

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

## **Section 1: Planning Applications**

## **Section 2: Appeals**

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

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## 1. Planning Applications

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

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

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

## Glossary of terms

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

LP1	Local Plan Part 1
LP2	Local Plan Part 2
NP	Neighbourhood Plan
SPD	Supplementary Planning Document
SPG	Supplementary Planning Guidance
PPG	Planning Practice Guidance
NPPF	National Planning Policy Framework
NDG	National Design Guide
SHMA	Strategic Housing Market Assessment
SHELAA	Strategic Housing and Employment Land Availability Assessment
s106	Section 106 (Agreement)
CIL	Community Infrastructure Levy
EIA	Environmental Impact Assessment
AA	Appropriate Assessment (under the Habitat Regulations)
CPO	Compulsory Purchase Order
CACS	Conservation Area Character Statement
HER	Historic Environment Record
LCA	Landscape Character Area
LCT	Landscape Character Type
LNR	Local Nature Reserve
LWS	Local Wildlife Site (pLWS = Potential LWS)
SAC	Special Area of Conservation
SSSI	Site of Special Scientific Interest
TPO	Tree Preservation Order
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/2023/0687](#)

**Valid date:** 28/07/2023

**Applicant:** Sandeep Manaktala, Blue Mountain Homes      **Agent:** Rose Consulting

**Proposal:** Change of use from a dwelling (use class C3) to a children's home (use class C2) at 22 Millfield Street, Woodville

**Ward:** Woodville

### **Reason for committee determination**

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

### **Site Description**

The application site is located on the eastern side of Millfield Street, outside the settlement boundary for Woodville, Swadlincote and therefore within the rural area as defined by the Local Plan. There is an area of allotments to the north of the site and residential properties to the south and west. Millfield Street is connected to the A511 Ashby Road to the south and has no through route. There is a turning head at the north of the street which the property is adjacent to. The site incorporates a 2no. storey dwelling with driveway to the side of the house (served by a dropped kerb), a small outbuilding/garage and garden to the rear. The floor plan currently incorporates 3no. bedrooms and a bathroom at first floor level, 2no. reception rooms, utility, kitchen and W/C at ground floor level.

### **The proposal**

The proposal is for the change of use of the building from a dwelling (use class C3) to a children's home (use class C2). There would be no external alterations to the building as part of the change of use. The home would be occupied by 1no. child with 6no. carers altogether and no more than 3no. carers on the premises at any one time. The detailed explanation of staffing and shift patterns is provided in paragraph 2.10 of the Design and Access Statement (Rose Consulting, 16 September 2023). The Site Plan (3955-02 Rev A) shows that there would be parking for 4. no vehicles, with turning space facilitated by removal of the existing small outbuilding that is adjacent to the dwelling.

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

#### Planning Application Drawings

- Location Plan (received 04/03/2023)
- Existing Floor Plans (3955-01, received 04/03/2023)
- Proposed Floor Plans (3955-03, received 28/07/2023)
- Parking Plan (3955-02 Rev A, received 13/09/2023)

It is noted that the parking plan was revised in response to feedback from the Highways Authority related to the provision of parking. The final version noted above excludes parking within the outbuilding which would be removed from site to facilitate the turning area.

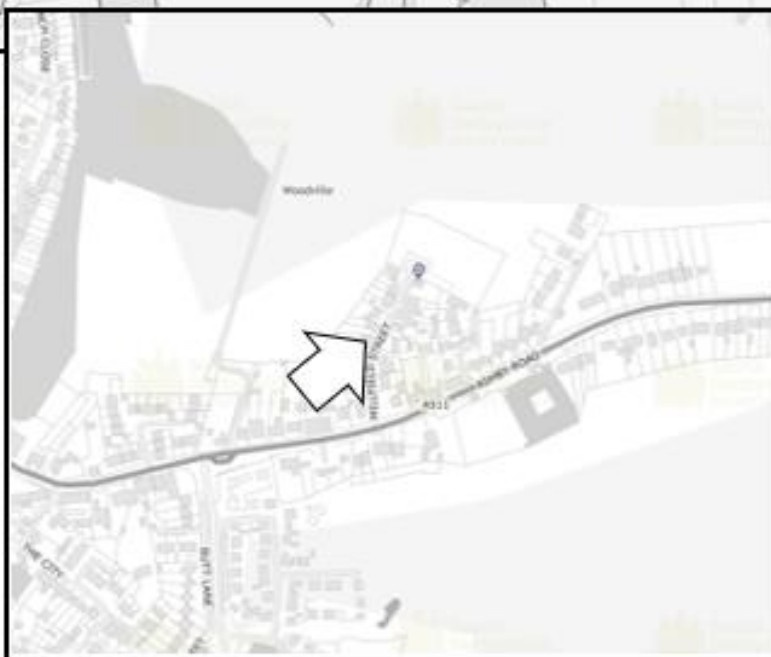
#### Blue Mountain Children's Home Management Plan (16/09/2023)

This document has been prepared by the applicant. It sets out how the home would be managed with particular reference to requirements by OFSTED; provides an indication of the types of activities that would be anticipated at the site (such as staff shift patterns, when visitors would be expected etc.); and highlights how local residents would be able to get in touch with managers and the support team if there are matters of concern.

**DMPA/2023/0687 – 22 Millfield Street, Woodville, Swadlincote, DE11 7DB**



**THE SITE**



**MAPS ARE NOT TO SCALE**

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South  
Derbyshire  
District Council

South Derbyshire District Council, LA 100019461.2020

## Blue Mountain Children's Home Good Neighbour Policy (16/09/2023)

This document has been submitted by the applicant and sets out the measures that the care home company would seek to operate with a view to being a 'good neighbour'. This includes measures to ensure the building maintains a positive appearance (e.g. keeping rubbish under control, gardens maintained, ensuring appropriate parking); obligations and training for staff members; and a procedure for response to complaints amongst other things.

## Design and Access Statement (Rose Consulting, 17/09/2023)

The Design and Access Statement (DAS) sets out information related to how the care home would be run and an assessment of the proposal against national and development plan policy. Schedule 2 sets out the anticipated comings and goings associated with the use and compares this to the level expected for the building under a C3 use. It is noted that the DAS was revised during the planning process, as the applicant advised that the number of children accommodated within the building would be 1no. (instead of the 2no. originally anticipated).

## **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.

## **Responses to consultations and publicity**

### Woodville Parish Council

Woodville Parish Council has considered this application and objects to the change of use on the grounds of the proximity of the property to immediate residents, the amenity of the area and increased comings and goings (13/09/2023).

### County Highways Authority

*Initial Response* – It is noted that 4 car parking spaces are shown on the site layout plan. However, there is concern that vehicles could not satisfactorily manoeuvre in and out of the spaces to ensure they can enter and leave in a forward direction. The applicant is therefore requested to submit swept paths of vehicles turning within the site to show that this can be undertaken safely.

In addition, it is noted that the applicant states that staff will be encouraged to cycle to work, with this in mind secure, covered cycle storage should be provided (29/08/2023).

*Re-consultation on revised parking plan* - The revised parking layout is fine, however there is no response on the cycle parking issue raised in my response (15/09/2023).

## Environmental Health

There are no environmental concerns about this application, therefore no conditions are required. An informative related to food hygiene matters was requested (22/08/2023).

## Neighbour Responses

1no. letter of support and 5no. objections were received in response to the planning consultation. The comments highlighted the following matters:

- a) The location for a children’s home is unsuitable due to the area being unlit by street lighting and high number of elderly residents, and request that the building be retained for a family residence;
- b) Insufficient parking for the development;
- c) Concern that the scheme would increase parking on the street, which is already congested and that this would prevent emergency services access;
- d) Potential conflict in interest with other residents working in social care and living in proximity;
- e) Specific comments that question the accuracy of the DAS, particularly in relation to the existing movements associated with the building as a Class C3 dwelling;
- f) Some inconsistency in the DAS that leads to ambiguity on whether the children would have learning difficulties or special needs, and implication of this for the use class applied for;
- g) Internal floorspace of the building too small to accommodate a business;
- h) An application for a children’s care home was refused on Ashby Road and this case should be refused on the same basis;
- i) 1 no. neighbour raised concern that there would be noise and screaming from the development;
- j) 1 no. neighbour raised safety concerns if the young person has a history of aggression, violence or intimidation.

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

The relevant Development Plan policies are:

- Local Plan Parts 1 and 2: H1 (Settlement Hierarchy), E7 (Rural Development), SD1 (Amenity and Environmental Quality), INF2 (Sustainable Transport), BNE1 (Design Excellence)

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. Highway Safety;
3. Residential Amenity;
4. Other Matters.

### **Planning assessment**

#### Principle of the Development

There is no specific policy that relates to the principle of the provision of children’s care homes within the Local Plan. The Department for Levelling Up, Housing and Communities Message from Chief Planner (dated 19 June 2023), which draws on the Planning for Accommodation for Looked After Children Ministerial Statement (dated 23 May 2023) however states:

*‘The planning system should not be a barrier to providing homes for the most vulnerable children in society. The purpose of the statement is to remind local planning authorities that, as set out in paragraph 62 of the National Planning Policy Framework, local planning authorities should assess the size, type and tenure of housing needed for different groups in the community and reflect this in planning policies and decisions. Local planning authorities should consider whether it is appropriate to include accommodation for children in need of social services care as part of that assessment.*

*Local planning authorities should give due weight to and be supportive of applications, where appropriate, for all types of accommodation for looked after children in their area that reflect local needs and all parties in the development process should work together closely to facilitate the timely delivery of such vital accommodation for children across the country’.*

Policy E7, which relates to development in the rural area, is supportive of employment activities outside of settlement boundaries provided they support the social and economic needs of the rural communities in the District. It is considered that the proposal would support the social needs in this respect, as per the case set out in the DAS and Message from the Chief Planner, and the proposal would accord with policy E7 subject to impacts on the highway network and there not being undue impacts on neighbouring land (which are explored further below).

It is noted that there was a refusal for a Certificate of Lawfulness for the change in use for this site. This refusal highlighted that there would be a material change of use between the use of the building as a C3 dwellinghouse and the proposed use for C2 children's home, which is consistent with recent case law on the matter. This previous decision does not amount to any judgment as to the merits of a planning applications which needs to be assessed as part of this application for planning permission.

Overall, the proposal would accord with local and national policy to meet a social need and would be acceptable in principle.

### Highway Safety

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 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. Policy E7 also highlights that rural development would be supported provided that the local highway network is capable of accommodating the traffic generated.

The proposal would use the existing access to the site. Four parking spaces and manoeuvring spaces would be provided onsite. The Highway Authority raised no objection to the proposals. Highway issues were raised as a matter of concern by the local community with reference to the prevalence of roadside parking along Millfield Street and related concerns such as the impact on emergency access.

It is considered that there would be sufficient parking to meet the requirements of the development taking into account the number of staff, which would comprise no more than 3no. carers on the premises at any one time except for short periods of changeover times (paragraph 2.10 of the DAS). The applicant's 'Good Neighbour' policy identifies 'ensuring good parking' as one of the roles of staff members in their management of the development, which may provide some reassurance to the local community. Taking all of this into account, and in particular the absence of any objection from the Highway Authority and wording of the NPPF, it would not be reasonable to recommend refusal on the potential impact of the development on the public highway.

The proposal is considered to accord with Policy INF2 of the Local Plan. It is recommended that a condition be added to secure the parking layout presented on the site plan prior to first use, as well installation of a secure cycle store in line with the Highway Authority's advice. Additionally, the matter of roadside parking and importance of using the parking onsite could be highlighted through an informative attached to any forthcoming decision.

### 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. Policy E7 also requires that development does not give rise to any undue impacts on neighbouring land.

The site is located adjacent to an area of allotments, and thus has no neighbours to the north. There are neighbouring dwellings to the south, west and east.



The concerns of the local community are noted in respect to the potential for noise and disturbance to arise from the development. The Council's Environmental Health Officer (EHO) has been consulted as part of the planning process and raised no objections and requested no planning conditions.

Schedule 2 of the DAS sets out the anticipated comings and goings associated with the development and compares this to the potential use of the building as a C3 dwelling. The accuracy of Schedule 1 is queried by some members of the local community, who commented that such movements were lower than stated based on the previous occupants of the house. However, it is noted that Schedule 1 provides an indication of the number of movements that *could* occur for a typical C3 dwelling, rather than what may have occurred in the past. It is considered that the home would generally operate with a similar level of activity to that of a dwelling, albeit this may be a busier household than previously occupied the building.

The applicant has submitted various documents including a Management Plan and Good Neighbour Policy, which set out measures that the staff would seek to ensure are complied with (e.g. by controlling stereos, TV and computer games, advising visitors to the home, and ensuring visible supervision of children's activities). Neighbours would be encouraged to raise any concerns with the management team or staff through the provisions set out in the aforementioned policies.

In relation to the potential safety concerns raised by the local community (e.g. what if the child has a history of aggression, violence or intimidation), it is noted that the behaviour of occupants cannot be controlled by the Use Class, and the same safety concerns could arise for any C3 (dwelling). In the case of the children's care home proposed, the applicant has set out policies and procedures in the Management Plan and Good Neighbour Policy that should provide some reassurance as to how the home would be managed to avoid such concerns. It is also noted that the building would accommodate only 1no. child, who would be supervised by professional carers, which would limit the potential for such occurrences.

The applicant has provided information to provide reassurance that the development would be managed to minimise the impact on the amenity of neighbouring residents. It is considered that the development would have a similar level of activity and disturbance as would be expected by a C3 dwelling. The proposal would comply with policies BNE1, SD1 and E7 and it is considered that there would be no undue impact on neighbouring land uses.

### Other Matters

The local community highlighted some additional matters which are addressed below.

The assertion that the location for a children's home is unsuitable due to the area being e.g. unlit by street lighting, in an area with a high number of elderly residents, and more suited to use by a family household. It is noted that the supporting documents highlight that the aim would be for the children's home to be operated as closely as possible to a typical family household, and that the occupants would seek to integrate within the local community.

It is asserted that there is ambiguity in the DAS as to whether the children would have learning difficulties or special needs, and implied that this could affect the use class applied for. The application is for Use Class C2 (residential institutions) opposed to Use Class C2A (secure residential institutions) such as prisons, detention centres, secure hospitals etc. It is unlikely that the provision of a home for 1no. child would materially change the proposal from Use Class C2 to C2A irrespective of the individual child's needs, and the scheme should be assessed based on the description of the development as applied for. Any future changes that materially alter the development or use would require further planning applications.

Neighbours highlighted that an application for a children's care home was refused on Ashby Road. This would not form a material planning consideration in determination of 22 Millfield Street. There are material differences between the 2no. cases, not least that they are submitted by different care home companies (applicants), and each case should be determined independently and on its own merits.

The concern related to a potential conflict in interest with other residents working in social care and living in proximity is not a material planning consideration, nor is the internal floorspace of the building for the purpose of serving a business.

## 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. In this case there is no specific policy that relates to the principle of the provision of children's care homes within the Local Plan, and the Department for Levelling Up, Housing and Communities Message from Chief Planner (dated 19 June 2023) and Planning for Accommodation for Looked After Children Ministerial Statement (dated 23 May 2023) are material in the principle of this case. The proposal would provide sufficient parking for the use and the Highway Authority is satisfied that there would be no material impact on the safety of the public highway. The Council's EHO raised no objections or concerns related to the potential noise or disturbances from the scheme. The applicant has provided a Management Plan and Good Neighbour Policy which provide reassurance around how the home would be managed. It is also noted that the building would be occupied by only 1 no. child. With conditions in place to control the intensity of the use, it is considered that the proposal would be in accordance with the development plan policies related to highways and amenity. 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 subject to conditions.

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings Location Plan (received 04/03/2023), Existing Floor Plans (3955-01, received 04/03/2023), Proposed Floor Plans (3955-03, received 28/07/2023), Parking Plan (3955-02 Rev A, received 13/09/2023), Blue Mountain Children's Home Management Plan (16/09/2023), Blue Mountain Children's Home Good Neighbour Policy (16/09/2023), Design and Access Statement (Rose Consulting, 17/09/2023) 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. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 2015 (as amended) the premises shall be used solely for the purposes of a children's care home, as defined by Class C2 of that legislation, and for no other purposes whatsoever. Proposals to use the premises for any other purpose within that class shall not take place unless a separate formal planning application has first been submitted to and approved in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain a degree of control over the development with respect to amenity considerations and parking, and to avoid unsustainable development in accordance with Policies BNE1 and INF2 of the Local Plan.

4. The use hereby approved will accommodate a maximum of 1no. child and 3no. carers within the site at any one time (excluding staff changeover times) as per section 2.10 of the Design and Access Statement (Rose Consulting, 17/09/2023). This arrangement will be retained for the lifetime of the development.

Reason: To enable the Local Planning Authority to retain a degree of control over the development with respect to amenity considerations and parking, and to avoid unsustainable development in accordance with Policies BNE1 and INF2 of the Local Plan.

5. Prior to first use of the development, the parking arrangement for the site shall be set out as shown on the approved Parking Plan (3955-02 Rev A, received 13/09/2023) and details for provision of a secure, covered cycle store shall be submitted to and approved in writing by the Local Planning Authority. The parking and cycle storage arrangements shall be retained as such for the lifetime of the development.

