks, and had no objections to the proposal. Whilst Policy SD4 requires appropriate investigations and remediation measures to be incorporated into schemes that could impact ground conditions, it would not be reasonable or necessary to require this in light of the Coal Authority's response. It is however recommended that the advice incorporated within the Coal Authority response is incorporated as an informative to any forthcoming planning permission.

### Other Matters

The new pavilion would have a very similar floorspace and capacity to the existing pavilion and therefore it is not considered there would be a significant intensification of use. It is considered that there would be no increased impact on highways, parking or amenity impacts (such as noise or disturbance), compared to the existing facility.

### Conclusion

The proposal for a replacement bowls pavilion within Eureka Park would be in accordance with the aims of policy INF9 and acceptable in principle. Having reviewed the material considerations, it is considered that the design of the building would be acceptable and that the development would be unlikely to be impacted by any coal mining features. There is no concern related to highways or amenity impacts due to the intensity of use remaining as existing. It is considered that the proposal would comply with the requirements of Policies INF9, BNE1, and Policy SD4 and is recommended for approval.

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

### **Recommendation**

Approve with conditions.

1. The works hereby approved 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 Planning Drawing 23-154-001 incorporating Location Plan, Block Plan, Existing and Proposed Plans and Elevations, and Materials Details, Received 27 September 2023, unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of doubt and to ensure any future use of the premises does not adversely affect the amenities of the locality in general and in accordance with Policy BNE1.

### Informatives:

- j. The proposed development lies within an area that has been defined by the Coal Authority as containing coal mining features at surface or shallow depth. These features may include: mine entries (shafts and

adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such features are seldom readily visible, they can often be present and problems can occur, particularly as a result of new development taking place.

Under the Coal Industry Act 1994 any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority since these activities can have serious public health and safety implications. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain permission to enter or disturb our property will result in the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: [www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property](http://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property)

Shallow coal seams: In areas where shallow coal seams are present caution should be taken when carrying out any on site burning or heat focused activities.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0800 288 4242. Further information is available on the Coal Authority website at:

**Item No:** 1.10  
**Ref. No:** [DMPA/2022/1621](#)  
**Valid date:** 22/12/2022  
**Applicant:** Paul Hardy **Agent:** Chris Welbourne  
**Proposal:** Installation of 1 x 48 sheet gable mounted digital advertising display unit at 1 High Street, Woodville, Swadlincote.  
**Ward:** Woodville

### **Reason for committee determination**

This item is presented to the Committee at Councillor Gee's request and following the deferral at the Committee meeting on 6<sup>th</sup> June 2023.

### **Update Report**

Members will recall that this application was previously considered at the meeting held on the 6<sup>th</sup> June 2023 but was deferred to allow for further discussion to occur with the Derbyshire County Council Highways team. The previous report is attached as an appendix.

A meeting has since taken place on site between DCC Highways, the Head of Planning and Strategic Housing, and Councillor Gee. It was acknowledged at the meeting that the road markings approaching the Clock Island from the High Street, Woodville, direction are currently so faded as to be almost imperceptible and need reinstating. The County Council also stated that they are giving consideration to additional signage on the approach to this junction.

The comments of the Highways authority remain as no objection to the planning application.

### **Conclusion**

In light of the above, it is recommended to Committee that advertisement consent be granted in accordance with the recommendations in the previous main report.

For the reasons set out above and in the two prior reports the applicant has demonstrated that on-site delivery of BNG has been maximised. The provision of off-site mitigation will ensure the scheme achieves and exceeds the future requirements regarding BNG. Off-site delivery of BNG can be stringently controlled. The scheme follows the mitigation hierarchy and is providing additional features that go beyond the minimum legal and policy requirements and will ensure that the site mitigates and enhances biodiversity. This will result in a 10% BNG overall which Derbyshire Wildlife Trust

Appendix 1: Committee Report for DMPA/2022/1621 - Originally presented 6<sup>th</sup> June 2023.

**Item No.** 1.5

**Ref. No.** DMPA/2022/1621

**Valid date:** 22 December 2022

**Applicant:** Paul Hardy

**Agent:** Chris Welbourne

**Proposal:** Installation of 1 x 48 sheet gable mounted digital advertising display unit at 1 High Street, Woodville, Swadlincote.

**Ward:** Woodville Parish

### **Reason for committee determination**

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

### **Site Description**

The site is located within the Swadlincote urban area, with the locality being well built up and consisting of a mix of residential properties, retail units and other commercial uses including pubs, a library and car garages.

The advertisement will be placed on the rear/side wall of the building facing towards the Woodville Box Club and associated carpark. The advert will only be clearly visible to vehicles driving towards the roundabout just off A511.

### **The proposal**

The application seeks to gain consent for a 48-sheet digital advertisement with no requirement for it to be removed after 5 years. Permission has already been granted under delegated powers for the advertising display on 12th May 2022 (DMPA/2022/0203), and this was subject to Condition 1 which requires the advertisement to be removed after 5 years unless a further consent is granted. The applicant did appeal the Council's decision to issue advertisement consent with the disputed condition, but the appeal was withdrawn as the Inspector confirmed the whole proposal would be considered and not just the disputed condition and so the original grant of express consent would potentially be at risk.

The size, position and orientation of the advertising display will not change from the previous consent.

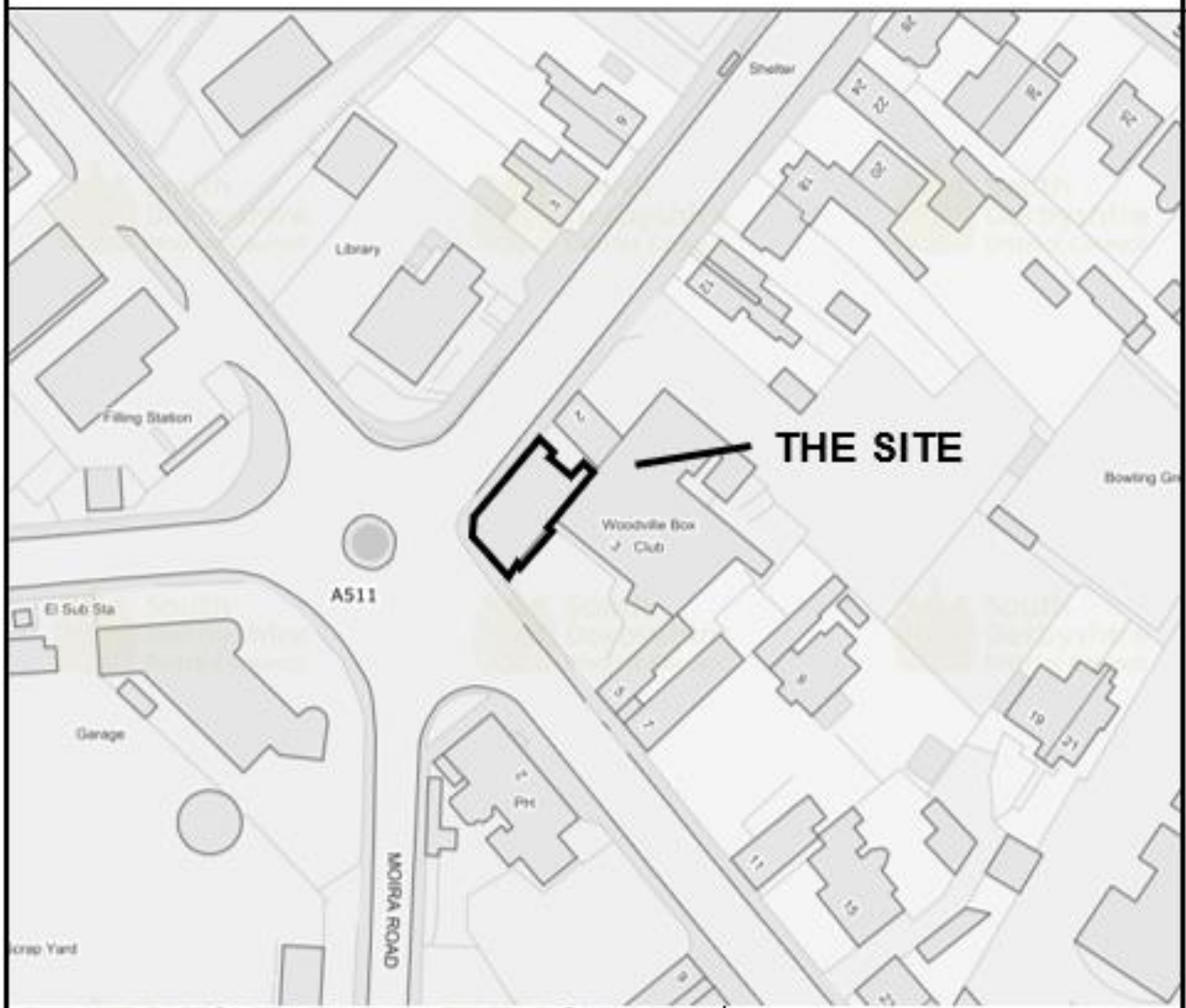
### **Applicant's supporting information**

The documents submitted with the application include;

- DE 101 01A Location Plan at 1:1250
- DE 101 02A Site Plan at 1: 500
- DE 101 03A Google Street View Oct 2008 (Photo)
- DE 101 04A Proposed Elevation with 48 sheet Digital Display Unit (Photomontage)
- DE 101 05A Proposed Elevation Drawing
- DE 101 06A 48 sheet Digital Display Unit specifications
- DE 101 07A Appeal Decision Liverpool July 2018
- DE 101 08A Consented Digital 48sheet Liverpool (site photo)
- Original Planning Statement submitted with DMPA/2022/0203 received 22th December 2022
- Planning Statement (Updated) received 22th December 2022



**DMPA/2022/1621 - 1 High Street, Woodville, Swadlincote, DE11 7EH**



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South Derbyshire District Council, LA 100019461.2020

## Relevant planning history

DMPA/2022/0203 - Installation of a gable mounted digital advertising display unit – Approved with conditions. Appeal withdrawn.

9/2012/0614 – The display of non-illuminated signs - Approved with conditions

9/1999/0049 - The display of illuminated signs - Approved with conditions

## Responses to consultations and publicity

### Highways

No objections subject to conditions.

### Environmental Health

No objections

### Woodville Parish Council

Objects. Members consider a digital display of such size to be distracting to motorists whilst using an extremely busy roundabout. The parish council objects to this application on the grounds of highway safety.