Reason: In the interests of ensuring sufficient parking for the development and promoting sustainable modes of transport in accordance with policy INF2 of the Local Plan.

Informatives:

- a. Members of the local community have highlighted that there is a prevalence of roadside parking on Millfield Street. The Local Planning Authority would strongly encourage use of the onsite parking by staff members and visitors and discourage the use of roadside parking for the development.
- b. The developer should contact the Environmental Health Section on all matters relating to food hygiene and health and safety. Food businesses must register with the local authority at least 28 days prior to opening for business.

**Item No.** 1.2

**Ref. No.** [DMPA/2020/0127](#)

**Valid date:** 01/06/2020

**Applicant:** c/o agent **Agent – JJM Planning**

**Proposal:** Erection of 14no. dwellinghouses, with associated parking, internal road and amenity space, along with the creation of access at Merrilees, Cadley Hill Road, Swadlincote

**Ward:** Church Gresley (Unparished)

### **Reason for committee determination**

This item is presented to Committee as the application is a major and is subject to more than 4 objections.

### **Update Report**

The application was previously considered at the committee meeting held on the 21<sup>st</sup> March 2023. The previous report is attached as an appendix. The application was deferred to allow:

- Further clarification around trees
- Updated noise assessment

In response the applicant has provided an updated noise impact assessment – NoiseAir: Noise Impact Assessment Report Ref. P4136-R2-V1 dated 17<sup>th</sup> July 2023.

### Publication and Consultation

The application was consulted on specifically with the council's EHO and Arboricultural Officer, and also publicly. The responses received are summarised below:

SDDC Arboricultural Officer: No objections.

G4 is principally a hawthorn hedge with young wild cherry trees.

The Arboricultural report concludes that the groups G4 and G6 should be reduced back to the site boundary. This implies that the hawthorn hedgerows are to be retained but cut back to facilitate the development.

G4 & G6 are not protected with Exclusion Fencing. Would recommend a condition to provide a protective fence to BS5837 set 1.0m in front of the hedges G4 & G6.

It is likely the hedge cutting work would have to be carried out prior to the erection of the protective fence.

Works would have no detrimental impact on the amenity of the area and is a regular maintenance operation.

SDDC Environmental Health Officer:

Whilst the noise levels are high, the applicant has demonstrated sufficiently that reasonable internal noise limits can be achieved.

Predicted external noise levels are above recommended levels, however the guidance recognises these levels can be exceeded where all reasonable mitigation has been provided and where development might otherwise be desirable.

The council has permitted development in these instances and not considered to be a reason for refusal based upon the current planning guidance I am obliged to consider.

A full scheme of noise mitigation should be required, supported with an overheating risk assessment (condition recommended).

One public objection has been received which is summarised as follows:

- a) *Delay in receipt of consultation letter due to holiday and receipt by post not email.*
- b) *EHO comments are irresponsible to the public allowing the community to live in such noise and will create future complaints.*
- c) *Have raised concerns with EHO regarding exiting factory noise and how it is affecting our day to day activities and sleep,*
- d) *There have been previous problems with other factory noise which resulted in the issuing of aith a court order.*
- e) *Questions validity of EHO comments and if these are based on visits to the site or a single noise survey instructed by the developer.*
- f) *Acoustic report gives examples of outcomes which include noises causing a change in behaviour and attitude, avoiding activities in the day, have to keep windows closed, sleep disturbance leading to difficulty in getting to sleep, premature awakening, difficulty getting back to sleep, quality of life diminished due to change of acoustic character of area, phychological stress comes under UNACCEPTABLE ADVERSE EFFECT. This is current experience and the proposal will expose the occupants of 14 further dwellings to this.*
- g) *Even with mitigation properties will need to retain windows in a closed position. It shows all proposed plots noise will have a significant adverse noise with or without noise barriers.*
- h) *An acoustic barrier would likely prove insufficient as a sole mitigation method.*
- i) *The report must take into consideration future planning on the neighbouring factories which will create more noise, Keystone Lintels have already opposed this application due to the effect on neighbours.*
- j) *Since the application there has been more commercial development off cadley Hill Road and plans for an incinerator.*
- k) *Strongly oppose to plot number 1 being built close to Ashtree House's boundary. The plot will encroach our space and privacy and overlook the entire property including private garden, should be removed from plans.*
- l) *The hedge that gives privacy to Ashtree house and borders the land states will be removed - What will be put in place?*
- m) *The new road proposal is dangerous, it is already unsafe to access the main road from existing properties.*
- n) *The report does not give details on how the proposed 14 plots will further add and affect our home lives i.e. with additional traffic.*
- o) *The report does not give examples of noise to physically listen to via audio.*

## Planning Assessment

Taking each of the matters on which the application was deferred in hand:

### Boundary Trees

There is no planting within the site, but to the west and south the boundary is substantial hedgerow and woodland trees. The hedgerow and trees to the south of the site are under a TPO designation. The development will result in the retention of the majority of trees along the boundary. Four trees will be affected by the development – this was not a reason for deferral and was on balance is considered to be acceptable. With regards to this matter the Arboricultural Officer confirmed no objection.

The issue raised at committee was clarification around the works proposed to the grouping of trees along the boundary between the site and Ash Tree House, and subsequently the impact of Plot 1 which is the closest proposed dwelling to the existing. In response, this matter has been reviewed further and the Arboricultural Officer has been consulted on the issue.

The boundary planting at this location was assessed in the supporting AIA. It noted this boundary as 'G4' the G referring to the grouping of plants/shrubs/trees at this location. G4 is principally a hawthorn hedge with young wild cherry trees. The AIA concludes that G4 should be reduced back to the site boundary. This implies that the hawthorn hedgerows are to be retained but cut back to facilitate the development. The Arboricultural Officer was consulted and subject to protective fencing raises no

objection to the cutting back of G4 nor raises the issue of the development undermining the future growth of G4.

It is understood that the law allows for the cutting back of trees/hedgerows which overhang boundaries subject to the cuttings being offered to the 'owner' of the tree/hedgerow.

In terms of residential amenity, the layout was previously amended to remove the previous closest proposed dwelling to Ash Tree House. The closest proposed dwelling is now Plot 1. Plot 1 is offset from the rear façade of Ash Tree House. In addition, Plot 1 is orientated sideways, so that Plot 1's gable end is orientated towards Ash Tree House, albeit at an offset angle. The rear of Plot 1 does look out over the furthest element of Ash Tree House's rear garden. Overall, given the distance between the properties it is considered that the proposal satisfies the SPD and that the location and orientation of Plot 1 and offset angle and the retained boundary treatment of G4 results in no undue impact on the amenity of Ash Tree House.

Given the comments made by the Arboricultural Officer it is considered that the proposed condition no.5 in the original committee report should be amended as follows:

C5

*Prior to commencement a drawing showing a protective fence to BS5837 set 1.0m in front of the hedges G4 & G6 shall be submitted to and approved in writing by the LPA. Beyond these details construction of the proposed development shall be undertaken in line with the submitted document Arboricultural Impact Assessment Survey and Report August 2019. Any variations to the details of the measures hereby approved must only be undertaken after the proposed variations have been agreed in writing by the LPA.*

Reason: To ensure no unacceptable impacts on protected and retained trees and hedgerows inline with Policy BNE4 and INF2 of the Local Plan.

In addition, since the deferral there was a request to instigate a Tree Preservation Order on the woodland belt located between the site and the commercial properties to the west. On review with the Arboricultural Officer it was confirmed that the substantial trees of the belt which are within the site – T2, T3, T4, T5 and T9 – are to be retained.

The Arboricultural Officer concluded given their retention and that they are over 100m from the public highway *"it is my view that there would be little public benefit in protecting the 5 trees with a TPO."*

The further woodland falls outside of the redline boundary and therefore has no weight in the determination of the application. However, for clarity and given interest, it was confirmed the further woodland was confirmed to have been sold by DCC. The sale completed on 26<sup>th</sup> May 2023. The sale was not subject to any conditions regarding the retention of the trees.

As it is a woodland no tree felling works should be undertaken without informing the Forestry Commission. Any felling over 5.0cu metres in the woodland would require a Felling Licence from the Forestry Commission.

On this basis, the proposal is considered to be in accordance with the objectives of the NPPF and policies BNE1 BNE3, BNE7, of the LP1.

#### Updated noise assessment

In response to the deferral the application is now supported by an Updated Noise Impact Assessment, to reassess noise levels following a lapse in time since the issue of the initial and subsequent addendum noise impact reports.

The site is located adjacent to Cadley Hill Road, and area around the proposed development site is described as mixed commercial and residential. Residential development extends along Cadley Hill Road as ribbon development either side of the application site.

The main sources of noise are considered to be noise emissions associated with traffic from the adjacent Cadley Hill Road, and the aforementioned commercial premises to the west and east.

The report has been considered by the EHO Officer who raises no objection. It is outlined in their comments that the proposed internal noise levels meet guidance and external noise is acceptable in this instance. A condition is requested and such will be attached to ensure suitable noise levels are secured for the proposed dwellings.

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

*Bedrooms 30 dB LA<sub>eq</sub> (15 Minutes) (2300 hrs – 0700 hrs)*  
*Living/Bedrooms 35 dB LA<sub>eq</sub> (15 Minutes) (0700 hrs – 2300 hrs)*  
*All Other Habitable Rooms 40 dB LA<sub>eq</sub> (15 Minutes) (0700 hrs – 2300 hrs)*

*All Habitable Rooms 45 dB LA<sub>max</sub> to occur no more than 6 times per night (2300 hrs – 0700 hrs)*  
*Any outdoor amenity areas 55 dB LA<sub>eq</sub> (1 hour) (0700 hrs – 2300 hrs)*

*The scheme as approved shall be validated by a competent person and a validation report submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full and retained thereafter.*

In terms of noise amenity and Ash Tree House, the existing principal sources of noise are extant; Cadley Hill Road and the commercial operations. This is not a reason for refusal for this application. In terms of likely noise emanating from the proposal it is considered to be traffic and generic residential noise. The traffic will be traveling at slower speeds and less frequent than that of Cadley Hill and is not considered to add significantly to the existing situation. Overall, such is not considered to give rise to unacceptable levels of noise given the existing baseline and nature of the noise created. The proposal is considered to be inline with policy BNE1 of the Local Plan in this regard.

## **Conclusion**

Considering the responses provided by statutory consultees to the matters above, the Committee is asked to resolve that planning permission be granted in accordance with the recommendations in the original report with the amended arboricultural condition (condition 5) and an additional condition as set out above.

**Item No.** 1.4

**Ref. No.** DMPA/2020/0127

**Valid date:** 01/06/2020

**Applicant:** C/O Agent **Agent:** Planning JJM

**Proposal:** Erection of 14no. dwellinghouses, with associated parking, internal road and amenity space, along with the creation of access at Merrilees, Cadley Hill Road, Swadlincote, DE11 9EQ

**Ward:** Church Gresley Ward (Unparished)

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

This item is presented to Committee as the application is a major and is subject to more than 4 objections.

#### Site Description

The site is located to the west of Cadley Hill Road, where it runs from the junction with Swadlincote Lane and Heathcote Road, and the junction with A514. The site is located in the Church Gresley ward area of Swadlincote.

The site is approximately of 0.70hectares in size and roughly L shaped. It comprises a vacant site, previously used for dog kennels. The site is relatively flat. The site is bound to the east by Cadley Hill Road which provides vehicular access to the site. Cadley Hill Road has a speed limit of 40mph. To the north the site is bound by large detached residential ribbon development along Cadley Hill Road. To the west the site is bound by an established belt of trees, beyond which lies a large industrial estate of multiple commercial buildings and operations. Keystone Lintels recently was permitted to operate 24 hours a day. To the south, again the site is bound by large detached residential ribbon development along Cadley Hill Road and Woodlands Close leading off Cadley Hill.

There is no planting on site, but to the west and south the boundary is a hedgerow and trees. The site is located within Flood Zone 1. There are no heritage considerations within or around the site. The site is located in the designated area for the National Forest. The hedgerow along the boundary with Cadley Hill Road is a noted wildlife verge, albeit intermittent. The hedgerow and trees to the south of the site are under a TPO designation.

The land to the west/south west of the site is allocated for employment development under Policy E4 Part 1.

#### The Proposal

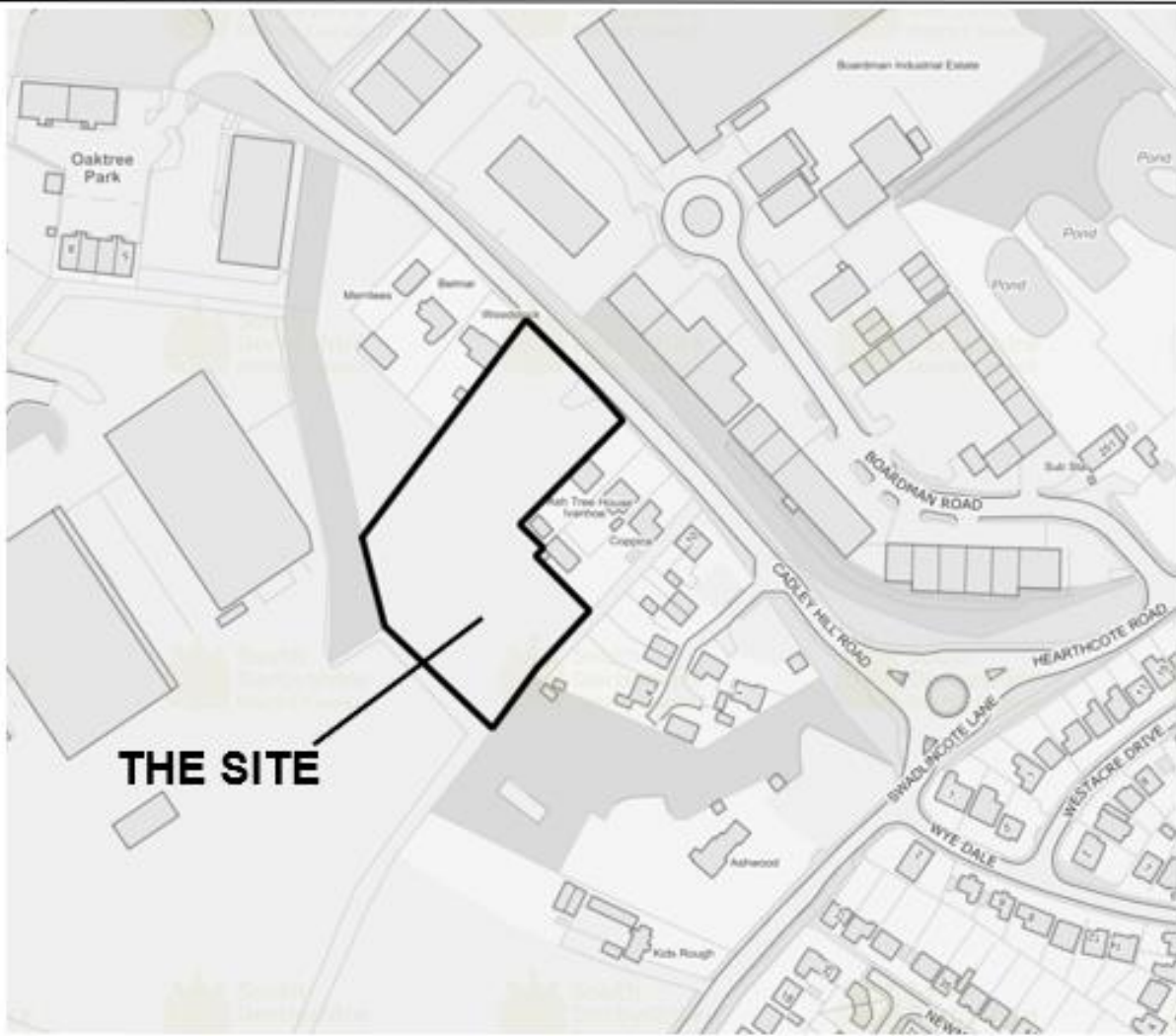
The application seeks permission for the erection of 14no. dwellings with vehicular access from Cadley Hill Road.

The proposal includes 8.no 4 bed + dwellings and 6.no 3 bed dwellings. All dwellings would be open market housing.

The dwellings are arranged off a single estate road the curves around the L shaped site. The proposal will provide x2 dwellings fronting on to Cadley Hill Road inline with the existing ribbon



DMPA/2020/0127 - Merrilees, Cadley Hill Road, Swadlincote, DE11 9EQ



South Derbyshire District Council

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development. Dwellings would be two storeys in height and detached in plots with front and rear gardens and off street parking. The materials palette is red brick with a mixture of grey and brown roof tiles. The houses are built to nationally prescribed space standards and are capable of meeting Part M4(1) requirements for access.