## Relevant policy, guidance and/or legislation

### The relevant policies are:

2016 Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), BNE1 (Design Excellence).

2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE9 (Advertisements and Visual Pollution).

### The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)  
Display of Advertisements SPG

### The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)  
Planning Practice Guidance (PPG)  
Town and Country Planning (Control of Advertisement) (England) Regulations 2007

## Planning considerations

Regulation 3(1) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (SI 783) (the Regulations) limits the exercise of the powers of control of advertisements solely to the interests of amenity (including aural and visual) and public safety, and these matters are elaborated in Regulation 3(2).

Regulation 3(3) provides that the Local Planning Authority in taking account of factors relevant to amenity may disregard any advertisement that is being displayed. Whereas, Regulation 4(3) permits the Local Planning Authority to have regard to any material change of circumstances likely to occur within the period for which the consent is requested.

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

- The effect of the proposal on the visual amenity of the site and surrounding area; and
- The effect on highway safety.

## **Planning assessment**

### Amenity

The proposed digital display sign would be located on the side of the building (gable) and would be clearly visible from the street scene. The surrounding area is well built up and characterised by a combination of residential and commercial uses, including shops, pubs, eateries, hairdressers, car garages, library and a petrol station. Signage is a common feature within the area and the proposed sign would not be at odds with the surrounding commercial character.

There is one first floor window in the north west elevation of the flat at 5A High Street but this is over 20m from the proposed sign and not directly opposite the proposed sign. Therefore, it is considered the sign would not be harmful to amenity in this mixed use location, particularly with conditions relating to luminance levels and speed of advert change.

Google maps shows that a similar sized advert in the same location was present from 2008 until 2017. The proposed advert would be replacing this previous advert for a digital equivalent at the same size and would not be considered to result in any adverse impact on the character and appearance of the surrounding area. Overall, the proposal would be in accordance with Policies SD1, BNE1 and BNE9.

### Highway safety

The sign would be illuminated and the images static, however conditions will control the luminance levels, no moving images, ambient environmental control, a black screen to be displayed in the event of malfunction, smooth transition between images, the speed of change of the adverts and the minimum length of display of each advert (10 seconds). The Highways Officer has raised no objections to the proposal subject to these conditions. The concerns of the Parish Council are noted but in the absence of an objection from the Highway Authority, a refusal on the basis of highway safety would be disproportionate given the ability to mitigate the impact of the sign with the use of conditions. It is therefore considered that there would be no harm to highway safety interests in accordance with Policy BNE9.

### Time Limit Removal

Given that the sign is considered to be acceptable in the interests of amenity and public safety it is recommended to include the conditions requested by the highway authority and the standard conditions, but not the requirement to remove the sign after 5 years. As noted above, there is evidence of a sign in this location for nearly 10 years without evidence of either highway safety or amenity problems as a result. Guidance the NPPG is that signs should not be required to be removed at the end of their express consent period (five years) unless there a good planning grounds for doing so. For the reasons outlined above it is not considered that this condition is necessary

## **Conclusion**

Taking these main issues into account, the proposal would not result in a conflict with the policy requirements of the Local Plan and is considered to be acceptable. Given it would not give rise to any visual or highway issues The relevant constraints have been considered in the planning balance and no material harms have been identified that would warrant refusal of the application.

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

## Recommendation

**APPROVE** subject to the following conditions

1. The works hereby permitted shall be carried out in accordance with the location plan, elevation drawing and signage details received 11th February 2022; unless as otherwise required by condition attached to this consent.

Reason: For the avoidance of doubt.

2. The maximum level of illumination shall be no more than 300 cd/m<sup>2</sup> during hours of darkness (dusk until dawn) and 600 cd/m<sup>2</sup> during daytime hours, in accordance with the terms of the Institution of Lighting Professionals, Professional Lighting Guide 2015 recommendations for maximum luminance (cd/m<sup>2</sup>).

Reason: To ensure that the display does not appear as an unduly prominent feature in the area and to avoid dazzle/glare for highway users.

3. The luminance level of the display shall be controlled by ambient environmental control, which will automatically adjust the brightness level of the screen to track the light level changes in the environment throughout the day.

Reason: To ensure that the display does not appear as an unduly prominent feature in the area and to avoid dazzle/glare for highway users.

4. The approved display shall contain at all times a feature that will turn off the screen (i.e. show a black screen) in the event that the display experiences a malfunction or error.

Reason: To ensure that the display does not appear as an unduly prominent feature in the area and to avoid dazzle/glare for highway users.

5. No individual advertisement on the digital screen shall contain moving images, animation, intermittent or full motion video images, or any images that resemble road signs or traffic signals.

Reason: To ensure that the display does not appear as an unduly prominent feature in the area and to avoid dazzle/glare for highway users.

6. There shall be a smooth uninterrupted transition from one image to another, with no fading or other animated transition methods between successive displays. Transitions shall be of not less than one second between static images, and no individual advertisement shall be displayed for a duration of less than 10 seconds.

Reason: To ensure that the display does not appear as an unduly prominent feature in the area and to avoid dazzle/glare for highway users.

**Item No.** 1.11

**Ref. No.** [DMOT/2023/1110](#)

**Valid date:** 30/08/2023

**Applicant:** Derbyshire County Council                      **Agent:** N/A

**Proposal:** Consultation from the County Council on application ref. CW9/1022/22 seeking permission for the proposed construction and operation of the Swadlincote Resource Recovery Park (SRRP) comprising an Energy Recovery Facility (ERF) and Aggregate Recovery Facility (ARF) together with ancillary infrastructure including grid connection cable and works, private electrical wire provision, substation, CHP off-take provision, internal vehicular circulation and yard areas, weighbridges, car parking, new access road, temporary construction compound and laydown area, security fencing and gates, drainage, landscaping and off-site habitat compensation at Land adjacent to Willshee's Waste And Recycling Limited, Keith Willshee Way, Swadlincote, DE11 9EN.

**Ward:** Linton Ward

### **Reason for committee determination**

This planning submission is being reported to Planning Committee at the request of the Head of Planning.

### **Recommendations**

It is recommended that the Planning Committee agrees to provide a written response of **Objection** to the County Council's consultation on the application. This report draws attention to the following key considerations:

- Design and Landscape
- Impact on Amenity
- Access and Highway Safety
- Ecology, Biodiversity and National Forest Planting
- Flood Risk and Drainage

It is recommended that the Planning Committee delegate authority to the Head of Planning and in consultation with the Chair to agree the finer detail and wording of the response.

### **Purpose of Report**

The purpose of this report is to inform members of the consultation on the planning application at Land adjacent to Willshee's Waste And Recycling Limited, Keith Willshee Way, Swadlincote which is being considered by Derbyshire County Council as the Local Planning Authority in this instance. This report considers the proposals against relevant local and national policy and provides the recommendations above in response to the consultation exercise by the County Council.

### **Background**

#### **Application Site**

The application site is addressed as Land adjacent to Willshee's Waste And Recycling Limited, Keith Willshee Way, Swadlincote, DE11 9EN.

The site under consideration is located off Cadley Hill, adjacent to the A444. The site is bounded to the north, south and west by fields with the A444 forming the eastern boundary. Beyond the A444 lies a concrete plant with an associated recycling facility and an industrial estate. Some 150 metres (approx.) to the north lies the Swadlincote sewage works. The nearest residential housing is situated 300 metres (approx.) away from the site to the north and south. The existing use of the site is described as undeveloped former coal transfer site adjacent to operational Materials Recovery Facility.

The application site under consideration is not situated within a Conservation Area, does not fall within proximity of Heritage Assets, and does not fall within the River Mease Catchment. The site does not comprise of any Tree Preservation Orders but is however situated within the National Forest. The site lies within Flood Zone 3.

### **Recent Relevant Planning History**

**County Ref:** CW9/0816/45

**SDDC Ref:**

**Proposal:** Change of use to an Inert Waste and Wood Waste Transfer Station and Skip Storage at the Former Coal Yard, off Cadley Hill Road and Burton Road, Swadlincote.

**Status:** Application approved - 09/10/2017

**County Ref:** CW9/0418/3

**SDDC Ref:**

**Proposal:** Construction of a new building to be used as a weighbridge office at Depot 3, Burton Road, Swadlincote.

**Status:** Application approved - 06/09/2018

**County Ref:** CW9/1018/63

**SDDC Ref:**

**Proposal:** Extension to the site and construction of a waste handling building for the storage, treatment and processing of refuse derived fuel at the Former Railhead, Cadley Hill Park, Burton Road, Swadlincote.

**Status:** Application approved - 20/05/2019

**County Ref:** CW9/1119/61

**SDDC Ref:**

**Proposal:** Permission not to comply with Condition 2 (Duration of Use and Clearance) of Planning Permission CW9/08/16/45 in order to remove the 10 year time limit on the permission at Willshee's Skip Hire Limited, Cadley Hill Park, Burton Road, Swadlincote.

**Status:** Application approved - 12/04/2021

**County Ref:** SCOW/9/75

**SDDC Ref:** DMOT/2021/0959

**Proposal:** Scoping opinion for proposed construction and operation of the Swadlincote Resource Recovery Park comprising an Energy Recovery Facility and Aggregate Recovery Facility together with ancillary infrastructure including grid connection works, substation, CHP off-take provision, internal vehicular circulation and yard areas, weighbridges, car parking, temporary construction compound and laydown area, security fencing and gates, drainage, landscaping and off-site habitat compensation on Land adjacent to Depot 3, Keith Willshee Way, Cadley Hill, Swadlincote, DE11 9EN

**Status:** No objection. Advice given with regards to the consideration of alternative locations and scales of development, flexibility to allow some variation of the project and, landscaping and visual impacts. 01 July 2021.

**County Ref:** SCOW/9/76

**SDDC Ref:** DMOT/2021/1089

**Proposal:** An EIA Scoping Report prepared on behalf of Willshee's Waste & Recycling Limited to support the modification of planning conditions on the existing Waste Recycling Facility permissions via applications submitted under S73 of the Town and Country Planning Act 1990 at Willshee's Waste And Recycling Limited, Keith Willshee Way, Swadlincote, DE11 9EN

**Status:** No objection. Having reviewed the scoping report, it is acknowledged that the section 73 proposals would generally be unlikely to lead to materially different impacts compared to the previously consented schemes. It is, however agreed that biodiversity/ecology effects should be reviewed to reflect the further loss of the Local Wildlife Site, which was required to be bought into positive management by previous Waste Recycling Facility permissions (CW9/0816/45 and CW9/1119/61). Clearly the removal of an area of woodland on a non-designated ecological site of County Importance, which has bought into management to compensate previous ecological impacts constitutes a potentially significant effect that should be considered through the EIA process. The proposals to scope this issue into the EIA process are therefore welcomed. 14 July 2021.