#### Applicant's Supporting Information

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

##### Drawings:

- 1920 - PL- 001 Site Location Plan
- 1920 - PL - 005 Existing Site Plan
- 1920 - PL - 050 Proposed Site Plan Rev F
- Type A Housetype Elevations 1920-PL-A200 Rev A
- Type A Housetype Floor Plan 1920-PL-A100 Rev A
- Type B Housetype Floor Plan 1920-PL-B100
- Type B Housetype Elevations 1920-PL-B200
- Type C Housetype Floor Plans 1920-PL-CH200
- Type C Housetype Elevations 1920-PL-CH200
- Type D Housetype Floor Plans (V1) 1920-PL-D1100
- Type D Housetype Elevations (V1) 1920-PL-D1200
- Type D Housetype (V2) Elevations 1920 -PL-D2200
- Type D Housetype (V2) – Floor Plans 1920-PL-D2100
- Type E Housetype Elevations 1920-PL-E200 Rev A
- Type E Housetype Floor Plan 1920-PL-E100 Rev A
- Type F Housetype Floor Plan 1920-PL-F100
- Type F Housetype Elevations 1920-PL-F200
- Single Garage-PL-G100 Rev A
- Double Garage-PL-G200 Rev A
- Preliminary Access Design Sheet 1 of 1 100307\_01\_0100\_01 Rev H
- Revised Vehicle Tracking 10037\_01\_0100\_02.3 Rev F
- Revised Vehicle Tracking 10037\_01\_0100\_02.4 Rev F

##### Documents:

- Speed Surveys for Cadley Hill 2021
- Highway Matters Cover Letter Jan 2023 – DICE Consulting
- Brindle & Green Preliminary Ecological Appraisal BG19.268 Aug 2019
- Drainage Statement DICE 100307/WO/JAN-20/01 Jan 2020
- Coal Mining Risk Assessment January 2019 Ivy House
- Gas Addendum Letter – IV.07.19.G.Let 1 June 2019
- Noise Impact Assessment – March 2020 Report Ref P4136-R1-V1
- Phase I & II Geo environmental assessment incorporating a Coal Mining Legacy Probe Ivy House May 2019
- Planning Obligation Statement
- Design and Access Statement Project Number 1920 12<sup>th</sup> May Revision
- Brindle and Green BNG Impact Assessment BG19.268.2 May 2020
- Planning Statement – John Church November 2020
- Addendum Acoustic Report NoiseAir Nov 2020 Report Ref P4136-R1-AD1
- BNG Metric Calculation V1
- Phase 1 Habitat Survey Reptile October 2020
- Arboricultural Impact Assessment Survey and Report August 2019

### Summary of Recommendations

The recommendation of this report is to APPROVE the application subject to conditions and a S106 Agreement.

### Publication and Consultation

The application was submitted in January 2020 but only validated in May 2020. The application was publicised via two rounds of consultation.

The first consultation period appears to have been triggered by the submission in January and again in May. Further to this, there was also a site notice erected on the 5<sup>th</sup> June advertising for comments until the 26<sup>th</sup> June. The period of publication is sufficient to meet legislation.

The application was revised with further supporting information and drawings regarding layout.

A second round of consultation was undertaken on this basis running from 17<sup>th</sup> December 2020 until 11<sup>th</sup> January 2021.

The application was subsequently amended to reduce dwelling numbers and provide further information in response to consultation comments, namely highways.

A third period of consultation was undertaken given these revisions running from 7<sup>th</sup> October until 21<sup>st</sup> October 2022.

Overall during all periods the application was publicised by letters, a site notice and a press notice for the second period, outlining that the proposed development and/or amendments had been made. On this basis, the application is considered to have been publicised in accordance with national and local legislation on consultation.

The applications have received the following responses final positions from external parties and wider SDDC departments summarised as follows:

#### **Environmental Health Officer – No objection subject to conditions**

The EHO officer has corresponded with the applicant's acoustician at length. In terms of noise, the EHO officer raises no objection subject to conditions, relating to mechanical ventilation -mechanical ventilation 'option 2' scenarios in table 5 (page 17) are required by condition.

With regards to contamination and legacy impacts of Coal, the EHO raises no objection subject to a condition relating to gas mitigation measures during construction.

#### **Planning Policy officer - No objection**

The proposal lies within the boundary of the Swadlincote urban area as defined in Local Plan Part 2 Policy SDT1 and residential development is therefore acceptable in principle. The planning officer referred to the adjacent employment uses and suggested consideration was given in consultation with the EHO Officer to noise and vibration to the dwellings.

#### **Open Space and Landscape Officer – No objection subject to contributions**

Noted that there was no defined provision for open space in the proposed development. The proposal triggers SDDC S106 SPD 2010 for a commuted sum payable to off site provision, which includes the cost of providing and maintaining the facility, the closest which would be Cadley Park – contribution to offsite provision of additional and/or improved open space facilities Using the calculations as detailed in the document

For recreation / open space provision - £455.72 per person x 50 = £22,786.00

For recreation / outdoor facilities - £274.41 per person x 50 = £13,720.50

Total suggested contribution is £36,506.50

#### **Derbyshire County Council (DCC) – Highways Authority**

The application has been subject of ongoing correspondence between the applicants engineers and Highways authority. Final comments provided raised no objection to the proposal subject to interventions in the network and conditions.

### **Coal Authority – No objection**

The Coal Authority considered that the applicant, based on the professional opinion provided by their Geoenvironmental Consultant (Ivy House Environmental Ltd) had demonstrated to the LPA that the site is not at risk from former coal mining activity recorded at the site. On this basis, they raised no objection.

### **Derbyshire County Council – Local Lead Flood Authority (LLFA) – No objection subject to conditions**

No objection was raised to the proposal to drain into the public sewer network subject to standard conditions seeking the final detail of the drainage strategy, levels and subsequent agreements confirming drainage to network.

### **Derbyshire County Council – No objection subject to contributions**

Regarding Primary Education the proposed development falls within and directly relates to the normal area of Stanton Primary School. The proposed development of 14 dwellings would generate the need to provide for an additional 3 pupils. Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area primary school would have sufficient capacity to accommodate the 3 primary pupils arising from the proposed development.

Regarding Secondary Education the proposed development falls within and directly relates to the normal area of The Pingle Academy. The proposed development of 14 dwellings would generate the need to provide for an additional 4 secondary with post16 pupils. The Pingle Academy has a net capacity for 1441 pupils with 1400 pupils currently on roll. The number of pupils on roll is projected to increase to 1428 during the next five years. The above analysis indicates that there would be a need to mitigate the impact of the proposed development on school places in order to make the development acceptable in planning terms.

The County Council therefore requests financial contributions as follows:

- £112,132.28 towards the provision of 4 secondary with post16 places at The Pingle Academy + additional education facilities.

Broadband and employment and skills initiatives should also be sought in a legal agreement.

Any S106 to which the DCC is party too will be subject to monitoring and the fee will be based on the cumulative number of triggers to be monitored for County Council obligations x £73.50 (based on 2 hours officer time Grade 12).

### **Derbyshire NHS CCG**

Do not seek a contribution from this development.

### **Derbyshire Wildlife Trust (DWT) – No objection subject to conditions**

DWT officer noted the areas designated for the establishment of neutral grassland as well as details for hedgerows and a reptile hibernacula. Conditions were requested on the location of the new areas of grassland and concern raised if shrubs were planted in this area. Further conditions were requested to protect birds and reptiles.

Overall, the revised metric indicates that there is the potential to achieve a small net gain on-site through the establishment of vegetated gardens, urban trees, neutral grassland, mixed scrub and shrubs. On this basis, subject to conditions the DWT raised no objections.

### **National Forest Company (NFC) – No objection subject to contribution**

NFC sought a contribution which would amount to £4,900 in lieu of on-site National Forest planting to enable off site National Forest planting to be carried out. This would be inline with Policy INF8 of the Local Plan. On this basis, they raised no objection to the application.

### **Severn Trent – No objection subject to legal agreement to connect to sewer**

The surface and foul drainage will connect to the public sewer which was accepted by Severn Trent. The connections will be subject to formal sewer connection approval.

#### Suggested Informative

Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.

#### Public Responses

The application has received 9 objections over the periods of consultation. When reviewed it appears that 3 come from a single property, 4 from the same person, with two being received from other members of the public. These comments can be summarised as follows:

- a) Overlooking from Plot 1 and wider development to Ashtree House in terms of windows and rear garden
- b) Removal of vegetation on that is within the ownership of Ashtree House to facilitate delivery of Plot 1
- c) Development on site is higher than Ashtree House exacerbating overlooking
- d) Construction of the site will cause major distress and inconvenience to Ashtree House – will this be controlled?
- e) Proposal for a new pedestrian crossing will lead to more persons walking outside the house which will result in more noise for Ashtree House
- f) Purchaser of adjacent house and proposal application didn't show up on searches
- g) Plans/issues with availability of information available on the SDDC website
- h) Concerns around poor visibility entering Cadley Hill from site due to hedgerow
- i) Major concerns on the safety to Ashtree House directly next to the development due to structural issues
- j) Existing noise would impact the development given its residential and closer than existing
- k) Development would give rise to congestion on an already busy 40mph road
- l) Cadley Hill Road provides the only access in the area for HGVs given the banning of such through the newer estate at Church Gresley
- m) The existing traffic vibrates Ash Tree House
- n) Existing traffic speeds along the road causing additional noise to Ash Tree House
- o) What will be the working hours during construction
- p) Previous use allowed/caused anti social behaviour of fires so controls should be put on this use to ensure such does not occur here
- q) Development will exacerbate flooding in the area/Cadley Hill Road which already floods
- r) Ash Tree House has large hedges for privacy and previously was given access to maintain them from the site – will this be maintained?
- s) Internal layouts should be provided showing window locations to understand overlooking issues
- t) Ash Tree House was refused planning permission for an extension due to the roof design adversely impacting the character of the house and street – proposed development would have greater adverse impact and should be refused
- u) Overshadowing caused to Ash Tree House
- v) Ash Tree House has been subject to subsidence which will be exacerbated by the development due to the proximity of the proposals irrespective of foundation design
- w) Development will de value Ash Tree House
- x) Queries around the Party Wall between the proposal and Ash Tree House - Will the builder instruct and pay for a Party Wall Notice for both parties?
- y) Activities such as piling or soil compaction cause vibration, which can result in damage to Ashtree House. Will the Builder draw up a legal document of their agreement to repair any damage what so ever and compensation incurred.

- z) Will a vibration monitor be installed by an independent company at the developers cost?
- aa) Are the developers registered with The Considerate Constructors Scheme or similar?
- bb) Any damage incurred will be reflected in Insurance companies possibly refusing to insure Ashtree House buildings, what will you put in place to compensate any damage caused and loss of buildings insurance.
- cc) A structural survey has been prepared on Ash Tree House showing the property tilts towards the rear and is likely residual permanent distortion caused by historic coal mining activity. There is shrinkage of the clay based sub-soils supporting the right side extension/garage foundations which is active. There is structural damage to left hand side of the property which is active. It states the proposed development on the right side of our property could potentially cause damage to our house if appropriate measures are not taken in designing and constructing suitable foundations. Vibrations from driven piles or deep excavations adjacent to our foundations would be considered high risk.

Further to this, there have been objections made by Keystone Lintels (neighbouring industrial company), with their final objection raising the following points:

- a) Accepts the recommendation for whole house mechanical ventilation to mitigate against noise impacts
- b) The submitted noise assessment assesses the unloading and loading from the area with 24 hour consent, however the assessment should address potential maximum noise levels from the storage area which may be subject to an extension of hours in the future.
- c) The proposal would permit residential dwellings 20m away from the Keystone Lintels boundary which would restrict the application for future extension of hours and/or production.
- d) The previous addendum report dated 20 November 2020 para 2.1.12 notes noise sources during the additional noise survey including voices and radios. These sources were not noted as being audible during a noise survey carried out in October 2020 as part of the application for the extension of working hours at existing noise sensitive properties, which are further away.

In addition, with regards to previous comments the objection reiterated:

- e) Noise assessment has been undertaken using typical background noise levels – previous and current noise assessments the lowest background noise level has been required.
- f) Noise assessment concludes noise would have an adverse impact, with four plots experiencing a significant adverse impact during daytime hours when operations on Keystone Lintels are taken into account.
- g) For existing noise levels 4 plots will experience adverse impact and 1 plot significant adverse impact. There is a local authority requirement to demonstrate that noise levels are below existing background noise levels.
- h) The night time assessment shows significant adverse impact on all plots of the development, demonstrating that the noise levels from operations at Keystones would be significantly above the existing background noise levels.
- i) This would adversely affect any application for the extension of working hours on the Keystone premises, which is a necessity during the covid pandemic to maintain the operations and retain the existing jobs.

#### Relevant planning history

The site is subject to the following planning history:

9/2016/0654 – Outline application (all matters to be reserved) for the residential development of one detached dwelling and garage – Withdrawn

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

Section 38(6) of the Planning and Compulsory Purchase Act, 2004 requires the determination of this application to be made in accordance with the development plan, unless material considerations indicate otherwise.

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), S6 (Sustainable Access), H1 (Settlement Boundary), H20 (Housing Balance)

SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF7 (Green Infrastructure) and INF8 (The National Forest)

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

The relevant local guidance is:

South Derbyshire Design Guide SPD (2017)

South Derbyshire Housing Position Paper (February 2020)

South Derbyshire

The relevant national guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

### Planning considerations

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

- Principle of the development
- Layout and Design;
- Highways and Access;
- Ecology, Biodiversity and Trees;
- Drainage;
- Other Matters – Coal;
- Developer Contributions; and
- Conclusion and Planning Balance

### Planning Assessment

#### **The Principle of Development**

The site is located within the settlement boundary of Swadlincote, as defined by policy SDT1. Policy H1 sets out the distribution of new housing development outside of allocations. Policy H1 states that Swadlincote is an urban area which should be the primary focus of development and development of all sizes within this settlement is considered appropriate.

On this basis, the proposal for 14 dwellings is acceptable in principle.

#### **Amenity and Housing Quality**

Local Plan Part 1 Policy SD1 indicates that “the Council will support development that does not lead to adverse impacts on the environment or amenity of existing or future occupiers within or around proposed developments.” Part B (iii) indicates that the Council will take into consideration “the need for a strategic buffer between conflicting land uses such that they do not disadvantage each other in respect of amenity issues such as odours, fumes or dust and other disturbances such as noise, vibration, light and shadow flicker.”

The site lies immediately adjacent to the Keystone Lintels industrial premises, whilst Boardman’s Industrial Estate lies on the opposite side of Cadley Hill Road. Keystone Lintels have objected to the proposal.

As set out in the introduction, the land to the west of the site is also allocated via Policy E1 – E1A for employment use across an area of 3 hectares. This is new land and not currently committed in the policy. Within Policy E1 it states:

*At sites allocated for strategic employment development at E1A, E1B, E1C and E1E the Council will secure provision to meet the needs of small and “grow on” businesses in the form of premises or serviced plots, to be brought forward during the course of the development, either by conditions or a legal agreement attached to a planning permission.*

The allocated land closest to the site is in use as a yard for Keystone Lintels and subject to a range of permissions set out further below.

In 2018 the NPPF introduced the agent of change principle. The ‘agent of change principle’ encapsulates the position that a person or business (ie the agent) introducing a new land use is responsible for managing the impact of that change. The NPPF has been subsequently revised and states the following

*187. Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.*

The application has been supported by a Noise Assessment and further information as requested by the EHO officer during the rounds of consultation. There are existing properties along Cadley Hill Road. It is accepted that the proposal will result in residences being 20m from Keystone Lintels boundary.

Keystone Lintels currently operates from a site which comprises 3 buildings – A, B & C. Building A was consented under 9/2005/0341 and is controlled by condition with standard working times. Building B was consented under 9/1088/770 which is not controlled and effectively 24 hour. Building C was consented under 9/2014/0411 which allows for working from 7am until 9pm M/F and 8am until 4pm Saturday. There is a further Building (D) which is undeveloped, but was permitted under 9/2014/0411, and small covered area Building E permitted under 2019/0421 which both have the same working hours as building C above. There are outside yard areas in association with the operations. The yard area comprising the majority of outside space for working, enveloping Building C, E and D and closest to the boundary of the proposal site is permitted for:  
*loading and unloading of vehicles and/or stacking/unstacking of products between 0700 and 2100 hours Monday to Friday, and 0800 to 1600 on Saturdays. There shall be no loading and unloading of vehicles and/or stacking/unstacking of products within the external areas at any time on Sundays or on Bank or Public Holidays.*

There is a further yard which is permitted for 24hour use but this is set away from the boundary, comparatively smaller and within the site.

Keystone Lintels was successful in applying for 24hour working during the Covid pandemic. The correspondence shared by the EHO department outlines that the 24 hour basis was to be from May 2020 and would be within Building C only, confirmed as being with “All doors will be fully closed and no external working will occur except in designated 24 hour working zones”. There was no deadline to this given the unprecedented nature of the situation and the Government’s requests for LPAs to work positively with requests at that time.

In response to this, it is proposed that the dwellings will be designed to provide suitable indoor amenity by providing full mechanical ventilation this will help ambient noise internally and in addition the boundary treatment and existing tree planting will assist with external noise. The EHO officer accepts



this mitigation and raises no objection to the application. The area is already a mixed use area with both existing residential uses and employment operations. It is considered, that the proposal would not result in Keystone Lintels current operations being undermined by virtue of the additional dwellings in this proposal. The dwellings are market tenure where any buyer would be aware of the context. Keystone Lintels have raised the possibility of applying to extend the area within which they have 24 hour working – bringing it closer to the boundary. It is understood the previous application for 24 hour working was permitted during the Covid pandemic which was the driving consideration at the time. It is not considered unreasonable to permit the new dwellings which could be new considerations in applying for wider 24 hour working, especially given that they are market tenure, would benefit from additional noise mitigation beyond a standard dwelling, as well as the context of the existing dwellings.

The allocated land under policy E1A not subject to permissions, is considered to be of a distance away that would help further mitigate any noise impacts to a level beyond that deemed acceptable by the EHO. In addition the allocation seeks *'to meet the needs of small and "grow on" businesses'* which is considered unlikely to cause significant levels of disturbance given the scale of operations sought and any new employment applications would have to take consideration of the dwellings.

It is considered that there will be a satisfactory internal amenity, relationship between the uses and this will not undermine the operation of the nearby commercial units or allocation given the considerations set out above.

On this basis, the proposals are considered to not undermine the surrounding operations inline with the NPPF and deliver dwellings of suitable quality and amenity inline with policy BNE1.

### **Layout and Design**

The site is accessed from Cadley Hill Road and an estate road curves around the L shaped site. The layout provides two dwellings facing Cadley Hill in line with the existing ribbon development which is welcomed to create a street frontage. Layout revisions to provide additional planting and for access have resulted in the removal of the dwelling proposed adjacent to Ashtree House. Whilst this does result in a slight gap in the streetscene the wider benefits arising as above and addressing neighbour objections is given more weight in this instance.

The remaining dwellings within the site are arranged around the estate road with two turning heads leading onto shared drives. The layout of the proposed housing is considered to be acceptable and appropriate for the site.

The range of house designs are limited but reflect a modern twist on the local vernacular to ensure a coherent design across the site. Dwellings would be two storeys in height and detached in plots with front and rear gardens and off street parking. The materials palette is red brick with a mixture of grey and brown roof tiles, with large modern glazing and feature brick elements. The houses are built to nationally prescribed space standards and are capable of meeting Part M4(1) requirements for access. In light of this it is considered that the proposed dwellings are of an acceptable design and appearance.

It is considered that the density of layout of the proposal would not adversely impact upon the character or appearance of the surrounding area, given that each house is set in a large plot with front and rear amenity, off street parking, built to national prescribed standards and when considering densities applied in the SHELAA in fringe areas of Swadlincote.

In terms of residential amenity, as set out above the unit closest to Ashtree House has been removed addressing concerns. Plot 1 on the southern side is located immediately adjacent to the boundary but away from Ash Tree House and the boundary between Plots 1 and 2 is dense established trees which is considered to mitigate any overlooking. Plot 14's alignment with dwellings to the north results in an acceptable relationship. Plot 12s positioning to the rear of the adjacent dwelling known as Woodstock, and the size of the rear amenity of Woodstock is considered to result in no undue impact on the amenity of that dwelling.

Given this context this is considered to ensure that adjacent development would not be overbearing on the existing residents in compliance with Local Plan Policy BNE1. The proposed layout generally accords with the standards set out in the council's' adopted Design SPD.

The layout does not provide any on site open space. Given the number of residential properties proposed, a contribution to off site open space is considered appropriate. The closest such space noted by Officers is Cadley Park and a contribution of £36,506.50 towards improvements to open space within the vicinity of the site is considered reasonable.

The Open Space Officer supports this request and this has been accepted by the applicant.

Overall, it is considered that the proposal is in line with policy BNE1 and deliver a high quality design creating satisfactory living environments for the future occupiers of the proposed dwellings and not unduly impact existing residential development.

### **Highways and Access**

The most applicable policies to consider are S1, S2, S6, H19, BNE1, INF1 and INF2 of the LP1 and the Design SPD. Between them, these policies and guidance seek that new development be located within sustainable locations with access to public transport and passive methods of transport with good links to existing transport infrastructure and that any impacts if mitigatable are secured on site or through financial contribution via commuted sum to off-site projects.

The site is located at the extent of the settlement boundary of Swadlincote. This site is not well served by public transport. On this basis, the likely mode of trip will be by car. Notwithstanding this, policy H1 supports development within the settlement boundary. No objection has been raised by the Highways department in terms of sustainability or capacity of the local network.

The application has been subject to considerable scrutiny by the Highways department throughout the determination of the application. The main issue being safe access from Cadley Hill Road which is 40mph. Revised assessments in terms of speed on Cadley Hill, visibility splays and wider interventions in the network infrastructure to ensure adoptability have been provided.

The visibility splays are 87m without the need for third party land and in front of lighting columns. In addition, there will also be a traffic island to assist in pedestrian movement from the site onto the existing pavement on the east side of the road. The access into the site will be 5.5m which is to adoptable standard.

The revised information has been discussed with the Highways Authority who in the correspondence now accept the access and network arrangement. Final comments confirm no objection to this matter.

The internal estate road has been revised to 5.5m which is the adoptable standard. On this basis, the road would be acceptable for S38 adoption. The 'adoptable' road enables acceptable tracking for the refuse and emergency vehicles.

The shared drives leading off turning heads are not overly long and would be acceptable for waste drag distances. Current building regulations state that residents can drag their bins 30m from their dwelling and waste lorries need to be within 25m of their collection point. No tracking for these shared drives is necessary and bin and emergency access is sufficient on the adoptable road. Off-street parking is provided on plot and these arrangements are considered to be in line with the Design SPD on this matter with dimensions being conditioned.

Overall, based on revisions and further information provided in correspondence seen between the applicant and Highways department, no objection is raised to access and transport from the Highways authority. On this basis, the application is acceptable in terms of access and its impact on highways.

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

Local Plan Policy BNE3 (biodiversity) supports development which contributes towards protecting or improving local biodiversity or geodiversity and delivering net gains in biodiversity wherever possible. Policy BNE7 manages trees, woodland and hedgerows. Where new planting is proposed on site these will be supported and the main concern is to ensure suitable tree species. The site is located within the designated allocation for the National Forest which is supported by Policy INF8.

The site is dominated by semi-improved neutral grassland bordered by species poor hedgerow along the north and eastern boundary and mature tree planting along southern and western. The application was supported by:

- 1920 Site PL-050D Proposed Site Plan
- Preliminary Ecological Appraisal by Brindle and Green 2019
- Biodiversity Impact Assessment for Net Gain dated May 2020
- Reptile Presence / Absence survey by Brindle and Green October 2020
- Completed BNG matrix by Brindle and Green 2022

The proposal has the potential to achieve a small net gain on-site through the establishment of vegetated gardens, urban trees, neutral grassland, mixed scrub and shrubs. Concern was raised in terms of the provision of grassland and scrub. The proposal has removed a dwelling on its eastern side which enables the space to provide this grassland. DWT raised concern that any substantial planting on the grassland may impinge its operation. However, the site is located in the National Forest which seeks the planting of trees in line with INF8. After discussion with DWT they accept this consideration and remain no objection with LBEMP condition, where the detail of planting can be managed.

Currently on site there will be the retention of the majority of trees, however x4 trees will be lost at the south eastern side of the site. The application was supported by an AIA and seeks to plant a minimum of x26 semi mature trees as shown on the proposed layout plan. This includes planting on the space which would also provide grassland. The surrounding trees will be retained, and the layout respects the root protection areas of these trees.

In line with Policy INF8 the NFC is seeking a contribution of £4,900 in lieu of on-site planting to enable off site National Forest planting to be carried out. This has been accepted by the applicant.

DWT has set out that a BNG can be delivered, in addition the NFC raises no objection. It is considered that a final plan indicating the location for these habitats and tree planting could be included in the LBEMP outlined below. Provided the LBEMP can still demonstrate the delivery of the habitats proposed this is an acceptable approach that would lead to a satisfactory balancing of these matters. In terms of fauna, section 7.2 of the Reptile report recommends a precautionary approach is taken to the removal of scrub and grassland on site. DWT seek that this approach should be adopted as part of a CEMP to be conditioned. Further to this given the adjacent surrounding open spaces and tree planting, small mammal gaps in boundary treatments will be conditioned to support connectivity. Lastly, nesting opportunities such as integral nest boxes will be conditioned at a ratio of 1:1 to dwelling inline with BS 42021:2021 Integral nest boxes – Selection and installation for new developments.

On this basis, the proposal accords with the Environment Act, objectives of the NPPF and policies BNE3, BNE7, INF 7 and INF 8 of the LP1.

### **Drainage**

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

The application was supported by Drainage Statement, Report Ref: 10037/WO/JAN\_20/01 Dated January 2020 and Proposed Drainage Strategy, Drawing Ref: 100307-01-0500-01 Dated 04/10/19. The applicant is proposing to discharge the surface water runoff (restricted discharge rate 5l/s) and the foul from the proposed development into an existing combined sewer in Cadley Hill Road. This asset is owned and managed by Severn Trent.

Derbyshire County as Local Lead Flood Authority and Severn Trent as asset owner have been consulted and raise no objections the proposal subject to conditions which will be attached. The connection to the drainage infrastructure will need to be in place before the occupation of this site and conditions will be added to ensure this.

Overall, in terms of flood risk, water management and drainage subject to conditions and informatives it is considered that the development is in compliance with the listed policies.

### **Other Matters – Coal & Water Usage**

The application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

The planning application is accompanied by:

Coal Mining Risk Assessment, dated January 2019 and;

Phase I and II Geo-Environmental Assessment incorporating a Coal Mining Legacy Probe Drilling Report, dated May 2019. Both Reports have been prepared by Ivy House Environmental Ltd

Borehole logs and a plan illustrating where the boreholes were drilled are appended to the Reports. It is noted that these works were undertaken with the Coal Authority's written consent under permit ref: 17900. Based on the results of the ground investigations, the report identifies that the rotary probe drilling has shown that shallow unrecorded workings are not present beneath the site and therefore the risk of instability due to mine workings is assessed as negligible and no further assessment and or mitigation measures are required to address coal mining legacy. The Coal Authority raises no objection to the proposed development and no specific mitigation measures are required as part of this development proposal to address coal mining legacy issues.

On this basis, Officers consider that the applicant has demonstrated to the LPA that the site is suitable for development and the proposed development will be safe and stable inline with NPPF paras. 178-179.

Policy SD3 Sustainable Water Supply, Drainage and Sewerage Infrastructure, sets out measures to help manage water as a resource, one being:

*ii) Supporting activities by the Water Companies to reduce demand for water and in turn suppress sewerage and discharge effluent volumes by ensuring that water consumption is no more than 110 litres per person per day (including external water use) as estimated using the Water Calculator methodology1 or all water fittings do not exceed the performance set out in Table 5 below;*

This is delivered by the performance measures set out in the Local Plan. To ensure compliance with this policy and help manage water as a resource in the District, a condition will be added to ensure the dwellings are compliant

#### Developer Contributions

Policy INF1 of LP1 states that new development which generates a requirement for infrastructure will normally be permitted if the necessary on and off-site infrastructure required to support and mitigate the impact of that development is provided. This could be included within the development or via a suitable mechanism to ensure this is delivered.

Policy INF6 of LP1 requires that development that increases the demand for community facilities and services either provides the required community facilities as part of the development or makes appropriate contributions towards providing new facilities or improving existing facilities.

It is considered that proposed development would lead to an increase in the local population which would create additional demand for local services – notably as raised by public comments education and healthcare. Consultation comments have been provided to demonstrate that additional provision would be required to cope with the increased demand on existing facilities and therefore, on this basis, these obligations are considered necessary to make the proposal acceptable and meet the statutory tests contained in Regulation 122 of the CIL, and the requirements of paragraph 56 of the Framework.

The following matters therefore will need to be controlled by legal obligation under Section 106 of the Town and Country Planning Act (1990)(as amended). The Heads of Terms upon which the legal agreement is being drafted is as follows:

National Forest Contribution - *National Forest Company contribution which would amount to £4,900 to enable off site woodland planting to be carried out. The NFC also welcomes the suggested off site*

*biodiversity enhancement proposed and this could potentially integrate with the proposed woodland provision.*

Open space contribution – £36,506.50 towards Cadley Park based on 14 dwellings of 3 and 4 bedroom properties and equates to 50 bedrooms = 50 people.

Secondary education contribution – £112,132.28 towards the provision of 4 secondary with post16 places at The Pingle Academy + additional education facilities.

Broadband and employment and skills initiatives

Derbyshire County Council monitoring fee – the cumulative number of triggers to be monitored for County Council obligations x £73.50 (based on 2 hours officer time Grade 12).

South Derbyshire District Council Monitoring fees of £1000 which will be payable on commencement and in addition to legal fees.

No South Derbyshire nor Derbyshire County council liability to maintain any drainage

The NHS CCG for the area were consulted but it was deemed that no contribution was necessary.

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

The site is located within the settlement boundary of Swadlincote, considered a major urban area within South Derbyshire, and on this basis the site is suitable for residential development in principle. The dwellings proposed are considered to deliver an acceptable level of amenity subject to mitigation measures secured by conditions which will manage the relationship with surrounding development in line with the agent of change principle. The increased housing is considered to be a benefit as it will help SDDC meet its housing targets and maintain a 5-year housing supply.

The proposed layout demonstrates that the site has been considered holistically alongside adjacent development, with revisions being made to reduce impacts on adjacent development and result in no unacceptable impacts arising. The materials palette and design is considered to be inline with the vernacular and therefore acceptable.

Technical matters of access, highways, drainage and biodiversity have been assessed and it is understood no objections have or will be raised subject to conditions which will be added.

For these reasons, the proposed development is considered to be in accordance with the adopted development plan, overarching policies of the NPPF and wider guidance set out in the NPPG.

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.

It is therefore recommended that the application is approved subject to conditions.

### Equality Implications

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 permission subject to the conditions and legal agreement
- B. GRANT delegated authority to the Head of Planning and Strategic Housing to agree the final wording of the conditions as substantially set out below, in liaison with the Chair of the Planning Committee

### Standard Conditions

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

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

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

#### Drawings:

- 1920 - PL- 001 Site Location Plan
- 1920 - PL - 005 Existing Site Plan
- 1920 - PL - 050 Proposed Site Plan Rev F
- Type A Housetype Elevations 1920-PL-A200 Rev A
- Type A Housetype Floor Plan 1920-PL-A100 Rev A
- Type B Housetype Floor Plan 1920-PL-B100
- Type B Housetype Elevations 1920-PL-B200
- Type C Housetype Floor Plans 1920-PL-CH200
- Type C Housetype Elevations 1920-PL-CH200
- Type D Housetype Floor Plans (V1) 1920-PL-D1100
- Type D Housetype Elevations (V1) 1920-PL-D1200
- Type D Housetype (V2) Elevations 1920 -PL-D2200
- Type D Housetype (v2) – Floor Plans 1920-PL-D2100
- Type E Housetype Elevations 1920-PL-E200 Rev A
- Type E Housetype Floor Plan 1920-PL-E100 Rev A
- Type F Housetype Floor Plan 1920-PL-F100
- Type F Housetype Elevations 1920-PL-F200
- Single Garage-PL-G100 Rev A
- Double Garage-PL-G200 Rev A
- Preliminary Access Design Sheet 1 of 1 100307\_01\_0100\_01 Rev H
- Revised Vehicle Tracking 10037\_01\_0100\_02.3 Rev F
- Revised Vehicle Tracking 10037\_01\_0100\_02.4 Rev F

#### Documents:

- Speed Surveys for Cadley Hill 2021
- Highway Matters Cover Letter Jan 2023 – DICE Consulting
- Brindle & Green Preliminary Ecological Appraisal BG19.268 Aug 2019
- Drainage Statement DICE 100307/WO/JAN-20/01 Jan 2020
- Coal Mining Risk Assessment January 2019 Ivy House
- Gas Addendum Letter – IV.07.19.G.Let 1 June 2019

- Noise Impact Assessment – March 2020 Report Ref P4136-R1-V1
  - Phase I & II Geo environmental assessment incorporating a Coal Mining Legacy Probe Ivy House May 2019
  - Planning Obligation Statement
  - Design and Access Statement Project Number 1920 12<sup>th</sup> May Revision
  - Brindle and Green BNG Impact Assessment BG19.268.2 May 2020
  - Planning Statement – John Church November 2020
  - Addendum Acoustic Report NoiseAir Nov 2020 Report Ref P4136-R1-AD1
  - BNG Metric Calculation V1
  - Phase 1 Habitat Survey Reptile October 2020
  - Arboricultural Impact Assessment Survey and Report August 2019
- Reason: For the avoidance of doubt and in the interests of achieving sustainable development.

### Pre-Commencement

3. Prior to any sub grade works, sufficient measures to protect the development from the risks posed by any ground gases or vapours shall be installed during the construction of the development and shall be maintained for the duration of the life of the development. The measures which are installed shall meet the requirements of sections 3 and 6 of Building Research Establishment 414 (2001) "Protective Measures for Housing on Gas Contaminated Land construction methods" or any alternative proposals which achieve an equivalent level of protection shall be agreed in writing with this authority before the start of the development. A completion report confirming the detail of the measures installed shall be submitted to the LPA for approval in writing before occupation of the properties concerned.

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

4. Prior to any construction works, details of wheel washing / cleaning facilities for construction traffic connected with the development shall be submitted to and approved in writing by the Local Planning Authority. The approved wheel cleaning facilities shall be installed and operational before any development commences and shall be retained in working order throughout all phases of development, to prevent mud and other debris being deposited on the surrounding highways during the construction of the development.