**County Ref:** SCOW/9/78

**SDDC Ref:** DMOT/2021/1276

**Proposal:** An EIA Scoping Report prepared on behalf of Willshee's Waste & Recycling Limited for non-compliance with various conditions relating to Willshees waste operation at Willshee's Waste & Recycling Limited, Depot 3, Keith Willshee Way, Swadlincote, DE11 9EN

**Status:** Pending Consideration. Case Office advised that an actual application has since been submitted so this EIA application is not relevant now. Contact has been made with the County Council however no reply has since been provided. Update from Case Officer provided on 12 October 2023.

**County Ref:** CW9/1022/22

**SDDC Ref:** DMOT/2022/1567

**Proposal:** Consultation from the County Council on application ref. CW9/1022/22 seeking permission to the proposed construction and operation of the Swadlincote Resource Recovery Park (SRRP) comprising an Energy Recovery Facility (ERF) and Aggregate Recovery Facility (ARF) together with ancillary infrastructure including grid connection cable and works, private electrical wire provision, substation, CHP off-take provision, internal vehicular circulation and yard areas, weighbridges, car parking, new access road, temporary construction compound and laydown area, security fencing and gates, drainage, landscaping and off-site habitat compensation at Land adjacent to Willshee's Waste And Recycling Limited, Keith Willshee Way, Swadlincote, DE11 9EN

**Status:** Pending Consideration ...

**County Ref:** CW9/0623/15

**SDDC Ref:** DMOT/2023/1060

**Proposal:** Consultation from the County Council on application ref. CW9/0623/15 seeking permission consolidation application to combine current planning permissions, for the retrospective development of several infrastructure improvements, the flood compensation scheme, regularisation of the weighbridge office location and RDF building elevations, and regularisation of the planning boundary to include unauthorised areas at Willshee's Waste And Recycling Limited, Keith Willshee Way, Swadlincote, Derbyshire, DE11 9EN.

**Status:** Pending Consideration ...

**County Ref:** CW9/1022/22

**SDDC Ref:** DMOT/2023/1110

**Proposal:** Consultation from the County Council on application ref. CW9/1022/22 seeking permission for the proposed construction and operation of the Swadlincote Resource Recovery Park (SRRP) comprising an Energy Recovery Facility (ERF) and Aggregate Recovery Facility (ARF) together with ancillary infrastructure including grid connection cable and works, private electrical wire provision, substation, CHP off-take provision, internal vehicular circulation and yard areas, weighbridges, car parking, new access road, temporary construction compound and laydown area, security fencing and gates, drainage, landscaping and off-site habitat compensation at Land adjacent to Willshee's Waste And Recycling Limited, Keith Willshee Way, Swadlincote.

**Status:** Pending Consideration ...

## Proposal

The planning application under the reference of CW9/1022/22 is currently under consideration by Derbyshire County Council as the Local Planning Authority. This application is seeking permission for the proposed construction and operation of the Swadlincote Resource Recovery Park (SRRP) comprising an Energy Recovery Facility (ERF) and Aggregate Recovery Facility (ARF) together with ancillary infrastructure including grid connection cable and works, private electrical wire provision, substation, CHP off-take provision, internal vehicular circulation and yard areas, weighbridges, car parking, new access road, temporary construction compound and laydown area, security fencing and gates, drainage, landscaping and off-site habitat compensation at Land adjacent to Willshee's Waste And Recycling Limited, Keith Willshee Way, Swadlincote, DE11 9EN. ("the SRRP Application").

The SRRP Proposed Development will be delivered within the SRRP Application Boundary. The SRRP Application Boundary is situated on land adjacent to the existing Depot 3 Materials Recovery Facility ("the MRF").

The SRRP Proposed Development consists of:

- An Energy Recovery Facility (ERF) comprising a multifueled conventional combustion plant, based on globally proven moving grate technology. The ERF would have a gross electricity generating capacity of approximately 19.5MW. It has been designed to provide combined heat and power (CHP) and will be "CHP" ready from the outset, being capable of supplying heat to local consumers by means of a future heat network. The anticipated fuel throughput would be a maximum of 230,000 tonnes per annum (tpa) of non-hazardous residual (post-recycled) waste including Refuse Derived Fuel (RDF).

The finished floor levels (FFL) are between 500mm and 1000mm above average ground level of approximately 63.10m AOD. The FFL of the tipping hall is approximately 2m above the high flood risk zone. The ERF will be clad in a mosaic of earth toned coloured blocks. This design has been carefully selected to conceal the irregular building footprint and break down the appearance of the mass of the built structure.

Further details of this process are provided in the Design & Access Statement ES Appendix 4.2) and Chapter 4 of the ES.

- An Aggregate Recovery Facility (ARF) comprising an enclosed processing building, with a maximum capacity to reprocess up to 81,000 tpa of materials into valuable secondary aggregate for use in construction and recovered metals.

The ARF building will be approximately 75m long, 35m wide and 14m in height (to the ridge).

- Amendments to the internal access road to service the SRRP site and ensure safe operations between the SRRP and existing operations.
- A grid connection which extends westwards along the public highway and a substation at the Point of Connection (PoC).

The SRRP would be sited immediately adjacent to the MRF at Depot 3. The MRF, which opened in 2020, uses the best available technology systems to extract recyclable materials from commercial, industrial and construction/demolition waste. The recovered resources from the MRF includes 50,000 tpa of RDF which would be processed at the adjoining proposed ERF to generate low-carbon energy.

The remaining approximately 180,000tpa of feedstock will be sources from residual Commercial and Industrial waste from Willshees wider operations and from other sources within the County.

Substantial co-locational benefits arise from the SRRP's Application Boundary location and the SRRP Proposed Development with the MRF would be as follows:



- the proposed ERF, in addition to supplying low carbon energy to the national grid network, would supply green electricity direct to the adjoining ARF and MRF;
- all of the bottom ash and co-mingled metal residue from the ERF process would be recovered at the adjacent ARF for reuse in the construction sector etc;
- some 20,000 tpa of construction/demolition waste from the MRF would be recovered into construction aggregate at the adjoining ARF;
- the CHP enabled ERF has the potential to supply heat and/or power new and/or existing businesses on the adjacent Appleby Glade Industrial Estate.

The SRRP Proposed Development would have implications for two of the existing MRF development consents. These are the MRF Permission and the Wood Transfer Permission.

These implications primarily arise as the development of the SRRP would involve development on areas of species protection and ecological, woodland and landscape management required to be provided under the terms of planning conditions attached to the MRF Permission and the Wood Transfer Permission. The mitigation areas were deemed necessary at the time the permissions being granted due to the impacts of the development on the Cadley Hill Railway Area Local Wildlife Site (LWS)<sup>1</sup> within which the MRF is located.

In addition, the MRF Permission and the Wood Transfer Permission contain planning conditions limiting the number of HGV movements to and from the 'Cadley Hill Site', to maintain control over the operations and in the interests of highway safety. The wording of these conditions will be clarified to confirm that these limits relate to vehicle movements associated with the MRF and not the wider Cadley Hill Site which will now include the Proposed SRRP.

Site reprofiling has also led to updates to hydrological modelling and associated mitigation and has necessitated amendments to condition 3 of the Wood Transfer Permission and Conditions 8, 9 and 10 of the MRF Permission.

Section 73 of the Town and Country Planning Act 1990 enables planning applications to be submitted to develop land without complying with planning conditions attached to extant planning permissions. These are known as S73 Planning Applications.

The S.73 Applications have therefore been submitted at the same time as the SRRP Application which propose modifications to planning conditions 3, 9, 21, 22, 23 and 24 of the Wood Transfer Permission and planning conditions 4, 8, 9, 10, 14, 27, 28 and 29 of the MRF Permission. It is anticipated that DCC will require to determine the SRRP Application and the S.73 Applications together due to their directly interdependent nature.

To compensate for the loss of the specific mitigation habitat within the SRRP Site as a result of the SRRP Proposed Development and the associated amendments secured through the S.73 Applications, together with the biodiversity loss as a result of the SRRP Proposed Development, the SRRP Proposed Development proposals include offsite ecological compensation at Hartshorne and in Bretby to provide appropriate compensation and mitigation and deliver a biodiversity net gain.

### **Supporting Documentation**

- The application is supported by several supporting documents including:
  - Application Form
  - R001 Planning Application Covering Letter Rev 1
  - R002 Application – Drawing Pack v2
  - R003 Planning Statement
- Location Plan – SRRP
- Proposed SRRP Site Plan

- Location Plan - SRRP & S73
- Roof Plan
- L0 - L2 Office Plans
- L3 - L5 Office Plans
- Planning\_SRRP\_Masterplan
- Proposed Zone C - Revised Access Road
- SRRP Masterplan - Point of Connection
- Topo Site Plan
- Sections AA and BB
- Proposed North & South Elevations
- Proposed East & West Elevations
- Building West Elevation - No Equipment
- Ancillary Buildings & Equipment
- Site Elevations
- External Visuals
- Proposed Cut Fill Analysis
- Preliminary Site Levels
- Preliminary Drainage Layout 1
- Preliminary Drainage Layout 2
- ARF Building Layout
- ARF Roof Plan
- ARF Building Sections
- ARF Building Elevations
- Planning\_SRRP\_Hard Landscaping, Fences, Gates and Barriers
- Zone Plan
- Landscape Proposals
- Temporary Construction Compound and Laydown Area
- Location Plan - Lightning Layout
- Proposed Lighting Plan
- ERF Building Layout
  
- Biodiversity Surveys, Reports and Supporting Information documentation.
- Environmental Statement and Supporting Information documentation.
- Grounds Conditions Reports documentation.
- Heritage Assessment documentation.
- Landscape and Visual Impact Assessment documentation.
- Lighting Assessment documentation.
- Additional Information documentation.

## **Consultation**

Derbyshire County Council are the Planning Authority determining the application. Consultation has been undertaken with the following consultees on the application requesting their comments:

- Caldwell Parish Council
- Castle Gresley Parish Council
- Councillor Peter Smith (Swadlincote North)
- Derbyshire Wildlife Trust
- Environment Agency
- Internal C&D Archeology
- Internal C&D Built Heritage
- Internal C&D Ecology
- Internal C&D Landscape
- Internal Flood Team
- Internal Memorandum - Network Management
- National Forest Company
- National Grid Plant Protection Team

- National Planning Casework Unit
- Natural England
- Network Rail (Planning)
- South Derbyshire District Council
- South Derbyshire District Council (EHO)
- The Coal Authority
- Western Power

### **Comments received by South Derbyshire District Council**

Formal comments of representation have been received by South Derbyshire District Council. These comments of representation shall be provided to Derbyshire County Council as the Local Planning Authority to review and consider in the assessment of this planning submission. A summary of the key points arisen is presented below:

Comments of Objection:

- a) *Visual impacts of proposed chimney.*
- b) *Impacts from associated lorries.*
- c) *Implications with regards to Walton bypass and Chetwynd bridge.*
- d) *Emailing list collated and petition against this proposal.*
- e) *Landscape impacts of the development.*
- f) *Cumulative impacts*
- g) *Likely to have a significant impact on the wider area.*
- h) *Local people see very few benefits.*
- i) *Works have only recently been completed at a land-fill site at Albert Village.*
- j) *Bad smells, odour related implications.*
- k) *Increase in heavy vehicles taking rubbish to the recycling plant.*
- l) *Affects on the busy A444 that dissects Overseal village.*
- m) *Increased traffic noise and damage to the road surface.*
- n) *Pollution from vehicles will become even more of a problem.*
- o) *Weight limits on local roads and bridges.*
- p) *Signage should be reviewed.*
- q) *Concern about what the emissions might do to the air quality in the area.*
- r) *Concerned about the plant damaging their health.*
- s) *Benefits do not out-weight the harm.*
- t) *Contrary to planning policy.*
- u) *700 objections have been submitted so far with over 500 signing a petition.*
- v) *Location of the development not suitable.*
- w) *Impacts on the Green Belt.*
- x) *Impact on Public Rights of Way.*
- y) *Not in scale with existing development.*
- z) *Harmful to landscape and character.*
- aa) *Fails to provide sufficient net gains for biodiversity despite mitigation.*
- bb) *Unsuitable offset for like-for-like habitat renewal.*
- cc) *Loss of habitats.*
- dd) *Harm to protected species as well as land contamination.*
- ee) *Highway safety concerns.*
- ff) *Air Quality, Noise and Odour Impacts.*

### **Planning Policy**

The relevant Development Plan policies are:

South Derbyshire Local Plan Part 1 - LP1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S6 (Sustainable Access), E1 (Strategic Employment Land Allocation), E2 (Other Industrial and Business Development), E3 (Existing Employment Areas), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD2 (Flood

Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), SD5 (Minerals Safeguarding), SD6 Sustainable Energy and Power Generation), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), and INF8 (National Forest).

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

The relevant local guidance is:  
South Derbyshire Design Guide SPD  
Trees & Development SPD

The relevant national guidance is:  
National Planning Policy Framework (NPPF)  
Planning Practice Guidance (PPG)  
National Design Guide (NDG)

## **Discussion**

The site under consideration is addressed as Land adjacent to Willshee's Waste And Recycling Limited, Keith Willshee Way, Swadlincote, DE11 9EN. The existing use of the site is described as undeveloped former coal transfer site adjacent to operational Materials Recovery Facility. The application site is not situated within a Conservation Area, does not fall within proximity of Heritage Assets, and does not fall within the River Mease Catchment. The site does not comprise of any Tree Preservation Orders but is however situated within the National Forest. The site lies within Flood Zone 3.

The planning application under the reference of CW9/1022/22 is currently under consideration by Derbyshire County Council as the Local Planning Authority. This application is seeking permission for the proposed construction and operation of the Swadlincote Resource Recovery Park (SRRP) comprising an Energy Recovery Facility (ERF) and Aggregate Recovery Facility (ARF) together with ancillary infrastructure including grid connection cable and works, private electrical wire provision, substation, CHP off-take provision, internal vehicular circulation and yard areas, weighbridges, car parking, new access road, temporary construction compound and laydown area, security fencing and gates, drainage, landscaping and off-site habitat compensation at Land adjacent to Willshee's Waste And Recycling Limited, Keith Willshee Way, Swadlincote.

The SRRP Proposed Development consists of an Energy Recovery Facility (ERF), an Aggregate Recovery Facility (ARF), amendments to the internal access road, and a grid connection which extends westwards along the public highway and a substation at the Point of Connection (PoC). Detailed plans and elevations have been provided to present the various elements of the proposed scheme of development.

The Local Planning Authority are aware of comments of concern and objections from members of the public.

## **Design and Landscape**

The most applicable policies and guidance to consider with regards to the design, character, and appearance related considerations are Policy S2 (Presumption in Favour of Sustainable Development), Policy E7 (Rural Development), Policy BNE1 (Design Excellence), Policy BNE4 (Landscape Character and Local Distinctiveness), Policy INF8 (The National Forest), Policy BNE5 (Development in Rural Areas), and Policy BNE7 (Trees, Woodland and Hedgerows) of the South Derbyshire District Local Plan, the South Derbyshire Design Guide SPD, and the National Planning Policy Framework.

The National Planning Policy Framework attaches great importance to design of the built environment and sets out that high quality and inclusive design should be applied to all development, including individual buildings, private spaces, and wider area development schemes. It also states that development should respond to local character and history and reflect the identity of local surroundings.

The design, character and appearance related implications associated with the proposed scheme of development at Land adjacent to Willshee's Waste And Recycling Limited, Keith Willshee Way, Swadlincote will need to be carefully considered, in conjunction with technical consultation input, by Derbyshire County Council as the Local Planning Authority in the assessment and determination of this planning application. The stance of objection of South Derbyshire District Council, as well as comments of concern and objection from members of the public/ neighbouring residents received by South Derbyshire District Council will all need to be considered in the overall assessment of the planning submission.

It is noted that a built form of a significant size and scale is proposed. Scale, bulk, massing, and proportions of the proposed scheme of development have been reviewed and considered by South Derbyshire District Council. The proposed scheme of development is currently considered to be unacceptable due to the size and scale proposed within the site and surrounding context of the locality. An adequate provision of landscaping, planting and boundary treatments would be required to help screen the development and mitigate any potential design implications associated with this development proposal. This has not yet been achieved and it is the view of South Derbyshire District Council that it would be very difficult to adequately mitigate the impacts of the proposed scheme of development.

The scale, bulk, massing, proportions, and siting is considered to present an unduly dominant development at odds with the application site, surrounding locality and wider open countryside setting. The development proposal would constitute a significant overdevelopment of the application site resulting in a prominent and incongruous form of development which fails to satisfactorily integrate and would present an erosion of the surrounding rural landscape. The proposal fails to comply with the relevant local and national level planning policy. This therefore present a strong and robust basis for the refusal of planning permission on design, character, and appearance related grounds.

### **Impact on Amenity**

The most applicable policies and guidance to consider regarding potential impact on amenity are Policy SD1 (Amenity and Environmental Quality) and Policy BNE1 (Design Excellence) of the South Derbyshire District Local Plan, and the South Derbyshire Design Guide SPD. These policies between them seek that new development does not lead to adverse impacts on the environment or amenity of existing occupiers within or around proposed developments.

It is noted that the site under consideration is located off Cadley Hill, adjacent to the A444. The site is bounded to the north, south and west by fields with the A444 forming the eastern boundary. Beyond the A444 lies a concrete plant with an associated recycling facility and an industrial estate. Some 150 metres (approx.) to the north lies the Swadlincote sewage works. The nearest residential housing is situated 300 metres (approx.) away from the site to the north and south. The existing use of the site is described as undeveloped former coal transfer site adjacent to operational Materials Recovery Facility.

To inform the input provided with regards to the amenity related consideration the Local Planning Authority at South Derbyshire District Council have at this stage taken the opportunity gain technical consultation advice from the Environmental Health team. On 20 October 2023 the Environmental Health team (SDDC) have advised that they have already responded to Derbyshire County Council directly with a stance of no objection subject to the incorporation of recommended planning conditions.

The Local Planning Authority at South Derbyshire District Council have also requested and received input from the Planning Enforcement team (SDDC). There are not any enforcement matters involving this site that are within the remit of the Planning Enforcement team at (SDDC). The enforcement issues

with regards to the site are within the remit of Derbyshire County Council as the Local Planning Authority.

Given the distances of the development proposal from nearby residential properties, and given the stance of the Environmental Health team, it is potentially unlikely that significant impacts on amenity will arise. It will however be for the Derbyshire County Council as the Local Planning Authority to assess and consider these factors in the assessment and determination of this planning application.

### **Access and Highway Safety**

With regards to the access and highway safety consideration, technical consultation input from the County Highways team at Derbyshire County Council would be required. Due to the nature of the planning submission under consideration the Local Planning Authority at South Derbyshire District Council would recommend that the full support of the County Highways team is achieved before Derbyshire County Council as the Local Planning Authority potentially recommend planning approval. In the absence of this support South Derbyshire District Council would recommend that planning permission should be refused on access and highway safety grounds.

### **Ecology, Biodiversity and National Forest Planting**

The most applicable policies and guidance to consider with regards to the ecological and biodiversity consideration are Policy S2 (Presumption in Favour of Sustainable Development), Policy E7 (Rural Development), BNE3 (Biodiversity), Policy INF8 (The National Forest), Policy BNE5 (Development in Rural Areas), and Policy BNE7 (Trees, Woodland and Hedgerows) of the South Derbyshire Local Plan, the Natural Environment and Rural Communities Act, and the National Planning Policy Framework.

It is recommended that formal technical consultation input is requested from the Derbyshire Wildlife Trust with regards to this development proposal. It would be recommended that the full support of the Derbyshire Wildlife Trust is achieved before Derbyshire County Council as the Local Planning Authority progress with any recommendation to approve.

The site under consideration is situated within the National Forest, and the site area extends to a total of approximately 7.34 hectares. Policy INF8 (The National Forest) of the South Derbyshire District Local Plan sets out dedicated tree planting and landscaping requirements. In the instance of this planning application the site area is over 1 ha but below 10 ha. Policy INF8 states that in this instance 20% of the development area should be woodland planting and landscaping. As the application site is situated within the National Forest and comprises of approximately 7.34 hectares it would be recommended that Derbyshire County Council as the Local Planning Authority engage with the National Forest Company and seek consultation support in this regard.