Reason: In order to minimize the amount of mud, soil and other materials originating from the site being deposited on the highway and to ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway(s).

5. The construction of the proposed development shall be undertaken in line with the submitted document Arboricultural Impact Assessment Survey and Report August 2019  
Any variations to the details of the measures hereby approved must only be undertaken after the proposed variations have been agreed in writing by the LPA.

Reason: To ensure no unacceptable impacts on protected and retained trees and hedgerows inline with Policy BNE4 and INF2 of the Local Plan.

6. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site in accordance with:
  - a. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the

construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority, in advance of full planning consent being granted.

7. Prior to commencement of the development, the applicant shall submit for approval to the Local Planning Authority details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the LPA, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.

Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development.

8. No development, including preparatory works, shall commence until the new vehicular and pedestrian access to Cadley Hill Road has been constructed. The junction shall be laid out in accordance with the approved plan (Drawing No. 100307-01-0100-01 Rev H), constructed to base level, drained, lit, provided with white lining and signage and visibility sightlines as shown on the approved drawing. The area within the sightlines shall 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 that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway.

9. A Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the LBEMP is to enhance and sympathetically manage the biodiversity value of onsite habitats. The LBEMP should be in accordance with the Biodiversity Metric 3.1 (dated 31/08/2022) and should clearly demonstrate a biodiversity net gain. The LBEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following: -
  - a) Description and location of features to be retained, created, enhanced and managed including 0.05 ha of neutral grassland, 0.01 ha of scrub and urban trees and reptile hibernacula.
  - b) Details of 14 integrated swift bricks
  - c) Details of hedgehog connectivity gaps between the gardens.
  - d) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
  - e) Appropriate management methods and practices to achieve aims and objectives.
  - f) Prescriptions for management actions.
  - g) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
  - h) Details of the body or organization responsible for implementation of the plan.
  - i) A monitoring schedule to assess the success of the habitat creation and enhancement measures at regular intervals for the period of the plan.
  - j) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
  - k) Detailed habitat enhancements for wildlife,
  - l) Details of offset gullies and drop kerbs in the road network to safeguard amphibians.
  - m) Requirement for a statement of compliance upon completion of planting and enhancement works.

The LBEMP shall also include details of the legal and funding mechanism(s) by which the long-term (30 years) implementation of the plan will be secured by the developer with the



management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

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

10. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.
- a) Risk assessment of potentially damaging construction activities.
  - b) Identification of "biodiversity protection zones".
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on habitats, species (including reptiles) or other sensitive biodiversity features at the site during construction.
  - d) The location and timing of sensitive works to avoid harm to biodiversity features.
  - e) The times during construction when specialist ecologists need to be present on site to oversee works.
  - f) Responsible persons and lines of communication.
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
  - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of safeguarding ecology and biodiversity during the period of construction.

11. Prior to the commencement of the development a Construction Environmental Management Plan (CEMP) for the proposed development shall be submitted to and approved in writing by the Local Planning Authority.

The CEMP shall provide details of how demolition and construction works are to be undertaken and include:

- i) The identification of stages of works;
- ii) The parking of vehicles of site operatives and visitors;
- iii) The erection and maintenance of security hoarding including external safety and information signage, interpretation boards, decorative displays and facilities for public viewing, where appropriate;
- iv) Details of working hours, which unless otherwise agreed with the Local Planning Authority shall be limited to 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturdays); There shall be no such activities whatsoever on Sundays, public holidays and bank holidays.
- v) Details of community engagement arrangements and complaints procedure;
- vi) Details of an acoustic hoarding on boundary of site;
- vii) loading and unloading of plant and materials;
- viii) Details of external lighting demonstrating no unacceptable impact on wildlife;
- ix) Details of noise, dust and air quality monitoring and compliance arrangements;
- x) Access and protection measures around the construction site for pedestrians, cyclists and other road users;
- xi) The location and timing of sensitive works to avoid harm to biodiversity features;
- xii) any proposed temporary traffic management;
- xiii) routes for construction traffic to and from the site and measures to ensure adherence to the approved routing plan for vehicles under the applicant's / developer's control;

xiv) storage of plant and materials used in constructing the development;

The Proposed Development shall only be carried out in accordance with an approved CEMP.

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

Prior to completion / standalone trigger

12. Before works to create a new estate street take place, construction details of the residential estate street and footways (including layout, levels, gradients, surfacing and means of surface water drainage via a positive gravity-fed system discharging to a public sewer, highway drain or watercourse) shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details. For the avoidance of doubt the applicant is advised to agree the construction details with the Highway Authority prior to discharging this condition.

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

13. Prior to the construction of any driveways or parking areas, details of surface water drainage provision to those areas (so as to adequately mitigate runoff of surface water on to the highway) shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage details shall be fully implemented prior to first occupation and thereafter maintained in a fully functional state.

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

14. Prior to the first occupation of any dwelling hereby permitted, space shall be provided within the plot curtilage for the parking of vehicles, laid out in accordance with the application drawing and maintained throughout the lifetime of the development free from any impediment to its designated use.

Notwithstanding the above the dimensions should be as follows:

External parking - minimum of 2.5 x 5m but with an additional 0.5m if bounded by a wall, fence, hedge, line of trees or other obstructions on one side, and add 1m if bounded on both sides.  
Garages - minimum of 3 x 6m (internal dimensions).

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the garages and parking spaces to be provided in connection with each dwelling erected shall not be used other than for the parking of vehicles except with the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

Reason: To ensure suitable provision of parking, residential amenity and inline with SDDC Design Supplementary Planning Document

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

Reason: In the visual interest of the buildings and the surrounding area

16. Notwithstanding the submitted details, prior to the construction of a boundary wall, fence or gate, further details of the position, appearance and materials of those features including a timetable for their provision, shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details and timetable.

Reason: In the interests of the character and appearance of the area

17. Notwithstanding the submitted details, prior to their provision further details of the following building elements shall be submitted to and approved in writing by the Local Planning Authority:

- (a) string courses, eaves, verges, corbelling, chimneys, and rainwater goods (including their method of fixing); and
- (b) all retaining structures, including their materials.

The development shall be implemented incorporating the approved details of the building elements which shall be maintained as approved throughout the lifetime of the development.

Reason: To ensure a satisfactory standard of external appearance in the interest of the visual amenity and local distinctiveness

18. No dwelling shall be occupied until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details or until such time as an Agreement has been entered into under Section 38 of the Highways Act (1980).

Reason: To ensure suitable and acceptable access to the development is maintained for the lifetime of the development

19. Prior to the occupation of any dwelling evidence setting out the programme of the delivery for the uncontrolled crossing point and kerbside arrangements shown in Proposed Preliminary Access Design Rev H, shall be submitted to and approved in writing by the Local Planning Authority. The programme shall show that the works shall be delivered within at least 6 months from the occupation of the first dwelling.

Reason: To ensure safe, suitable and acceptable access to the development for pedestrians

20. Prior to the installation of any lighting fixtures, beyond 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, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). Such approved measures will be implemented in full.

Reason: To safeguard residential amenity, ensure no unacceptable impacts on wildlife, protect areas in the interests of nature conservation and transport network.

### Compliance

21. All verges shall be finished in a mortar finish. There shall be no use of dry verge (cloaking tile) systems.

Reason: In the visual interest of the buildings and local distinctiveness.

22. No stripping, demolition works or 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 ensure no unacceptable impacts on wildlife and protect areas in the interests of nature conservation.

23. Prior to the completion of development including preparatory works the details of any fencing (including temporary) including the specification of suitable mammal gaps shall be submitted to and approved in writing by the Local Planning Authority.

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

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

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

25. Pedestrian visibility splays of 2m x 2m shall be provided and permanently maintained on both sides of the access to each plot / dwelling. There shall be no obstruction to visibility between 0.6m and 2.0m above carriageway level.

Reason: To provide adequate visibility for drivers entering or leaving the site and to ensure the safety of pedestrians and vehicles.

26. Notwithstanding the submitted drawings, bin collection points shall be provided within private land at the entrance to shared private accesses and/or courtyards, sufficient to accommodate two bins per dwelling served, in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The bin collection points shall be provided prior to the first occupation of a dwelling to which they serve and shall be retained thereafter free from any impediment to their designated use as such.

Reason: In the interest of highway safety and safeguarding residential amenity

27. Notwithstanding the submitted drawings and documents, to ensure compliance with Policy SD3 criteria ii), each dwelling shall be constructed to ensure that water consumption is no more than 110litres per person per day by ensuring that the fittings meet the standards set out in Table 5: Local Water Requirements of the SDDC Local Plan.

Reason: In the interest of sustainable development, potable water management and inline with Policy SD3 of the SDDC Local Plan.

28. If, during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the

Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To protect and prevent the pollution of controlled waters, future end users of the land, neighbouring land, property and ecological systems from potential pollutants.

Informatives:

*Highways*

- a. *Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](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*

The applicant is advised that under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: <https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>



**Item No.** 1.3  
**Ref. No.** [DMPA/2023/0221](#)  
**Valid date:** 15/02/2023  
**Applicant:** Steve Chipman **Agent:** Tom Lowe  
**Proposal:** **The erection of a commercial building to form five units for storage purposes at Ash Tree Farm, Rosliston Road, Walton on Trent**  
**Ward:** **Seales Ward**

### **Reason for committee determination**

This planning submission is being reported to Planning Committee due to comments of concern/ objection received from Cllr Wheelton.

### **Site Description**

The application site is addressed as Ash Tree Farm, Rosliston Road, Walton on Trent, DE12 8LR. The site is located to the outskirts of Walton accessed via Rosliston Road. There are predominately commercial rentable units in and around the site under consideration. The site and the adjacent units where originally part of Old Barn Farm. The existing buildings on site are largely clad with green trapezoidal cladding with a lower masonry block coursing. To the far top boundary of the site there is a large mound which is some 4 meters at its highest. The remaining flanking boundary edge to Rosliston Road is buffered by established hedgerow sitting on a verge. The entrance to the site from Rosliston Road is located on a natural bend. This is also the case for the adjacent entrance to the neighbouring commercial site. The ground slopes consistently from the mound to the top north-west of the site down towards the bottom much the same as the adjacent commercial site. The massing of the existing units decreases in size proportionally to the ground level as the level of the site slopes to the south-east. The top part of the site is largely open waste land with mud/ gravel access. The central area of the top section of the site is mainly a mud/ gravel mix.

The application site under consideration is located outside of the nearest settlement boundary. Ash Tree 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 however situated within the National Forest.

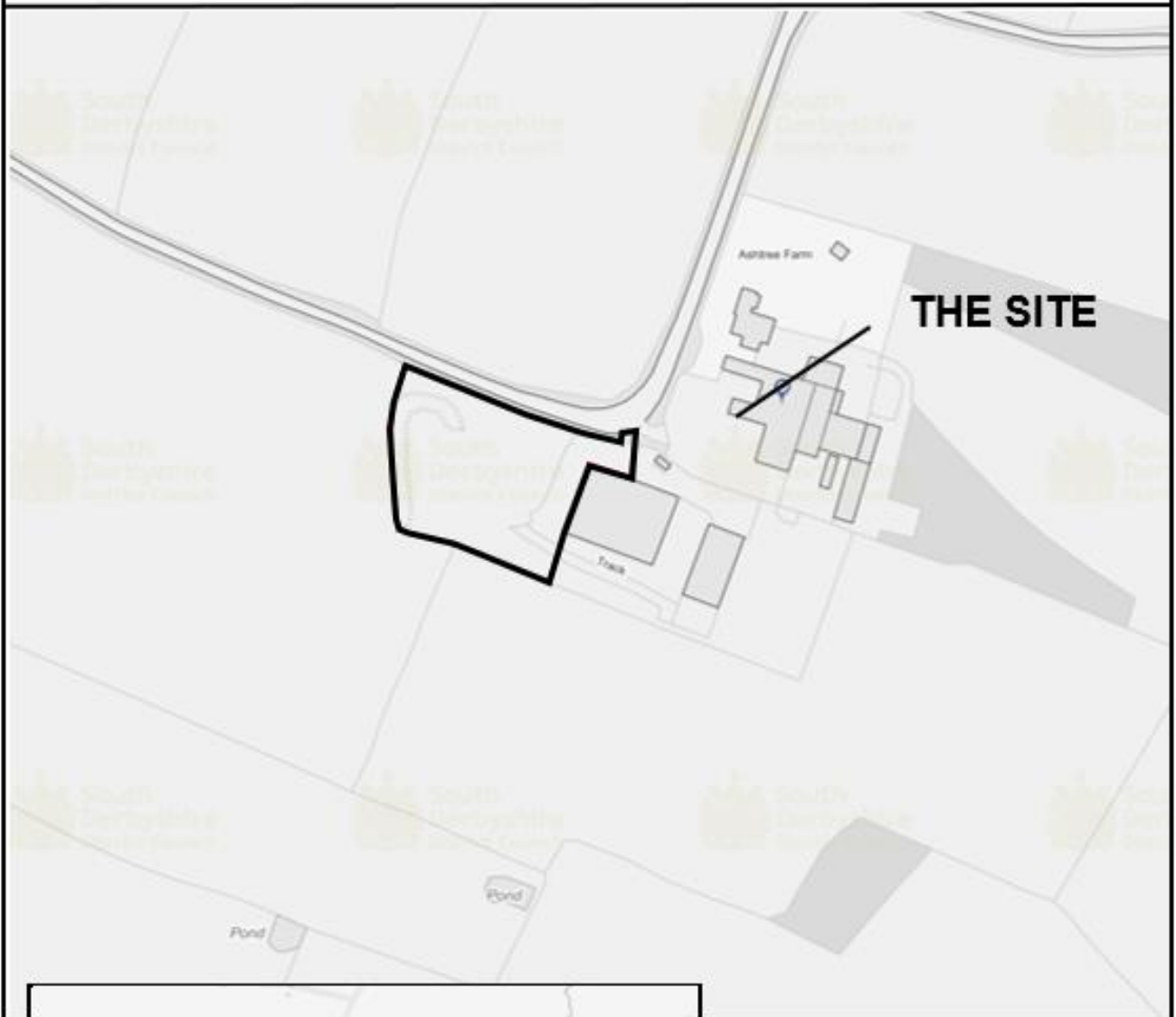
A site visit has been undertaken on Wednesday 03 May 2023.

### **The Proposal**

The applicant is seeking planning permission for the proposed erection of a commercial building to form five units for storage purposes at the site under the address of Ash Tree Farm, Rosliston Road, Walton on Trent, DE12 8LR.

The application proposes one new building which will be subdivided into five rentable storage units on part of an existing commercial site. It is proposed to make better use of the wider commercial site by locating the new building on the redundant top section of the site which is currently storing old plant, steel, and other parts. The new building as proposed facilitates five compartmented rental storage units within one larger building envelope. The subdivided units will each have a roller shutter door and personnel entrance door/ lobby and w/c. Each unit will also have a compliant fire escape door to the

**DMPA/2023/0221 – Ash Tree Farm, Rosliston Road, Walton On Trent, DE12 8L**



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rear with access to a fire assembly point on the central gravelled area. The building is proposed to be constructed with a lower masonry plinth and trapezoidal cladding above. The following details of the proposed materials and finishes have been outlined by the applicant:

- Walls: Green Kingspan vertical trapezoidal cladding, and lower masonry block or concrete coursing.
- Roof: Green trapezoidal cladding.
- Doors: Grey metal faced personnel doors and grey roller shutter doors.

The existing entrance which serves the site is proposed to remain unchanged. The layout as proposed incorporates an open courtyard to the front with concrete hardstanding which will present a continuation from the existing built form to that proposed.

The following hours of operation are proposed:

- Monday to Friday: 07:00am to 19:00pm
- Saturday: 07:00am to 19:00pm
- Sunday/ Bank Holiday: N/A

The Local Planning Authority have worked proactively with the applicant with regards to this development proposal. An improved provision of landscaping and planting has been requested and received. The scheme of landscaping and planting includes the retention of the existing hedgerow along the boundary shared with the highway, the seeding of the embankment area, and a variety of tree planting.

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

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

- Application Form - Ref: N/A - Received by the LPA: 15 February 2023
- Design & Access Statement - Ref: N/A - Received by the LPA: 15 February 2023
- Site Location Plans - Ref: 0130PL001 Rev P02 - Received by the LPA: 15 February 2023
- Plans as Proposed - Ref: 0130PL002 Rev P02 - Received by the LPA: 15 February 2023
- Elevations as Proposed - Ref: 0130PL003 Rev P02 - Received by the LPA: 15 February 2023
- Planting Schedule - Ref: 0130PL020 - Received by the LPA: 24 August 2023

### **Relevant planning history**

9/2018/0514 - Change of use from agricultural building to an industrial/ commercial (use class b2) and alterations at Old Barn Farm, Rosliston Road, Walton on Trent, Swadlincote - Granted: 20 November 2018.

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

#### Summary of consultation responses:

Seales Ward, Cllr Wheelton - Comments of concern/ objection received. Issues highlighted including with regards to current issues with lorries in local villages. Concerns presented regarding the current infrastructure and impacts in terms of accommodating associated traffic caused by the proposed scheme of development. It is suggested that the current infrastructure in place is too limited. Walton bypass has not been started and the Chetwynd Bridge is now restricted. It has also been noted by the Councillor that this is not a farm diversification and not an attractive site in a rural location. (26 February 2023, 06 April 2023, and 18 July 2023)

Walton Parish - No comments received.

National Forest Company - The site area is below the threshold requiring National Forest planting. The NFC would hope that the existing hedgerow is retained and that the landscaping scheme incorporates native tree planting. (06 July 2023)

County Highways Authority - The highway authority has no objections to the application subject to the relevant planning conditions being imposed with regards to the implementation of parking and manoeuvring areas in the interests of parking, turning and highway safety. (05 April 2023)

Environmental Health - No objections subject to a recommended planning condition with regards to air quality in the interests of protecting the amenity of the locality, especially for people living and/ or working nearby. (08 June 2023)

Economic Development - From an Economic Development perspective the provision of additional commercial space, particularly smaller units would be very much welcomed. There has been a long-standing shortage of provision of small units and low levels of new construction. I would anticipate that there would be a good level of interest in the units if approved. (03 April 2023)

#### Responses to publicity:

Following the formal consultation, which included neighbour notification letters of 27 February 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) 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:

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)

#### **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
- 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).

The scheme of development proposes the erection of a commercial building to form five units for storage purposes at the site under the address of Ash Tree Farm, Rosliston Road, Walton on Trent, DE12 8LR. It is proposed to make better use of the wider commercial site by locating the new building on the redundant top section of the site which is currently storing old plant, steel, and other parts.

The proposal for small-scale storage in this location is outside of a settlement boundary as defined in the adopted Local Plan and therefore Policy E7 (Rural Development) applies. Policy E7 (Rural Development) states “Development proposals which diversifies and expands the range of sustainable employment activities on land outside of settlement boundaries will be supported by the Council provided they support the social and economic needs of the rural communities in the district. The Council will support proposals for the re-use, conversion and replacement of existing buildings and development of new buildings where: i) it is supported by a sound business case; ii) the local highway network is capable of accommodating the traffic generated; iii) development will not give rise to any undue impacts on neighbouring land; iv) it is well designed and of a scale commensurate with the proposed use; v) visual intrusion and the impact on the character of the locality is minimised.”

Details of the proposed business case have been submitted in support of this planning application. The Local Planning Authority have requested and received consultation input from the Economic Development team in this regard. The Economic Development team have advised that the provision of additional commercial space, particularly smaller units would be very much welcomed. Further to this it has been noted that there is a long-standing shortage of provision of small units and low levels of new construction. It is envisaged that there would be a good level of interest in the units if approved.

Providing that material planning consideration 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 applicant is seeking planning permission for the proposed erection of a commercial building to form five units for storage purposes at the site under the address of Ash Tree Farm. The building is proposed to be situated between the built form of an existing industrial/ commercial use (to the east) and an embankment (to the west) on a currently redundant part of the wider commercial site which is currently storing old plant, steel, and other parts.

The design, character and appearance implications associated with the development proposal hereby under consideration have been carefully considered as part of the assessment of this planning submission, together with consultation responses received in this regard. In terms of scale, bulk, massing, and proportions the proposed scheme of development comprises of an acceptable form of design. The scale and design of the building as proposed is considered to be consistent with that expected for commercial/ storage type purposes as well as being consistent with the built form currently present to the east. The materials as proposed and referenced above are considered to be appropriate for a development of this nature. An element of screening is provided by the existing buildings, the embankment, and the surrounding landscaping and planting. Further to this an improved provision of landscaping and planting has been requested and received to further mitigate any potential design implications associated with this development proposal. The further scheme of landscaping and planting includes the retention of the existing hedgerow along the boundary shared with the highway, the seeding of the embankment area, and a variety of tree planting. Should planning approval be recommended planning conditions shall be incorporate to ensure 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.

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 proposed scheme of development has been carefully considered with regards to potential impacts on amenity. Further to this consultation responses have also been considered in this regard. The site under consideration is located adjacent to an existing industrial/ commercial use, of which there is a current dwelling to the north of that site. The application site would be separated from the nearby dwelling by the built form of the existing industrial/ commercial buildings which are currently in operation. Given that the proposed use would be separated from the current dwelling by the built form of the existing industrial/ commercial use, it is not considered that the proposed erection of the commercial building for the use of storage purposes would result in a harmful impact on the amenity of neighbouring properties.

Proposed hours of operation of Monday to Friday: 07:00am to 19:00pm, Saturday: 07:00am to 19:00pm, and Sunday/ Bank Holiday: N/A have been presented by the applicant. These hours of operation are considered to be reasonable and acceptable for this type of proposed use. Should planning approval be recommended a planning condition shall be attached in this regard.

Specialist input from the Environmental Health team at South Derbyshire District Council has been requested and received. The Environmental Health team have recommended that there are no objections on environmental health related grounds subject to the incorporation of a relevant recommended planning condition requiring no clearance of vegetation by burning, or disposal of other materials by burning during the period of construction. This air quality condition is in the interests of protecting the amenity of the locality, especially for people living and/ or working nearby. This condition is reasonable, and in the interest of amenity shall be incorporated should planning approval be recommended.

Overall given the distances of the development proposal from nearby residential 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 any major issues with regards to loss of daylight, loss of sunlight, overbearing, or overlooking. The proposed scheme of development, subject to the above-mentioned planning conditions, is therefore considered to be acceptable on amenity related grounds.

### Access and Highway Safety

The County Highways team at Derbyshire County Council have been formally consulted with regards to this development proposal. A formal consultation response has since been provided with the County Highways team outlining no objections on highway related grounds. This is subject to the incorporation of a relevant recommended planning condition should planning approval be recommended. 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.

A technical assessment of the development proposal and a consideration of the potential associated implications has been undertaken by the County Highways team at Derbyshire County Council. It has been advised that it is evident that the proposal utilises the existing access to the site which is satisfactory with good visibility in both directions. Further to this the proposed manoeuvring area is acceptable and the additional traffic likely to be generated by the proposed development is not significant and will not have a material impact on the operation of the local road network or highway safety.

The County Highways team at Derbyshire County Council have formally advised of a stance of no objections to the application subject to a planning condition being imposed requiring the parking and manoeuvring areas to be laid out in accordance with the approved plans prior to the first occupation of the units permitted. This is to ensure that adequate parking and turning provision is provided in the interests of highway safety.

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 County Highways advice it is not considered that the scheme of development would be unacceptable on highway related grounds. Subject to the incorporation of the recommended relevant planning condition, the proposed scheme of development is considered to be acceptable on access and highways related grounds.

### 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.

The application proposes one new building which will be subdivided into five rentable storage units on part of an existing commercial site. It is proposed to make better use of the wider commercial site by locating the new building on the redundant top section of the site which is currently storing old plant, steel, and other parts. This element of the wider site is largely open waste land with mud/ gravel access. The site under consideration is therefore considered to have a relatively low ecological value.

The site hereby under consideration is situated within the National Forest, and the site area extends to a total of approximately 4,000 square metres/ 0.4 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 below the threshold requiring a set percentage of National Forest planting. The National Forest Company have outlined this within the technical consultation input provided and have also advised that they “would hope that the existing hedgerow is retained and that the landscaping scheme incorporates native tree planting”. In this instance National Forest planting cannot be insisted upon. The Local Planning Authority have however worked proactively with the applicant and, following a review of the technical consultation input provided by the National Forest Company, an improved provision of landscaping and planting has been requested and received in line with the recommendations. The further scheme of landscaping and planting includes the retention of the existing hedgerow along the boundary shared with the highway, the seeding of the embankment area, and a variety of tree planting. This scheme not only helps to mitigate design related implications but also presents and improvement with regards to ecology and biodiversity related factors.

Should planning approval be recommended planning conditions shall be incorporate to ensure the delivery and retention of the landscaping and planting 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. 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 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

There will be some visual impacts from new industrial development in the countryside, some traffic implications in terms of additional vehicle movements to the site, with some additional impacts in relation to amenities of nearby residents. As outlined in the main report all of these matters are considered to be within acceptable parameters in line with relevant local plan and NPPF policy and/ or are successfully addressed with the inclusion of appropriate conditions.

There are beneficial implications in terms of economic development, and it is noted that the economic development team at the Council consider this is a beneficial scheme with smaller units likely to be in demand. The principle of the proposed scheme of development is therefore considered to be



acceptable. An acceptable form of design is considered to be 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 assessed 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 erection of a commercial building to form five units for storage purposes at the site under the address of Ash Tree Farm, Rosliston Road, Walton on Trent, DE12 8LR 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 - Received by the LPA: 15 February 2023
  - Site Location Plans - Ref: 0130PL001 Rev P02 - Received by the LPA: 15 February 2023
  - Plans as Proposed - Ref: 0130PL002 Rev P02 - Received by the LPA: 15 February 2023
  - Elevations as Proposed - Ref: 0130PL003 Rev P02 - Received by the LPA: 15 February 2023
  - Planting Schedule - Ref: 0130PL020 - Received by the LPA: 24 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: 07:00am to 19:00pm, and Saturday: 07:00am to 19:00pm.  
Reason: To protect the amenities of neighbouring properties and the locality.
5. The storage units hereby approved shall not be occupied at any time other than for purposes set out in the application for the commercial use of the site only.  
Reason: For the avoidance of doubt and in accordance with the stated intentions of the applicant.

6. There shall be no outside storage or working unless otherwise agreed in writing by the Local Planning Authority.  
Reason: In the visual interest of the built form and the surrounding area, and to protect the amenities of neighbouring properties and the locality.
7. Prior to the occupation of the units hereby permitted the parking and manoeuvring area shall be laid out in accordance with the approved plans 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, such space shall be maintained throughout the life of the development free of any impediment to its designated use as such.  
Reason: To ensure adequate parking and turning provision, in the interests of highway safety.
8. All planting, seeding and turfing shown on the approved Planting Schedule - Ref: 0130PL020 - Received by the LPA: 24 August 2023 shall be carried out in the first planting and seeding season following the first occupation of the first unit or the completion of the development, whichever is the sooner; and 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 planting schedule is implemented in a speedy and diligent way and that initial plant losses are overcome in the interests of the visual amenities of the locality.
9. During the period of construction there must be no clearance of vegetation by burning, or disposal of other materials by burning.  
Reason: To protect the amenity of the locality, especially for people living and/ or working nearby.

### **Informatives**

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

**Item No.** 1.4

**Ref. No.** [DMPA/2023/0739](#)

**Valid date:** 09/06/2023

**Applicant:** R Singh

**Agent:** Ranjit Seehra

**Proposal:** The erection of a two storey front, rear and side extension, detached garage and hardstanding at 12 Avon Close, Stenson Fields, Derby, DE24 3AP

**Ward:** Stenson

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

Called in by Cllr Shepherd.

#### **Site Description**

The site is within the defined settlement boundary of Stenson and is situated on a corner plot of a residential cul-de-sac, Avon Close.

#### **The proposal**

The proposal is for the erection of a part two/single storey front, and two storey side extension.

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

The applicant has revised the scheme (as presented) demonstrating a reduction in scale and overall improvement of design. This is reflected in the revised floor plans/elevations and block plan.

#### **Relevant planning history**

DMPA/2023/0408 -The erection of a two storey rear, front and side extension, detached garage and hardstanding - Refused 06/06/2023

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

There have been no objections received from consultations and publicity relating to the proposed plans themselves, however, a concern has been raised by a member of the public in terms of the use of the property and concern that it might be being used as a hostel.

A site visit carried out by the Planning Officer did not raise concerns in this regard, however, a material change of use requiring planning permission would need to be considered through a separate planning application.

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

Development Plan Policies:

South Derbyshire Local Plan – Part 1

Policy S2 (Presumption in Favour of Sustainable Development)

Policy SD1 (Amenity & Environmental Quality)

Policy BNE1 (Design Excellence)

Policy INF2: (Sustainable Transport)

South Derbyshire Local Plan Part 2 (2017)

Policy STD1 (Settlement Boundaries and Development)

Policy H27 (Residential Extensions and Other Householder Development)

**DMPA/2023/073 – 12 Avon Close, Stenson Fields, Derby, DE24 3AP**



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South Derbyshire District Council, LA 100019461.2020

### **Planning considerations**

- Principle of the proposed development
- Design and impact upon the host dwelling and the character and appearance of the area and the host dwelling
- Residential amenity
- Highway safety/parking

### **Planning assessment**

#### Application Site

12 Avon Close, Stenson Fields, Derby is a detached mid to late 20th century dwelling situated within the urban residential area of Stenson Fields. The site is situated on a prominent position on the street being a corner plot between Trent Close to the west and Avon Close to the south.

The dwelling adopts curtilage to the front (to the east), comprising of soft landscaping further south and hard landscaping to the north, which accommodates a small driveway.

The extended and altered dwelling adopts a single storey element to the front of the dwelling, orientated side on with the entrance door facing north. A single storey garage element adopts the north side facing elevation with a conservatory to the rear (west side).

Dwellings on Avon Close and Trent Lane, share similar architectural features and character, that being the height, roof form, positioning of windows, scale of the dwellings and all have a similar amount of private amenity space. Neighbouring dwellings are set at a comfortable distance from the highway and each accommodate a similar sized driveway, which host at least two parking spaces.

Some of the neighbouring dwellings have previously been extended and altered, which breaks up some of the uniformity mentioned above. Overall, the extensions in the area are of proportionate scale, siting, massing and are not out of keeping with the character and appearance of the area and host dwelling.

The dwelling is within the defined Settlement Boundary Maps under Appendix A to LP2.

#### Proposed Development

In brief, planning permission is sought for the following:

- The erection of a two storey rear and side extension. The erection of a detached garage and hard standing adjacent

#### Main issues

##### Principle of the proposed development

Policy H27 considers householder development and supports such undertakings if they do not harm the host property and the character and appearance of the area and is not unduly detrimental to the

amenity afforded of nearby properties. The criteria associated with policy H27 is also reflected within policy BNE1 and advice within the SPD.

The proposed extensions are amendments to a previously refused scheme, under application reference DMPA/2023/0408.

Initially, the submitted plans were still considered to be over-dominant and could not be supported. However, during the course of this application, amended plans were received which includes a further reduction in the size of the front two storey gable extension. This particular element is now set below the ridge of the main roof mass and has been brought in to reduce the width.

The revised scheme is now a more sympathetic proposal, which does not over dominate the host dwelling and is more in keeping with the character and appearance of the surrounding area, and the principle of development can therefore be supported.

#### Design and Impact upon the host dwelling and the character and appearance of the area and the host dwelling

The most appropriate policies and guidance with regards to the design, character and appearance related consideration are Policy S2 (Presumption in Favour of Sustainable Development), Policy SD1 (Amenity & Environmental Quality), Policy BNE1 (Design Excellence) of the South Derbyshire Local Plan, the South Derbyshire Design Guide SPD and the National Planning Policy Framework.

The scheme has evolved into a proposal that is in keeping with the character and appearance of the area and does not over dominate the host dwelling. The two storey front extension is set well below the ridge of the main roof mass and adopts a small gable roof. This is similar to that of a neighbouring dwelling further south.

Despite there not being any detached garage elements present from the street scene, the site is within a built up residential area and adopts sufficient curtilage to accommodate a detached garage element. Therefore, the garage element is supported.

#### Residential amenity

The most applicable policies and guidance here are Policy SD1 (Amenity & Environmental Quality), Policy BNE1 (Design Excellence), Policy H27 (Residential Extensions and Other Householder Development) and the South Derbyshire Design SPD, each seek that the new development does not lead to adverse impacts on the environmental or amenity of existing occupiers. The level of harm is assessed against guidance within the SPD which sets out minimum distances to nearby occupiers and instances when development is overlooking, overbearing and overshadowing.

Allowing for the reduced scale of the proposed development, the siting in relation to neighbours, sufficient distances between neighbouring primary spaces coupled with boundary treatments, it is considered that the proposed development will not unduly harm the amenity afforded the occupiers of nearby properties. The scheme therefore complies with policies H27 and BNE1 of the development plan and advice within the SPD.

The comment received in relation to the potential use of the building is not considered as part of this application and is therefore not a material consideration. A change of use to a House of Multiple Occupation may require planning permission depending on the scale and number of occupants, however, it is not evident at the time of determination of this application that a breach of planning control has occurred. Should this occur in the future, this could be dealt with as a separate matter.

#### Parking and highway safety

The County Highway Authority was consulted on the previous scheme which was refused and raised no objections subject to conditions. A formal consultation response was provided, outlining that the garage is not to be used other than a parking provision except with prior grant of permission pursuant to an application made to the LPA in that regard. It was advised that that the applicant must take all

necessary action to ensure that mud or other material is carried out of the site and deposited on the public highway.

### Summary

Due to the revised changes, the proposals now accord with the relevant policies of the Development Plan and can now be supported.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, 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 amended proposed floor plans/elevations/site plan (RS/768/01 - B) as received by the Local Planning Authority on 26 June 2023, and the Location Plan and Application Form as received on the 9th June 2023, unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the garage and parking spaces to be provided in connection with the development shall not be used other than for the parking of vehicles except with the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

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

### Informatives:

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

**Item No.** 1.5

**Ref. No.** [DMPA/2023/0546](#)

**Valid date:** 26/04/2023

**Applicant:** Mr D Sandhu

**Agent:** Heatons Planning

**Proposal:** Change of use from a vehicles repair workshop (use class B2) to research and development and/or industrial processes (use class E)

**Ward:** Stenson

### Reason for committee determination

This item is presented to the Committee as it has been called in by Councillor Shepherd together with related cases DMPA/2023/0415 and DMPA/2023/0436.