The attention of Derbyshire County Council is drawn to the response to the EIA Scoping (County Ref: SCOW/9/76, SDDC Ref: DMOT/2021/1089). Although an overall stance of no objection was provided, the Local Planning Authority at South Derbyshire District Council advised that biodiversity/ ecology effects should be reviewed to reflect the further loss of the Local Wildlife Site, which was required to be bought into positive management by previous Waste Recycling Facility permissions (CW9/0816/45 and CW9/1119/61). Clearly the removal of an area of woodland on a non-designated ecological site of County Importance which was bought into management to compensate previous ecological impacts constitutes a potentially significant effect that should be considered.

### **Flood Risk and Drainage**

The National Planning Policy Framework seeks to ensure that new development is not at risk from flooding, or does not increase flood risk elsewhere. It advocates the use of a sequential test with the aim of steering new developments to areas with the lowest probability of flooding. The Environment Agency produces flood risk maps which classifies land according to probability of flooding. The areas of highest risk are classified as Flood Zone 3, with a 1 in 100 or greater annual probability of flooding, and

the areas of lowest risk are classified as Flood Zone 1, with a less than 1 in 1000 annual probability of flooding.

The application site is situated within Flood Zone 3. It has been noted that the County Council have formally consulted the County Flood Risk team (LLFA) at Derbyshire County Council, and it appears to be the case that additional details and clarifications have been requested before a formal finalised response can be provided. In the absence of these details support has not yet been achieved.

The Local Planning Authority at South Derbyshire District Council would recommend that the full support of the County Flood Risk team (LLFA) and Severn Trent Water is achieved before Derbyshire County Council as the Local Planning Authority potentially recommend planning approval. In the current absence of this support South Derbyshire District Council are presenting a comment of objection on these associated grounds.

## **Conclusions**

It is considered that the proposed scheme of development would constitute a significant overdevelopment of the application site resulting in a prominent and incongruous form of development which fails to satisfactorily integrate and would present an erosion of the surrounding rural landscape. Further to this there is potential for the development proposal to present implications and cause disturbance. Sufficient regard should be given to design, impact on amenity, highways implications, ecology, the national forest, and flooding amongst other. Derbyshire County Council as the Local Planning Authority for the application will need to be satisfied that the proposal would not have severe highway implications or be of detriment to air quality or the amenity of the locality. The proposal would be required to minimise impacts on and provide for net gains in biodiversity, and the development should not present any risk of flooding. Any significant harm should be avoided or mitigated against to the satisfaction of the County Council. The County Council will receive comments on the application directly from experts in response to the formal consultation undertaken. The County Council will need to be content that the proposal complies with both national and local level planning policy. At this present time South Derbyshire District Council are recommending that this planning submission should not be supported.

## **Summary**

At this present time, due to the scale, bulk, massing, proportions, and siting, and in the absence of full and comprehensive details of mitigations to the satisfaction of the relevant technical consultees, the Local Planning Authority at South Derbyshire District Council would like to advise that a stance of Objection is currently presented.

**Item No.** 1.12

**Ref. No.** [DMOT/2023/1060](#)

**Valid date:** 11/08/2023

**Applicant:** Derbyshire County Council                      **Agent:** N/A

**Proposal:** Consultation from the County Council on application ref. CW9/0623/15 seeking permission consolidation application to combine current planning permissions, for the retrospective development of several infrastructure improvements, the flood compensation scheme, regularisation of the weighbridge office location and RDF building elevations, and regularisation of the planning boundary to include unauthorised areas at Willshee's Waste And Recycling Limited, Keith Willshee Way, Swadlincote, Derbyshire, DE11 9EN

**Ward:** Linton Ward

### **Reason for committee determination**

This planning submission is being reported to Planning Committee at the request of the Head of Planning.

### **Recommendations**

It is recommended that the Planning Committee agrees to provide a written response of **Objection** to the County Council's consultation on the application. This report draws attention to the following key considerations:

- Design and Landscape
- Impact on Amenity
- Access and Highway Safety
- Ecology, Biodiversity and National Forest Planting
- Flood Risk and Drainage

It is recommended that the Planning Committee delegate authority to the Head of Planning and in consultation with the Chair to agree the finer detail and wording of the response.

### **Purpose of Report**

The purpose of this report is to inform members of the consultation on the planning application at Willshee's Waste And Recycling Limited, Keith Willshee Way, Swadlincote which is being considered by Derbyshire County Council as the Local Planning Authority in this instance. This report considers the proposals against relevant local and national policy and provides the recommendations above in response to the consultation exercise by the County Council.

### **Background**

#### **Application Site**

The application site is addressed as Willshee's Waste And Recycling Limited, Keith Willshee Way, Swadlincote, Derbyshire, DE11 9EN.



The site under consideration is located off Cadley Hill, adjacent to the A444. The site is bounded to the north, south and west by fields with the A444 forming the eastern boundary. Beyond the A444 lies a concrete plant with an associated recycling facility and an industrial estate. Some 150 metres (approx.) to the north lies the Swadlincote sewage works. The nearest residential housing is situated 300 metres (approx.) away from the site to the north and south. The site currently operates a waste transfer facility.

The application site under consideration is not situated within a Conservation Area, does not fall within proximity of Heritage Assets, and does not fall within the River Mease Catchment. The site does not comprise of any Tree Preservation Orders but is however situated within the National Forest. The site lies within Flood Zone 3.

### **Recent Relevant Planning History**

**County Ref:** CW9/0816/45

**SDDC Ref:**

**Proposal:** Change of use to an Inert Waste and Wood Waste Transfer Station and Skip Storage at the Former Coal Yard, off Cadley Hill Road and Burton Road, Swadlincote.

**Status:** Application approved - 09/10/2017

**County Ref:** CW9/0418/3

**SDDC Ref:**

**Proposal:** Construction of a new building to be used as a weighbridge office at Depot 3, Burton Road, Swadlincote.

**Status:** Application approved - 06/09/2018

**County Ref:** CW9/1018/63

**SDDC Ref:**

**Proposal:** Extension to the site and construction of a waste handling building for the storage, treatment and processing of refuse derived fuel at the Former Railhead, Cadley Hill Park, Burton Road, Swadlincote.

**Status:** Application approved - 20/05/2019

**County Ref:** CW9/1119/61

**SDDC Ref:**

**Proposal:** Permission not to comply with Condition 2 (Duration of Use and Clearance) of Planning Permission CW9/08/16/45 in order to remove the 10 year time limit on the permission at Willshee's Skip Hire Limited, Cadley Hill Park, Burton Road, Swadlincote.

**Status:** Application approved - 12/04/2021

**County Ref:** SCOW/9/75

**SDDC Ref:** DMOT/2021/0959

**Proposal:** Scoping opinion for proposed construction and operation of the Swadlincote Resource Recovery Park comprising an Energy Recovery Facility and Aggregate Recovery Facility together with ancillary infrastructure including grid connection works, substation, CHP off-take provision, internal vehicular circulation and yard areas, weighbridges, car parking, temporary construction compound and laydown area, security fencing and gates, drainage, landscaping and off-site habitat compensation on Land adjacent to Depot 3, Keith Willshee Way, Cadley Hill, Swadlincote, DE11 9EN

**Status:** No objection. Advice given with regards to the consideration of alternative locations and scales of development, flexibility to allow some variation of the project and, landscaping and visual impacts. 01 July 2021.

**County Ref:** SCOW/9/76

**SDDC Ref:** DMOT/2021/1089

**Proposal:** An EIA Scoping Report prepared on behalf of Willshee's Waste & Recycling Limited to support the modification of planning conditions on the existing Waste Recycling Facility permissions via applications submitted under S73 of the Town and Country Planning Act 1990 at Willshee's Waste And Recycling Limited, Keith Willshee Way, Swadlincote, DE11 9EN

**Status:** No objection. Having reviewed the scoping report, it is acknowledged that the section 73 proposals would generally be unlikely to lead to materially different impacts compared to the previously consented schemes. It is, however agreed that biodiversity/ecology effects should be reviewed to reflect the further loss of the Local Wildlife Site, which was required to be bought into positive management by previous Waste Recycling Facility permissions (CW9/0816/45 and CW9/1119/61). Clearly the removal of an area of woodland on a non-designated ecological site of County Importance, which has bought into management to compensate previous ecological impacts constitutes a potentially significant effect that should be considered through the EIA process. The proposals to scope this issue into the EIA process are therefore welcomed. 14 July 2021.

**County Ref:** SCOW/9/78

**SDDC Ref:** DMOT/2021/1276

**Proposal:** An EIA Scoping Report prepared on behalf of Willshee's Waste & Recycling Limited for non-compliance with various conditions relating to Willshees waste operation at Willshee's Waste & Recycling Limited, Depot 3, Keith Willshee Way, Swadlincote, DE11 9EN

**Status:** Pending Consideration. Case Office advised that an actual application has since been submitted so this EIA application is not relevant now. Contact has been made with the County Council however no reply has since been provided. Update from Case Officer provided on 12 October 2023.

**County Ref:** CW9/1022/22

**SDDC Ref:** DMOT/2022/1567

**Proposal:** Consultation from the County Council on application ref. CW9/1022/22 seeking permission to the proposed construction and operation of the Swadlincote Resource Recovery Park (SRRP) comprising an Energy Recovery Facility (ERF) and Aggregate Recovery Facility (ARF) together with ancillary infrastructure including grid connection cable and works, private electrical wire provision, substation, CHP off-take provision, internal vehicular circulation and yard areas, weighbridges, car parking, new access road, temporary construction compound and laydown area, security fencing and gates, drainage, landscaping and off-site habitat compensation at Land adjacent to Willshee's Waste And Recycling Limited, Keith Willshee Way, Swadlincote, DE11 9EN

**Status:** Pending Consideration ...

**County Ref:** CW9/0623/15

**SDDC Ref:** DMOT/2023/1060

**Proposal:** Consultation from the County Council on application ref. CW9/0623/15 seeking permission consolidation application to combine current planning permissions, for the retrospective development of several infrastructure improvements, the flood compensation scheme, regularisation of the weighbridge office location and RDF building elevations, and regularisation of the planning boundary to include unauthorised areas at Willshee's Waste And Recycling Limited, Keith Willshee Way, Swadlincote, Derbyshire, DE11 9EN.