### Update Report

The application was previously considered at the meeting held on 19 September 2023 but was deferred to allow further clarifications with regard to the uses allowed within Class E. The previous report is attached as an appendix.

### Updated Details/ Clarifications

#### 1. Use Class E

The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 introduced changes to the classification of land uses. As part of the changes, a number of the former use classes were replaced and incorporated into Use Class E. This included the former B1 Use Classes. The table below provides a comparison between the former Class B1 (revoked from 31 August 2020) and relevant uses within Class E.

Former Use Class B1 Business	Class E Commercial, Business and Service
Use for all or any of the following purposes— (a) as an office other than a use within class A2 (financial and professional services), (b) for research and development of products or processes, or (c) for any industrial process,  being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.	Use, or part use, for all or any of the following purposes— (g) for— (i) an office to carry out any operational or administrative functions, (ii) the research and development of products or processes, or (iii) any industrial process,  being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

It is noted that there are other uses captured within Use Class E (a) to (f), including shops (former class A1), financial and professional services (former class A2), café or restaurants (former Class A3), clinics, health centres, creches, day nurseries, day centres (former class D1) and gymnasiums, indoor recreation not involving motorised vehicles or fire arms (former class D2).

Also, that 'general industrial' remains within the separate class Use Class B2.



## 2. Application of Use Class to Planning Application DMPA/2023/0536

Prior to the planning permission 9/2014/0718 (retrospective application for the change of use from offices to tattoo studio), the planning use of the building was for offices (class B1) under the planning permission 9/2001/0891 (The use of the land for B1 (light industry) and B8 (storage and distribution) purposes).

The description of the development for the current planning application explicitly proposes research and development and/or industrial process uses, rather than general Use Class E (ie it would not incorporate shops, professional services etc.). The Officers recommendation for the 19 September 2023 committee recommended condition 2, which would tie the use of the building to Use Class E(g) (ii) and (iii), ie. the uses of research and development and/or industrial processes that are applied for.

The wording for condition 2 could be tightened further so that it clearly removes permitted development rights for the use of the building and is completely clear that there would be no outdoor working permitted. It could be reworded as follows:

2. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 2015 (as amended) the building shall be used solely for the purposes of research and development and/or industrial processes Use Class E g (ii) and (iii) and the open land within the curtilage of the site shall be for the purposes of parking, manoeuvring and turning of vehicles only. There shall be no outside working whatsoever.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers and in accordance with Policy BNE1 of the Local Plan.

Note, a minor alteration to the condition above includes a reference for the outside space to be used for turning/manoeuvring of vehicles as well as parking has also been added.

### **Conclusion**

Considering the above clarifications, the Committee is asked to resolve that planning permission be granted in accordance with the recommendations in the previous report, subject to the minor alteration to condition 2 as proposed above.

**Item No.** 1.7**Ref. No.** DMPA/2023/0546**Valid date:** 26/04/2023**Applicant:** Mr D Sandhu**Agent:** Heatons Planning**Proposal:** Change of use from a vehicles repair workshop (use class B2) to research and development and/or industrial processes (use class E)**Ward:** Stenson Fields**Reason for committee determination**

This item is presented to the Committee as it has been called in by Councillor Shepherd together with related cases DMPA/2023/0415 and DMPA/2023/0436.

**Site Description**

The application site is located to the north of Stenson Fields Farmhouse and forms part of the Stenson Industrial Estate. It comprises an area of land c. 200 m<sup>2</sup> that incorporates a two-storey former red brick agricultural building within the eastern part of the site. This building adjoins the farmhouse to the south and the main steel buildings of the industrial estate to the north. To the west is the vehicle storage area that is subject to application DMPA/2023/0415 and to the east the land comprises the former farmyard and other buildings that are occupied by car sales and maintenance businesses. It is understood that the site is currently vacant. It was last used by TBT Tyres (class B2), although planning permission is not in place for this use. Before then, the buildings within the site were used for a tattoo parlour (planning permission ref. 9/2014/0718). Some canopy style extensions that were previously erected and refused planning permission (ref. 9/2017/0699) have been removed.

Stenson Industrial Estate, including the application site, is under the ownership of the applicant and comprises a longstanding use in the area that pre-existed residential development to the north and west. Planning permission for light industrial (class B1) and storage/distribution uses (class B8) was first granted at the site in 2001. As the planning history (below) shows, there have been a number of applications and changes at the industrial estate over time, including permissions for storage of vehicles, plant hire businesses and a car wash.

The following applications have been submitted concurrently for the Stenson Industrial Estate and are also brought for determination by the Planning Committee:

- DMPA/2023/0415 The retention of the existing vehicle storage area to the rear of the site, including an office building;
- DMPA/2023/0436 Continued use of the land for the parking, storage, display and sales of motor vehicles.

**The proposal**

The proposal is to use the existing unit for research and development uses and/or industrial processes which fall within Class E (g)ii and iii of the Use Class Order. These uses are defined as those 'which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, soot, ash, dust or grit'. The floorspace would include ancillary office, kitchen, staff and sanitary facilities. The existing outbuilding was originally intended to be used for storage purposes, but was subsequently removed from the plans to facilitate the parking provision and would therefore be dismantled. No external alterations are proposed to the building and there would be no outside working associated with the use. There would be up to 4no. members of staff. The applicant



has worked proactively with the Council throughout the planning process and has amended the original site layout to define the parking and manoeuvring arrangements.

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

#### Application Covering Letter (dated 26 April 2023)

This document sets out a description of the application site, planning history, details of the proposal and an assessment of this against the planning policy framework that has been prepared by the applicant's agent.

#### Planning Drawings

Location Plan (received 26 April 2023)

Proposed Layouts, Elevations, Block Plan and Location Plan (ref. 1879, 002 Rev A)

Existing and Proposed Site Layout (ref. 1879, 003 Rev B)

Site Layout: Delivery and Parking Plan – southern site (ref. Parking and Turning Layout, CV0503 003 received 7 July 2023)

#### Parking and Delivery Management Plan (7 July 2023)

This document was prepared in response to the request from Derbyshire County Highways and Officers. It sets out the parking and delivery management strategy for the application site and the 2no. applications submitted for determination concurrently on the wider industrial estate (DMPA/2023/0415 and DMPA/2023/0436). The document details the method of implementing the plan, the parking provision for staff, customers and visitors, deliveries and other matters.

### **Relevant planning history**

There is a lengthy planning history for the Stenson Industrial Estate, which incorporates the application site. This includes:

- 9/2000/1177 The use as a store of the workshop and the dwelling as offices for a construction company – approved.
- 9/2001/0891 The use of the land for B1 (light industry) and B8 (storage and distribution) purposes – approved.
- 9/2005/1405 The removal of condition 3 of 9/2000/1177/U and 9/2001/0891/U to permit open storage – refused.
- 9/2007/0234 The change of use of office accommodation and outbuildings to an operational office and depot – approved.
- 9/2009/0444 Change of use from parking to hand car wash incorporating two portacabins, concrete hardstanding washing area with fabric canopy – approved.
- 9/2010/0495 The retention of use of land for the storage of contractors vehicles, equipment, machinery and storage containers and material – refused, however overturned on appeal APP/F1040/A/10/2134225.
- 9/2011/0118 Retrospective application for broadening of existing permitted uses to include class B1 and B8 vehicle repairs and body work, vehicle sales, valeting and rental – approved.
- 9/2013/0813 The variation of condition 1 of planning permission 9/2010/0495 (granted at appeal) for extension of temporary permission until December 2014 – approved.
- 9/2014/0718 Retrospective application for the change of use from offices to tattoo studio – approved.
- 9/2017/0699 Retrospective application for erection of an extension/outbuilding – refused.
- 9/2016/1050 Change of use to a vehicle maintenance depot – approved.
- 9/2016/0257 Change of use of land for the operation of a plant hire business – approved.
- 9/2018/1233 Change of use of portacabin from a hand car wash to a private taxi office – approved.

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

#### a) County Highways Authority

*Initial Response* – Having reviewed the submitted information it is considered that the proposal

would have no material impact on the operation of the local road network. However, there are concerns with regards to staff and customer car parking provision as well facilities for the manoeuvring and unloading/loading of car transporters and other delivery vehicles.

It is requested therefore that the applicant provide details of the number of staff employed at the site and indicate on the site plan the area allocated for staff and customer car parking. It should be noted that staff and customer parking spaces should be formally laid out and appropriately signed to ensure safe, satisfactory and sufficient parking arrangements are available for both staff and customers.

In addition, the car transporter loading/unloading area must be shown on the site layout and swept path assessments are requested to satisfactorily demonstrate that car transporters can enter, manoeuvre and leave the site safely and without conflict with customer vehicles and pedestrian routes.

It should be noted that the site access on Stenson Road should be kept clear of parked vehicles to ensure safe access and egress to and from the site and for pedestrians crossing the site access. The applicant is requested to provide details of the parking management strategy for the site to ensure parking in the access does not occur. If the application is approved a condition should be imposed that all site parking should be in accordance with the approved parking management strategy.

It is also considered that car transporters, or other delivery vehicles, should not park on Stenson Road before accessing the site or after leaving the site as this is detrimental to highway safety. The applicant is therefore requested to provide details as to the strategy for managing deliveries by car transporters and other vehicles to ensure that they can enter and leave the site without having to park on Stenson Road. If the application is approved a condition should be imposed that all deliveries should be in accordance with the approved delivery management strategy.

Prior to the construction of any parking areas, details of surface water drainage provision to those areas (so as to adequately mitigate any runoff of surface water on to the highway) shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage details shall be fully implemented prior to first use and thereafter maintained in a fully functional state (24 May 2023).

*Re-consultation on revised information* - I have reviewed the submitted Parking/Delivery Management Plan and can confirm that it is acceptable. The highway authority therefore has no objections subject to the following conditions being imposed should approval be granted in the interests of highway safety:

- The site access on Stenson Road should be kept clear of parked vehicles to ensure safe access and egress to and from the site and for pedestrians crossing the site access.
- All delivery vehicles, including car transporters, should not park on Stenson Road before accessing the site or after leaving the site.
- Prior to the construction of any parking areas, details of surface water drainage provision to those areas (so as to adequately mitigate any runoff of surface water on to the highway) shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage details shall be fully implemented prior to first use and thereafter maintained in a fully functional state (24 August 2023).

*Further clarification* – The applicant queried the request for a drainage condition and highlighted that there would be no alteration to the surface materials, such that there would be no change to the existing surface water situation and a condition would therefore be unreasonable and unnecessary. The Highway Authority reviewed this and recommended an informative be attached to any forthcoming permissions instead (24 August 2023).

Environmental Health

No objections to the above application but would suggest the following conditions:

- Prior to the installation of plant or equipment, full specifications of the plant or equipment shall be submitted to and approved in writing by the Local Planning Authority. The specification shall include details of noise levels as predicted at the boundary of the site with any sensitive receptors and include mitigation measures to reduce noise levels at those receptors to acceptable levels. The located plant or equipment, along with any mitigation measures required, shall be implemented prior to first use of said plant or equipment and thereafter maintained in accordance with the agreed levels.

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

- No deliveries shall be made to or dispatched from the premises other than between 8:30 hours and 17:30 hours Mondays to Fridays, and between 9:30 hours and 12:30 hours on Saturdays. There shall be no deliveries on Sundays, public holidays and bank holidays.

Reason: To safeguard the amenities of nearby occupiers

- No activity at the premise is permitted other than between 8:00 hours and 18:00 hours Mondays to Fridays, and between 8:00 hours and 17:00 hours on Saturdays. No activity at the premise whatsoever on Sundays, public holidays, and bank holidays.

Reason: To safeguard the amenities of nearby occupiers.

- The open land within the curtilage of the site shall be for the purposes of parking only.

Reason: To safeguard the amenities of nearby occupiers. (23 May 2023).

### Neighbour Reponses

Three objections were received from members of the local community in response to the application. The comments raised concerns related to:

- a) The land is contaminated and this could impact the future proposed uses of the site;
- b) Lack of certainty and ambiguity around the proposed use, and speculative nature of the application with no tenants yet in place;
- c) Impact from the proposal on adjacent properties including from chemical fumes;
- d) Inadequate drainage within the industrial estate generally and a blocked soakaway within the site;
- e) Insufficient capacity within the estate's septic tank to cater for additional discharges;
- f) Waste management and likelihood of waste being stored in the external areas;
- g) Noise from users of the site;
- h) The previous B2 use of the site being unlawful and this impacting the status of the current proposal;
- i) Inadequacy of the access from Station Road;
- j) The proposal would not be capable of being carried out without disturbance to adjoining users;
- k) Overdevelopment of the site and negative visual impact;
- l) The proposal would only provide opportunity for 4 employees and therefore would have no employment benefit to the area;
- m) The site is not currently vacant;
- n) Increase in traffic and congestion and particular concerns related to the inadequacy of the existing access, parking of vehicles on the pavement and within the access;
- o) Loss of privacy to neighbouring uses;
- p) Operational hours of working would still need to be restricted.
- q) General concerns were also raised in relation to the operation of the industrial estate and breaches in planning control related to other sites. It was also noted that a structure related to the previously refused 9/2017/0699 remains in place on the site. These matters can be investigated by planning enforcement if breaches of planning control remain outstanding following the determination of the three related planning applications.

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

The relevant Development Plan policies are:

- Local Plan Parts 1 and 2: SD2 (Presumption in Favour of Sustainable Development), Policy E2 (Other Industrial and Business Development), INF2 (Sustainable Transport), BNE1 (Design Excellence)

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. Highway Safety;
3. Amenity;
4. Other Matters.

### **Planning assessment**

#### Principle of the Development

Policy E2 relates to industrial and business development that is not covered by strategic employment land allocations (Policy E1). The policy states that development of land for uses defined by classes B1(b), B1(c), B2 and B8 of the Use Classes Order (i.e. offices, research and development, light industry, general industrial, distribution and storage) will be permitted subject to certain conditions. This includes where the site lies on the edge of an urban area, such as Derby, the proposal is for the expansion of an existing business, or the proposal is for the redevelopment of established industrial or business land. It requires that all such proposals be in scale with existing built development, and that it does not give undue impacts on the local landscape, natural environment, or cultural heritage assets.

The site forms part of the Stenson Industrial Estate which is located within the urban area of Stenson, on the edge of Derby. The industrial estate has been established since the early 2000s, when planning permission was granted for B1 (light industry) and B8 (storage and distribution) purposes (ref. 9/2001/0891), albeit this original consent largely precluded activities outside of the buildings onsite.

The current proposal is to change the use of the buildings within the application site to Class E (g)ii and iii uses 'which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, soot, ash, dust or grit'.

The proposal is considered to comply with the provisions of part A of Policy E2. With respect to part B, it is noted that there would be no changes to the exterior of the building and no working outside. Neighbours have commented that the proposal would be out of keeping with the character of the surrounding residential area and overdevelopment of the site. There would however be no external alterations proposed to the building and no outside working associated with the use. The only changes to the hardstanding area would be to dismantle the existing shed that is in a poor state of repair and to set out the proposed parking provision. On this basis it is considered that that proposal would not have any undue impact on landscape character. Overall, it is considered that the proposal would comply with Policy E2 and would be acceptable in principle.

#### Highway Safety

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

Stenson Road is a classified two-way road subject to 40 mile per hour speed restriction with a footpath adjacent. The application site is accessed via the existing entrance to the industrial estate, which is comprised of tarmac. There is a roundabout in proximity to the entrance, c. 40m to the north that links Stenson Road to Grampian Way.

The local community raised several highways-related concerns about the proposal during the consultation period, and it was cited in particular that the existing access is inadequate and there have been occurrences of vehicles parked within the entrance to the site. The County Highways Authority was consulted on the planning application and these matters were highlighted specifically. The Highway Authority highlighted that the proposal would have no material impact on the local road network, however requested further information to provide assurance that the use could accommodate sufficient parking for employees, customers etc. and the manoeuvring and unloading of delivery vehicles within the site. A Parking and Delivery Management Plan was also requested.

The applicant responded to this request and provided a layout for parking within the site together with the appropriate swept paths. The Parking and Delivery Management Plan confirms that there would be up to 4no. members of staff, 4no delineated parking spaces plus a reserve for staff/visitors, a bay for delivery vehicles (where the Long Wheel Base vehicle would be the largest vehicle delivering items i.e. no transporter visits would occur up to 4 times per day), and 2no. parking spaces for customers.

The County Highways Authority was reconsulted on the application following the submission of the additional details and they consider that the Parking/Delivery Management Plan would be acceptable and that there would be no highways objections. This is subject to conditions to ensure that the access point on Stenson Road remains clear of parked vehicles and that delivery vehicles do not park on Stenson Road. It is considered reasonable to attach the planning conditions recommended by the Highways Authority in light of the concerns raised by the local community on this matter, albeit it is noted that there are other users within the industrial estate and that the parking within the access and transporters along Stenson Road could be difficult to attribute to a single business from the perspective of planning enforcement. Nonetheless, it is recommended that conditions be attached to any forthcoming planning permission to ensure that the parking and delivery plan is adhered to. With such conditions in place, it is considered that the proposal would be acceptable with regard to the safety issues in relation to the public highway and would comply with the requirements of policy INF2 of the Local Plan.