**Status:** Pending Consideration ...

**County Ref:** CW9/1022/22

**SDDC Ref:** DMOT/2023/1110

**Proposal:** Consultation from the County Council on application ref. CW9/1022/22 seeking permission for the proposed construction and operation of the Swadlincote Resource Recovery Park (SRRP) comprising an Energy Recovery Facility (ERF) and Aggregate Recovery Facility (ARF) together with ancillary infrastructure including grid connection cable and works, private electrical wire provision, substation, CHP off-take provision, internal vehicular circulation and yard areas, weighbridges, car parking, new access road, temporary construction compound and laydown area, security fencing and gates, drainage, landscaping and off-site habitat compensation at Land adjacent to Willshee's Waste And Recycling Limited, Keith Willshee Way, Swadlincote.

**Status:** Pending Consideration ...

## **Proposal**

The planning application under the reference of CW9/0623/15 is currently under consideration by Derbyshire County Council as the Local Planning Authority. This application is seeking permission to

combine current planning permissions, for the retrospective development of several infrastructure improvements, the flood compensation scheme, regularisation of the weighbridge office location and RDF building elevations, and regularisation of the planning boundary to include unauthorised areas at Willshee's Waste And Recycling Limited, Keith Willshee Way, Swadlincote, Derbyshire, DE11 9EN.

This application aims to support the proposed planning application for the Swadlincote Resource Recovery Park (SRRP) Ref: CW9/1022/22 which is currently also pending consideration.

The proposed development consists of the retrospective development of 11 concrete bays, 15 HGV parking spaces, car parking, new areas of concrete, pedestrian footpath, skip storage areas, dust extraction system, proposed flood compensation scheme, regularisation of the weighbridge office location and RDF building elevations, and regularisation of the planning boundary to include the flood compensation scheme, new area of concrete to the north of the RDF building, proposed car parking to the east of the weighbridge office, the area to the west of the pond and to the north of the HGV parking.

It is noted that the RDF building already has planning permission Ref: CW9/1018/63 and the retrospective and proposed developments as detailed have been designed to enhance and improve the existing operations on site.

The proposed and retrospective developments included within the consolidation application are as follows:

#### Concrete Walled Bays

The applicant seeks to obtain planning permission for the development of a total of 11 concrete walled bays on site. The concrete walled bays will be used for external waste storage and will enclose all external loose stockpiles which will reduce the spread of potential dust to nearby receptors and reduce the risk of cross-contamination of waste. As shown on Drawing Ref: W.PL.1810SLAv1, which is referenced within planning permission Ref: CW9/1018/63 as an approved document, a 3m concrete wall is required along the northern boundary for noise attenuation. The concrete walled bays will fulfil this requirement. There are a total of 9 concrete walled bays that line the legio block wall along the northern boundary of the site. There are an additional 2 concrete walled bays along the western side of the RDF building. The 9 concrete walls along the northern boundary all have different measurements of which are detailed individually on Drawing Ref: 230213WS201v5, 220713WS301 and 220713WS301.1. The two bays to the far west along the northern boundary are covered with steel sheeting as shown on Drawing Ref: 220713WS301. The 2 concrete bays along the western side of the RDF building both measure 5m x 4m x 3.2m and are shown on elevation Drawing Ref: 220713WS301.2. The bays are constructed from legio blocks which have an individual height of 0.8m and the finish is natural grey.

#### HGV Parking

The applicant seeks to obtain planning permission for the creation of 15 HGV parking spaces on site. The HGV parking will be on existing hardcore and concrete surfaces on site. This application is not proposing new surfaces for the HGV parking. There will be 5 HGV parking spaces alongside the 28 staff car parking spaces, that have already been granted planning permission, in the area to the east of the A444. These 5 HGV parking spaces will be created on the existing hardcore surface. An additional 10 HGV parking spaces will be created along the northern edge of the site access road. These HGV parking spaces will be created on a surface that is formed from concrete. The spaces can be seen on Drawing Ref: 230213WS201v5.

#### New Areas of Concrete

There are additional areas of concrete that have been installed to the north and east of the RDF building, and to the west of the existing permitted concrete pad. The area of concrete to the north and east of RDF building measures 2,553.7m<sup>2</sup> and the area of concrete to the west of the existing permitted concrete pad is 1,635.5m<sup>2</sup> and is specifically shown on Drawing Ref: 230213WS206v3. The installation of the new concrete surfaces will improve health and safety on site by providing additional space for efficient manoeuvring of plant and vehicles, and to provide a permitted location in accordance with Environment Agency guidelines for the storage of non-conforming waste in an enclosed skip. The concrete surface will also contribute to the efficient management, control and mitigation of dust, debris,

and mud associated with site operations. The concrete surface will be easy to clean and maintain in accordance with the Dust & Emissions Management Plan Ref: W.PL.DEMP.2302, which will reduce the risk of the spread of dust on site and onto the public highway.

#### Regularisation of the Weighbridge Office Location

The applicant seeks to regularise the location of the weighbridge office to ensure that the plans and documents approved are in accordance with the reality of the site. The weighbridge office has an area of 147.7m<sup>2</sup> and measures 18.7m x 7.9m with a height of approximately 4.38m at the front elevation and 3.52m at the rear elevation. The office is located along the south of the access road in the eastern area of the site as shown on Drawing Ref: 230213WS201v5. The weighbridge office is constructed from 65mm red smooth facing brick walls, and vertical cladding and roofing (Kingspan KS1000RW) in Anthracite. There are three UPVC access doors into the building as shown on Drawing Ref: 220913WS303, and UPVC windows will be positioned across each wall of the building. The office has guttering which consists of GHC steel box guttering with 2 No 110Ø PVC.

#### Regularisation of the RDF Building Elevations

The applicant seeks to regularise the RDF building elevations to ensure that the plans and documents approved are in accordance with the reality of the site. The retrospective aspect of this application aims to accurately represent the appearance of the RDF building through the following Drawings Ref: GA 006, GA 010, GA 009, APD/34/SL001, 220913WS302. The latest drawings accommodate for the two doors on the eastern elevation, the installation of 1008 pv solar panels on the roof, the door on the western façade, and the dust extraction system in the RDF building. All the structural details in these drawings are already in place. The two doors on the eastern elevation measure 4.5m in width and 9m in height. The doors replace the original plan on just one door and are constructed from galvanised steel in a grey finish; the same materials and specification as the current planning permission allows. The door on the western elevation measures 11m in width and 8.7m in height. The door is constructed from galvanised steel in a grey finish; the same materials and specifications as the current planning permission allows. The layout of the solar panels is shown on Drawing Ref: APD/34/SL001. The elevations of the dust extraction system are shown on Drawing Ref: 220713WS205. The elevations for the southern façade of the RDF building are shown on Drawing Ref: 220913WS302.

#### Regularisation of the Planning Boundary

The applicant seeks to regularise the planning boundary so that it includes the flood compensation scheme, new area of concrete to the north of the RDF building, proposed car parking to the east of the weighbridge office, the area to the west of the pond and the area to the north of the HGV parking. The red line boundary is shown on Drawing Ref: 230213WS201v5, all of which remains within the blue line of ownership.

#### Pedestrian Footpath

The applicant seeks to retrospectively obtain planning permission for the pedestrian footpath that has been installed to the northeast of the RDF building that stretches along the northern boundary and cuts down through the middle of the rough grass surface as shown on Drawing Ref: 230213WS201v5. The footpath significantly improves health and safety on site as it provides an assigned route of access for pedestrians between the RDF building and the weighbridge office, and therefore protecting pedestrians from the HGVs movements on the site road. The pedestrian footpath measures 2m in width and has a surface constructed from plantings which is derived from recovered tarmac.

#### Skip Storage Areas

There are two skip storage areas, one being a temporary skip storage area, that the applicant seeks to retrospectively obtain planning permission for. The temporary skip storage area is located to the northeast corner of the new area of concrete to the east of the RDF building. This area will temporarily contain four 40cyd skips, one of which is an assigned quarantine skip for the storage of non-conforming waste once it has been segregated from other loads upon inspection. The other skip storage area is located to the east of the pond and is for the storage of empty skips only. Both skip storage areas are shown on Drawing Ref: 230213WS201v5. The purpose of the assigned skip storage areas is to improve the organisation of storage areas on site and enhance the segregation and storage of waste materials to reduce the risk of cross-contamination of materials.

### Car Parking

The applicant seeks to retrospectively obtain planning permission for the car parking to the east and west of the weighbridge office. The applicant also seeks to obtain planning permission for the proposed additional car parking to the east of the office. As shown on Drawing Ref: 230213WS201v5, there are 7 car parking spaces to the east and 10 car parking spaces to the west of the weighbridge office on an existing concrete surface. The proposals include additional car parking consisting of 18 car parking spaces to the east of the existing parking to the east of the weighbridge office. Proposals for the new parking spaces include Geosynthetics' 'Golpla' or similar grass-filled cellular units which will replace the existing grass surface and will not add to or affect the existing drainage arrangements in the area. With the proposed car parking taken into consideration, there will be a total of 35 car parking spaces to the east and west of the weighbridge office that the applicant seeks planning permission for.

### Flood Compensation Scheme

The applicant seeks to obtain planning permission to implement the proposed flood compensation scheme within Flood Risk Assessment Ref: 1786-0 to address the fact that the Flood Compensation Scheme condition within CW9/1018/63 was never met, due to a scheme never having been implemented. The Flood Risk Assessment Ref: 1786-0 includes Drawings Ref: 1768-001, 1768-002, 1768-003, 1768-004, 1768-005, 1768-006, 1768-007, 1768-008, and 1768-009 which detail in the specifics of the drainage strategy. Flood Risk Assessment Ref: 1786-0 has been constructed using the JBA modelling as stated within the report. The scheme will introduce additional culverts and floodplain works to mitigate any impact as a result of the overall development on surrounding third party land in line with the JBA Consulting Hydraulic Modelling. The development will consist of the following: - Installing a flood storage compensation lagoon to the east of the RDF building. - Adding culverts linking the storage lagoon to the watercourse to the south of the RDF building. - Undertaking alterations on the existing watercourse channel.

Culverts - As stated within Flood Risk Assessment Ref: 1786-0, the hydraulic modelling study undertaken by JBA Consulting has resulted in proposals consisting of the addition of culverts as shown on Drawing Ref: 1768-005. Culverts will be implemented which will link the storage lagoon to the watercourse to the south of the RDF building. Details of the works to the new culverting based on the JBA Consulting assessment have been included within the drainage strategy layouts.

Storage Lagoon - The addition of the flood storage compensation lagoon will be located to the east of the RDF building as shown on Drawing Ref: 1768-005. The lagoon will be created within an existing ditch which is displayed on the topographical lines of the drawing. The storage compensation lagoon will be linked by the additional culverts to the watercourse to the south of the RDF building as shown on Drawing Ref: 1768-005. Details of the works to the new storage compensation lagoon based on the JBA Consulting assessment have been included within the drainage strategy layouts.

Watercourse Alterations - In addition to the new culverting and the proposed storage compensation lagoon, the hydraulic modelling study by JBA Consulting also proposes alterations to the existing watercourse channel which runs to the south of the RDF building. Details of the works to the new storage compensation lagoon based on the JBA Consulting assessment have been included within the drainage strategy layouts. The implementation of the flood compensation scheme will enhance the site's ability to monitor and control flood water in the event of a flood and mitigate an adverse impact on the site in relation to flood damage.

### Alpha Block Barrier

The applicant seeks to retrospectively obtain planning permission for the barrier constructed of concrete alpha blocks that line the southern boundary of the site shown on Drawing Ref: 230213WS201v5. The barrier measures 1.2m in height. The alpha blocks are positioned along the southern edge of the baled RDF storage and the access road as shown on the site layout plan and separate the baled RDF storage on the concrete surface from the culvert that runs to the south.

### Dust Extraction System

A dust extraction system has been installed to the northern façade of the RDF building. The location of the dust extraction system is shown on Drawing Ref: 230213WS201v5 and the elevations on Drawing Ref: 220713WS205. The applicant seeks to retrospectively obtain planning permission for the dust extraction system, as it has been installed to significantly reduce the risk of the spread of dust outside of the RDF building and to neighbouring properties. The system is an improvement to the previous site infrastructure and enhances the site's ability to control potential dust production from the RDF building activities and mitigate any adverse impacts.

### HGV Movements

This application aims to supersede the previously permitted HGV movements in order to reflect the reality of the movements on site and ensure the site is operating within their permitted limits and not in breach of the permission. It is crucial to note that despite the proposed vehicle movements being higher, the annual tonnages will not change. When planning permission was first applied for, it was assumed that most inputs would be in 8 wheeler trucks and outputs would be in articulated lorries. As the operation has developed, more inputs are in 7.5 tonnes skip vehicles and more outputs in 8 wheeler trucks than had been envisaged. This application proposes for the site to not exceed an average of 1,250 HGV movements (625 in/625 out) per working week (Monday to Saturday), which includes the HGV movements from the use of the HGV parking to the east of the A444. A Transport Statement Ref: STC1167 was completed in March 2023 to assess the potential impacts of the increase in HGV movements within the proposals. Further detail on the Transport Statement conclusions is provided within the Transport Chapter of the ES

### Lighting

Lighting has been installed on the RDF building as discussed within Section 3.13 below. Condition 17 of planning permission Ref: CW9/1018/63 states that external lighting shall not be installed unless it is in accordance with a scheme that has been submitted to and approved in writing by the Local Authority. This application aims to meet the requirements of Condition 17 of CW9/1018/63 through the submission of the lighting details within this consolidation application. The specifications of the lights including the calculated lux values are provided within Design & Access Statement Ref: W.PL.DA.2302. This application is also accompanied by a Lighting Assessment Ref: W.PL.LA.2302. The low powered space lighting has been installed on the eastern and western facades of the RDF building, and the low level lighting has been installed on the northern and southern facades. The total power of the new lighting is 1731.0 W. The proposed hours for the use of the external lighting consist of the following: Monday – Saturday: 06.00 – 09.00, 15.30 – 19.00. The lighting hours of use are on a timer and allow for one hour before and after operational hours in order for the maintenance and staff to arrive and leave the site. In addition to the operating hours use of lighting, all internal lighting will be switched on for the cleaning down of the plant for fire safety purposes and also for security inspections and fire watches for a period every hour. Having the internal lighting switched on for a period every hour is essential for efficient cleaning of plant and hot surfaces to prevent the issue of dust accumulation. Dust accumulation increases the risk of fire on site, and so must be prevented in accordance with the Environment Agency Fire Prevention guidance. The internal lighting is also crucial for the hourly patrols from the security staff and fire safety inspections. The gable end lights facing east are angled down to only directly illuminate the concrete surface immediately in front of the lights as shown in Figure 1.3.2 within the Lighting Scheme provided in the Design & Access Statement Ref: W.PL.DA.2302. This use of directional lighting meets the mitigating requirements set out in the Ecological Appraisal Ref: Cadley Hill Rail Site, Swadlincote August 2017 approved under planning permission Ref: CW9/0816/45 and CW9/1119/61, and Woodland Management Plan 2024 – 2028 submitted in support of this consolidation application. The lights are not located within the vicinity of suitable foraging land such as woodland. The lights will be roof mounted on the ridge of the roof of the RDF building on the eastern, southern, and western façades of the building. As mentioned above, the lights will only illuminate the concrete surface immediately in front of them, and therefore there will be no light spill into sensitive wildlife areas. It is crucial to note that there are other sources of light pollution in the surrounding area. There is a planning application for a major distribution centre currently in for determination with South Derbyshire Council Ref: DMPA/2021/1686. The lighting assessment submitted with the planning application Ref: External LED Lighting Assessment Report concludes that the lighting was suitable to ensure the immediate environment is protected and that the lighting has been designed to mitigate any

potential impact to properties adjacent to the site. The mitigation measures stated above will reduce the risk of light pollution reaching the surrounding properties and sensitive receptors.

### Ecological Management Plans

In order to meet the requirements of Conditions 27, 28, and 29 of planning permission Ref: CW9/1018/63 and Conditions 22, 23 and 24 of planning permission Ref: CW9/1119/61, updated ecological management plans need to be submitted. The updated ecological management plans submitted consist of 7233-E-2023 Review of Depot 3 Ecological Management Plans, 7233-E-2023 Updated Woodland Management Plan 2024-2028, 7233- E-2023 Updated Landscape & Ecological Management Plan 2024-2028. Within these management plans are Figures Ref: 7233-E-WMP-01-Woodland Management Plan 7233-E-LEMP-01-Landscape & Ecological Management Plan Areas. The implementation of these management plans will provide an improvement on the existing documents for the current planning permissions, and an enhancement of the present infrastructure regarding the management, conservation and protection of flora and fauna on and surrounding the site. Further details on the implementation of the above ecological management plans is provided within the Biodiversity Chapter of the ES.

### **Supporting Documentation**

The application is supported by several supporting documents including:

- Application Form
- Dust and Emission Management Plan
- Lighting Assessment
- Noise Monitoring And Assessment
- Sustainability Statement
- Transport Statement
- Waste Development Statement
- Coal Mining Risk Assessment Report.
- Design and Access Statement
- Flood Risk Assessment and Water Drainage Strategy
- Drainage Layout Sheets 1 to 6.
- Surface Water Catchment Plan Existing
- Surface Water Catchment Plan Proposed
- Ecological Appraisal
- Ecological Management Plans
- Landscape and Ecological Management Plan
- Woodland Management Plan
- Environmental Statement
- Concrete Bay Elevation 1
- Concrete Bay Elevation 2
- Covered Bay Elevation
- RDF Building - Southern Elevation
- Weighbridge Office
- Site Layout Plan
- Site Location Plan
- Zone Plan
- Dust Extractor Elevation
- New Concrete Area
- SSRP Access Road
- GA-006 Waste Building Door GL 1
- Cladding, Gable Elevations and Partition
- GA-010 Waste Building Door GL 1
- Solar String Layout Plan
- Site Layout Plan Approved Under CW9/1018/63
- Site Layout Plan
- Topographical Survey

- Location Plan

## Consultation

Derbyshire County Council are the Planning Authority determining the application. Consultation has been undertaken with the following consultees on the application requesting their comments:

- Caldwell Parish Council
- Castle Gresley Parish Council
- Councillor Peter Smith (Swadlincote North)
- Councillor Stuart Swann (Linton)
- Derbyshire Wildlife Trust
- Environment Agency
- Environment Agency
- Internal C&D Archeology
- Internal C&D Built Heritage
- Internal C&D Ecology
- Internal C&D Landscape
- Internal Flood Team
- Internal Memorandum - Network Management
- National Forest Company
- National Grid Plant Protection Team
- National Planning Casework Unit
- Natural England
- Network Rail (Planning)
- SLR Consulting Ecology
- South Derbyshire District Council
- South Derbyshire District Council (EHO)
- The Coal Authority
- Western Power

## Comments received by South Derbyshire District Council

Formal comments of representation have been received by South Derbyshire District Council. These comments of representation shall be provided to Derbyshire County Council as the Local Planning Authority to review and consider in the assessment of this planning submission. A summary of the key points arisen is presented below:

Comments of Objection:

*gg) Visual impacts of proposed chimney.*

*hh) Impacts from associated lorries.*

*ii) Implications with regards to Walton bypass and Chetwynd bridge.*

*jj) Emailing list collated and petition against this proposal.*

*kk) Landscape impacts of the development.*

*ll) Cumulative impacts*

*mm) Likely to have a significant impact on the wider area.*

*nn) Local people see very few benefits.*

*oo) Works have only recently been completed at a land-fill site at Albert Village.*

*pp) Bad smells, odour related implications.*

*qq) Increase in heavy vehicles taking rubbish to the recycling plant.*

*rr) Affects on the busy A444 that dissects Overseal village.*

*ss) Increased traffic noise and damage to the road surface.*

*tt) Pollution from vehicles will become even more of a problem.*

*uu) Weight limits on local roads and bridges.*

*vv) Signage should be reviewed.*

*ww) Concern about what the emissions might do to the air quality in the area.*

*xx) Concerned about the plant damaging their health.*



- yy) Benefits do not out-weight the harm.*
- zz) Contrary to planning policy.*
- aaa) 700 objections have been submitted so far with over 500 signing a petition.*
- bbb) Location of the development not suitable.*
- ccc) Impacts on the Green Belt.*
- ddd) Impact on Public Rights of Way.*
- eee) Not in scale with existing development.*
- fff) Harmful to landscape and character.*
- ggg) Fails to provide sufficient net gains for biodiversity despite mitigation.*
- hhh) Unsuitable offset for like-for-like habitat renewal.*
- iii) Loss of habitats.*
- jjj) Harm to protected species as well as land contamination.*
- kkk) Highway safety concerns.*
- lll) Air Quality, Noise and Odour Impacts.*

## **Planning Policy**

The relevant Development Plan policies are:

South Derbyshire Local Plan Part 1 - LP1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S6 (Sustainable Access), E1 (Strategic Employment Land Allocation), E2 (Other Industrial and Business Development), E3 (Existing Employment Areas), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), SD5 (Minerals Safeguarding), SD6 Sustainable Energy and Power Generation), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), and INF8 (National Forest).

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

The relevant local guidance is:  
 South Derbyshire Design Guide SPD  
 Trees & Development SPD

The relevant national guidance is:  
 National Planning Policy Framework (NPPF)  
 Planning Practice Guidance (PPG)  
 National Design Guide (NDG)

## **Discussion**

The site under consideration is addressed as Willshee's Waste And Recycling Limited, Keith Willshee Way, Swadlincote, Derbyshire, DE11 9EN. The site currently operates a waste transfer facility. The application site is not situated within a Conservation Area, does not fall within proximity of Heritage Assets, and does not fall within the River Mease Catchment. The site does not comprise of any Tree Preservation Orders but is however situated within the National Forest. The site lies within Flood Zone 3.

The planning application under the reference of CW9/0623/15 is currently under consideration by Derbyshire County Council as the Local Planning Authority. This application is seeking permission to combine current planning permissions, for the retrospective development of several infrastructure improvements, the flood compensation scheme, regularisation of the weighbridge office location and RDF building elevations, and regularisation of the planning boundary to include unauthorised areas. This application aims to support the proposed planning application for the Swadlincote Resource Recovery Park (SRRP) Ref: CW9/1022/22 which is currently also pending consideration.

The proposed development consists of the retrospective development of 11 concrete bays, 15 HGV parking spaces, car parking, new areas of concrete, pedestrian footpath, skip storage areas, dust extraction system, proposed flood compensation scheme, regularisation of the weighbridge office location and RDF building elevations, and regularisation of the planning boundary to include the flood compensation scheme, new area of concrete to the north of the RDF building, proposed car parking to the east of the weighbridge office, the area to the west of the pond and to the north of the HGV parking.

It is noted that the RDF building already has planning permission Ref: CW9/1018/63 and the retrospective and proposed developments as detailed have been designed to enhance and improve the existing operations on site.

The Local Planning Authority are aware of comments of concern and objections from members of the public.

## **Design and Landscape**

The most applicable policies and guidance to consider with regards to the design, character, and appearance related considerations are Policy S2 (Presumption in Favour of Sustainable Development), Policy E7 (Rural Development), Policy BNE1 (Design Excellence), Policy BNE4 (Landscape Character and Local Distinctiveness), Policy INF8 (The National Forest), Policy BNE5 (Development in Rural Areas), and Policy BNE7 (Trees, Woodland and Hedgerows) of the South Derbyshire District Local Plan, the South Derbyshire Design Guide SPD, and the National Planning Policy Framework.

The National Planning Policy Framework attaches great importance to design of the built environment and sets out that high quality and inclusive design should be applied to all development, including individual buildings, private spaces, and wider area development schemes. It also states that development should respond to local character and history and reflect the identity of local surroundings.

The design, character and appearance related implications associated with the proposed scheme of development at Willshee's Waste And Recycling Limited, Keith Willshee Way, Swadlincote will need to be carefully considered, in conjunction with technical consultation input, by Derbyshire County Council as the Local Planning Authority in the assessment and determination of this planning application. The stance of objection of South Derbyshire District Council, as well as comments of concern and objection from members of the public/ neighbouring residents received by South Derbyshire District Council will all need to be considered in the overall assessment of the planning submission.

Scale, bulk, massing, and proportions the proposed scheme of development will need to be deemed acceptable and considered to present an acceptable form of design. The scale and design of the built form, together with the proposed materials, will need to be consistent with that expected for a development of this nature. An adequate provision of landscaping, planting and boundary treatments will be required to help screen the development and mitigate any potential design implications associated with this development proposal. Should planning approval be recommended planning conditions would be advised to ensure that an acceptable level of design is retained and implemented at the build out stage, and to ensure the delivery and retention of the landscaping and planting scheme.

The attention of Derbyshire County Council is drawn to the response to the EIA Scoping (County Ref: SCOW/9/75, SDDC Ref: DMOT/2021/0959). Although an overall stance of no objection was provided, the Local Planning Authority at South Derbyshire District Council advised that a careful consideration of alternative locations and scales of development, flexibility to allow some variation of the project and, landscaping and visual impacts would be required.

## **Impact on Amenity**

The most applicable policies and guidance to consider regarding potential impact on amenity are Policy SD1 (Amenity and Environmental Quality) and Policy BNE1 (Design Excellence) of the South Derbyshire District Local Plan, and the South Derbyshire Design Guide SPD. These policies between

them seek that new development does not lead to adverse impacts on the environment or amenity of existing occupiers within or around proposed developments.

It is noted that the site under consideration is located off Cadley Hill, adjacent to the A444. The site is bounded to the north, south and west by fields with the A444 forming the eastern boundary. Beyond the A444 lies a concrete plant with an associated recycling facility and an industrial estate. Some 150 metres (approx.) to the north lies the Swadlincote sewage works. The nearest residential housing is situated 300 metres (approx.) away from the site to the north and south. The site currently operates a waste transfer facility.

To inform the input provided with regards to amenity related consideration the Local Planning Authority at South Derbyshire District Council have at this stage taken the opportunity gain technical consultation advice from the Environmental Health team. On 20 October 2023 the Environmental Health team have advised that they would not have any objections regarding this application (SDDC ref: DMOT/2023/1060).

The Local Planning Authority at South Derbyshire District Council have also requested and received input from the Planning Enforcement team (SDDC). There are not any enforcement matters involving this site that are within the remit of the Planning Enforcement team at (SDDC). The enforcement issues with regards to the site are within the remit of Derbyshire County Council as the Local Planning Authority.

Given the distances of the development proposal from nearby residential properties, and given the stance of the Environmental Health team, it is potentially unlikely that significant impacts on amenity will arise. It will however be for the Derbyshire County Council as the Local Planning Authority to assess and consider these factors in the assessment and determination of this planning application.

### **Access and Highway Safety**

With regards to the access and highway safety consideration, technical consultation input from the County Highways team at Derbyshire County Council would be required. Due to the nature of the planning submission under consideration the Local Planning Authority at South Derbyshire District Council would recommend that the full support of the County Highways team is achieved before Derbyshire County Council as the Local Planning Authority potentially recommend planning approval. In the absence of this support South Derbyshire District Council would recommend that planning permission should be refused on access and highway safety grounds.

### **Ecology, Biodiversity and National Forest Planting**

The most applicable policies and guidance to consider with regards to the ecological and biodiversity consideration are Policy S2 (Presumption in Favour of Sustainable Development), Policy E7 (Rural Development), BNE3 (Biodiversity), Policy INF8 (The National Forest), Policy BNE5 (Development in Rural Areas), and Policy BNE7 (Trees, Woodland and Hedgerows) of the South Derbyshire Local Plan, the Natural Environment and Rural Communities Act, and the National Planning Policy Framework.

It is recommended that formal technical consultation input is requested from the Derbyshire Wildlife Trust with regards to this development proposal. It would be recommended that the full support of the Derbyshire Wildlife Trust is achieved before Derbyshire County Council as the Local Planning Authority progress with any recommendation to approve.

The site under consideration is situated within the National Forest, and the site area extends to a total of approximately 4.8 hectares. Policy INF8 (The National Forest) of the South Derbyshire District Local Plan sets out dedicated tree planting and landscaping requirements. In the instance of this planning application the site area is over 1 ha but below 10 ha. Policy INF8 states that in this instance 20% of the development area should be woodland planting and landscaping. As the application site is situated within the National Forest and comprise of approximately 4.8 hectares it would be recommended that

the Derbyshire County Council as the Local Planning Authority engage with the National Forest Company and seek consultation support in this regard.

The attention of Derbyshire County Council is drawn to the response to the EIA Scoping (County Ref: SCOW/9/76, SDDC Ref: DMOT/2021/1089). Although an overall stance of no objection was provided, the Local Planning Authority at South Derbyshire District Council advised that biodiversity/ ecology effects should be reviewed to reflect the further loss of the Local Wildlife Site, which was required to be brought into positive management by previous Waste Recycling Facility permissions (CW9/0816/45 and CW9/1119/61). Clearly the removal of an area of woodland on a non-designated ecological site of County Importance which was brought into management to compensate previous ecological impacts constitutes a potentially significant effect that should be considered.

### **Flood Risk and Drainage**

The National Planning Policy Framework seeks to ensure that new development is not at risk from flooding, or does not increase flood risk elsewhere. It advocates the use of a sequential test with the aim of steering new developments to areas with the lowest probability of flooding. The Environment Agency produces flood risk maps which classifies land according to probability of flooding. The areas of highest risk are classified as Flood Zone 3, with a 1 in 100 or greater annual probability of flooding, and the areas of lowest risk are classified as Flood Zone 1, with a less than 1 in 1000 annual probability of flooding.

The application site is situated within Flood Zone 3. It has been noted that the County Council have formally consulted the County Flood Risk team (LLFA) at Derbyshire County Council. The Local Planning Authority at South Derbyshire District Council would recommend that the full support of the County Flood Risk team (LLFA) is achieved before Derbyshire County Council as the Local Planning Authority potentially recommend planning approval. In the current absence of this support South Derbyshire District Council are presenting a comment of objection on these associated grounds.

### **Conclusions**

It is considered that there is potential for the development proposal to present implications and cause disturbance for residents of South Derbyshire. Sufficient regard should be given to design, impact on amenity, highways implications, ecology, the National Forest, and flooding amongst other material considerations. It is considered that a number of these matters could potentially be appropriately mitigated against via the use of appropriate planning conditions. Derbyshire County Council as the Local Planning Authority for the application will need to be satisfied that the proposal would not have severe highway implications or be of detriment to air quality or the amenity of the locality. The proposal would be required to minimise impacts on and provide for net gains in biodiversity, and the development should not present any risk of flooding. Any significant harm should be avoided or mitigated against to the satisfaction of the County Council. The County Council will receive comments on the application directly from experts in response to the formal consultation undertaken. The County Council will need to be content that the proposal complies with both national and local level planning policy.

### **Summary**

At this present time, in the absence of full and comprehensive details of mitigations to the satisfaction of the relevant technical consultees, the Local Planning Authority at South Derbyshire District Council would like to advise that a stance of **Objection** is currently presented.