### 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 air pollution that may occur from the proposed use; and asserted that the proposal would not be capable of being carried out without disturbance to adjoining users. The Council's Environmental Health Officer (EHO) has been consulted as part of the planning process and raised no objections, subject to any planning permission incorporating conditions that limit activities and the timing of deliveries within the site to daytime hours and with stricter controls at the weekends; and require the full specifications of plant or equipment to be agreed prior to installation; and restrict the use of the open space within the site boundary to parking. The conditions recommended by the EHO are considered both reasonable and necessary.

It is noted that by definition a Class E (g) use as is proposed would need to be carried out without detriment to the amenity of that area; and any non-compliance could be considered a material change in use that would warrant further planning applications. The proposals are considered to meet the requirements of policies BNE1 and SD1.

### Other Matters

A neighbour commented that there is a lack of certainty and ambiguity within the application as the end user is unknown. It is standard practice to apply for a particular use type prior to having secured a



tenant. If any requirements of the tenant do not fit within the parameters of the planning permission, this could be addressed by submission of further planning applications. The recommendation from the EHO for the details of plant and equipment to be submitted prior to installation would enable an element of flexibility for the future occupants, whilst ensuring the local planning authority retains control over these aspects. Although no air quality impacts would be expected from the types of uses proposed, provision of these details prior to installation of equipment would also enable the authorities to consider any potential release of emissions or fumes, as was raised as a concern by one neighbour.

Also, that the proposal would only provide opportunity for four employees and therefore would have no employment benefit to the area. The proposal has been assessed against the relevant planning policy, E2, in which the level of job opportunities provided does not feature, and notwithstanding this even a small increase in jobs carries some, albeit limited, economic benefit.

It was highlighted that the management of surface water runoff is inadequate and noted that the soakaway within the site appears to be blocked. This matter has not been raised as a concern by the EHO. It was highlighted by the Highways Authority initially; however it is sufficiently distanced from the public highway so that it would not be affected. There would be no material changes to the exterior of the site, such that it would not be reasonable to request them as part of the change of use. It is however recommended that the concerns be brought to the attention of the applicant through use of an informative if planning permission is forthcoming.

It was asserted that the land within the site would be contaminated and that this could affect the proposed uses of the site (with specific reference to cross contamination). No such concerns were raised by the EHO. The use is proposed within the building on site, which would likely have sufficient barriers from the ground so that the risk of exposure to contaminants would be low. Management of contaminants, such as asbestos, is subject to specific legislative requirements outside of planning.

Concerns were raised about the management of waste and likelihood of waste being stored in the external areas. It would be unreasonable to expect zero waste to be stored within the site. Waste management would need to be undertaken in accordance with waste legislation for the relevant use types. Although there is no reason to expect disproportionate amounts of waste from the proposed use type, if this were to become a problem there are controls available for management of this as a potential statutory nuisance.

Concerns were raised related to loss of privacy to neighbouring properties. The buildings have previously been used lawfully for other purposes including as a tattoo parlour and the current proposal would not result in a material change from this previous situation. Additionally, the impact of a non residential use on privacy of neighbouring dwellings is likely to be limited, as the building would only be occupied during working hours.

Concerns were raised related to the accuracy of some of the details of the application, such as the previous B2 use of the site being unlawful and the site not currently being vacant. These matters do not alter the assessment of the principle of the development.

It was asserted that there is insufficient capacity within the estate's septic tank to cater for additional discharges. This matter could be highlighted as an informative to the applicant.

## 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 for the change of use of the building to Class E (g) would comply with the provisions of Policy E2 related to industrial and business development, and would be acceptable in principle. The Highway Authority and Council's EHO were consulted as part of the process and supported Officers with advice on the management of material issues related to highway safety, amenity and other matters. Amendments have been sought to the application plans and the applicant agreed to specific demarcation of parking for deliveries, employees and visitors, as well as a turning

areas. It is considered with conditions in place these matters could be appropriately secured and managed and overall the proposal would be in accordance with the development plan. 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 use of the building shall be restricted to research and development and/or industrial processes Use Class E g (ii) and (iii) and the open land within the curtilage of the site shall be for the purposes of parking only.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers and in accordance with Policy BNE1 of the Local Plan.

3. The development hereby permitted shall be carried out in accordance with the Location Plan (received 26 April 2023), Proposed Layouts, Elevations, Block Plan and Location Plan (ref. 1879, 002 Rev A), Existing and Proposed Site Layout (ref. 1879, 003 Rev B), Site Layout: Delivery and Parking Plan – southern site (ref. Parking and Turning Layout, CV0503 003 received 7 July 2023) and the Parking and Delivery Management Plan (7 July 2023), unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

4. The parking and turning provision in connection with the development shall be carried out in accordance with the Site Layout: Delivery and Parking Plan (ref. Parking and Turning Layout, CV0503 001 received 7 July 2023) and fully laid out prior to first occupation, unless, before then, the local planning authority grants consent for any revision of those arrangements or any alternative timescale for their provision. Once provided, the parking and turning provision shall be retained without any impediment to their use as such for the lifetime of the development.

Reason: In accordance with policy INF2 of the Local Plan and in the interest of highway safety.

5. The site access on Stenson Road should be kept clear of parked vehicles to ensure safe access and egress to and from the site and for pedestrians crossing the site access.

Reason: In accordance with policy INF2 of the Local Plan and in the interest of highway safety.

6. Prior to the installation of plant or equipment, full specifications of the plant or equipment shall be submitted to and approved in writing by the Local Planning Authority. The specification shall include details of noise levels as predicted at the boundary of the site with any sensitive receptors and include mitigation measures to reduce noise levels at those receptors to acceptable levels. The located plant or equipment, along with any mitigation measures required, shall be implemented prior to first use of said plant or equipment and thereafter maintained in accordance with the agreed levels.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers and in accordance with Policy BNE1 of the Local Plan.

7. No deliveries shall be made to or dispatched from the premises other than between 8:30 hours and 17:30 hours Mondays to Fridays, and between 9:30 hours and 12:30 hours on Saturdays. There shall be no deliveries on Sundays, public holidays and bank holidays.

Reason: To safeguard the amenities of nearby occupiers and in accordance with Policy BNE1 of the Local Plan.

8. No activity at the premise shall be undertaken other than between 8:00 hours and 18:00 hours Mondays to Fridays, and between 8:00 hours and 17:00 hours on Saturdays. There shall be no activity at the premise whatsoever on Sundays, public holidays, and bank holidays.

Reason: To safeguard the amenities of nearby occupiers and in accordance with Policy BNE1 of the Local Plan.

Informatives:

- d. The applicant's attention is drawn to the comments from the neighbours that the soakaway within the site is blocked and that there is insufficient capacity within the site's septic tank to accommodate further effluents. It is recommended that the applicant liaise with the relevant parties regarding these civil matters.
- e. It was also noted by the local community that a structure related to the previously refused 9/2017/0699 remains in place on the site, which may need to be removed to avoid possible enforcement action.

**Item No.** 1.6

**Ref. No.** [DMPA/2022/0302](#)

**Valid date:** 28/02/2022

**Applicant:** V Kotecha **Agent:** Ian Ray

**Proposal:** The felling of 9 trees covered by South Derbyshire District Council Tree Preservation Order no.213 and the formation of a vehicular and pedestrian access to serve 247 Hearthcote Road, Swadlincote, DE11 9DU

**Ward:** Swadlincote

### **Reason for committee determination**

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

### **Site Description**

The site has an area of 0.6ha and is roughly rectangular in shape. The site is host to a large detached dwelling set back from the highway by a hard surfaced parking area and driveway. A mature belt of landscaping, including a number of protected trees, of which some have been removed, forms the front boundary of the site. The property has an extensive garden which is host to two large ponds along with clusters of protected trees. The garden is predominantly enclosed by mature conifers, again of which some have recently been removed. The land levels fall to the north.

The application site is situated within a mixed use area host to building that are highly varied in terms of their design. Dwellings along Hearthcote Road consist of a mixture of traditional and relatively modern properties, semi-detached and detached properties, two storey properties and bungalows. Dwellings are set back from the road at varying intervals and are finished in a range of materials including facing brickwork and render of various colours.

### **The proposal**

The proposal is to fell 9 trees covered by South Derbyshire District Council Tree Preservation Order no.213 and the formation of a one way 'in and out' vehicular and pedestrian access to serve 247 Hearthcore Road, Swadlincote. Vehicles would enter the western access and exit via the eastern access.

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

Tree Survey and proposed plans

Existing Externals – Drawing No. WD017

Visibility Splays – Drawing No. WD021

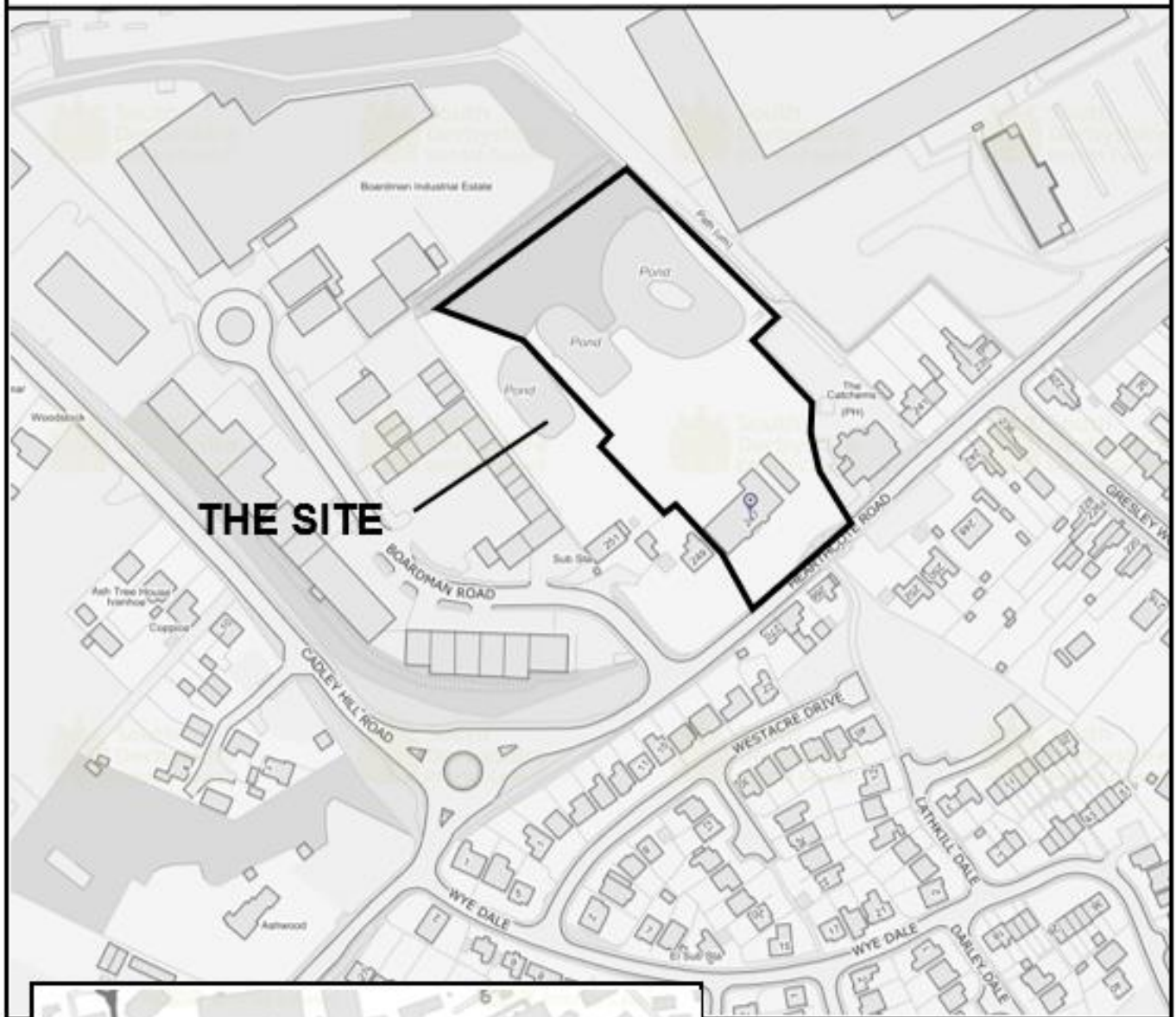
Proposed "In & Out" Plan – Drawing No. WD025

### **Relevant planning history**

DMPA/2020/0915 – Two-storey side and single storey rear extension along with attached garage. Refused, Dec 2020.

Appeal Ref. APP/F1040/D/21/3266987 – Decision overturned, Feb 2021

**DMPA/2022/0302 – 247 Hearthcote Road, Swadlincote, DE11 9DU**



South Derbyshire District Council

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South Derbyshire District Council. LA 100019461.2020

9/2018/0774 - Outline application (all matters except for access to be reserved) for the residential development of up to 15 dwellings - Resolution to approve following consideration at Planning Committee in June 2019 however, the Section 106 Agreement remains unresolved.

2003/0962 - The erection of 39 dwellings with associated garages and an access road - Application Withdrawn.

## **Responses to consultations and publicity**

### County Highways Authority

No highway safety objection subject to conditions (04th August 2023).

Re-consultation on revised plan - response still applicable in relation to the revised lighting layout (12 June 2023).

### Neighbour Reponses

Eight letters of objection have been received from four nearby households. The objections raised have been summarised below;

- The applicant has made a false declaration under s65(5) of the Town and Country Planning Act by signing Certificate A in his application, claiming to own all of the land necessary for the development that is entirely untrue. I (the owner) have not been consulted by the applicant or received notice of his intention to make a planning application on land in my ownership and object to his doing so. The application is therefore invalid and cannot be determined and will be open to legal challenge should the LPA proceed
- A previous planning application for 15 additional dwellings to the rear providing all detail except means of access was submitted, this application is still pending and so the grant of an additional dangerous and unnecessary access for the current development would be a precursor to proceeding with the larger development that would generate considerable additional traffic onto Hearthcote Road close to junctions in an already narrow and dangerous location.
- The trees add great value to the environment and wildlife and this has not been addressed at all or proposed to replace these mature trees and shrubs with anything remotely equivalent.
- Drawing WD020 dated 28 February 2022 shows tree number 4 is to be removed - this again is not in the applicant's ownership. All complainants have objected to the removal of trees, planting, hedging or fencing within their ownership.
- The proposed visibility splay also falls short of your published highways requirement that would further encroach onto our property (249) without consent. The visibility splay he shows on his application is interrupted by the boundary fence and trees and shrubs in my ownership on my land and we have no intention of removing any of these.
- Highway and pedestrian safety concerns. Hearthcote Road is an extremely busy road with non-compatible traffic including large articulated lorries that are unable to pass together at the location of this proposed exit and cause severe congestion. There is also a busy bus stop proximate to the proposed exit that would impact on visibility. There would be an unacceptable impact on the amenity for local residents of further traffic intensification.
- Negative impact on air quality from idling vehicles.

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

The relevant Local Plan policies are:

- 2016 Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), INF2 (Sustainable Transport)
- 2017 Local Plan Part 2 (LP2): H27 (Residential Extensions and Other Householder Developments), BNE7 (Trees, Woodland and Hedgerows)

The relevant National Guidance is:

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

The relevant Local Guidance is:

- South Derbyshire Design Guide SPD (Design SPD)

The relevant legislation is:

- The Town and Country Planning (Tree Preservation) Regulations 2012

### **Planning considerations**

The determining issues are as follows:

- Landscaping/Protected Trees.
- Highways Safety;
- Impact on Amenity; and
- Any other matters

### **Planning assessment**

#### Landscaping and Protected Trees

Policy BNE4 promotes the retention of key valued landscape components such as mature trees unless it can be demonstrated that the loss of such features will not give rise to unacceptable effects on local landscape character.

The application site is subject to an area Tree Preservation Order. To assess potential impacts of the development on these trees an arboricultural assessment has been undertaken and a plan provided to demonstrate which trees are proposed to be removed. On balance, it is considered that given that a significant number of trees on site that are to remain; the select removal of trees along the frontage would not appear to result in any significant materially harmful impacts in terms of amenity to the site or the wider area, due to their location, condition and type.

It is noted that the principle of the removal of trees to the front of the site adjacent to Hearthcote Road has been accepted in principle by way of the resolution to approved application 2018/0774.

#### Highways

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.

Representation has been received by the local authority which object to the proposed development as the public considers that the visibility splay proposed is not acceptable and the development would have an unacceptable impact on amenity for local residents due to further traffic intensification as Hearthcote Road is extremely busy and the location of this access would cause sever congestion.

The proposed development has been assessed by Derbyshire County Highway Engineers who have raised no objection to the proposed development. The applicant has proposed to install traffic plates to ensure that the one-way system in and out of the property would be adhered to and this has been

reviewed by the County Highways Engineer who advises it would satisfactorily prevent vehicles from leaving by the western access.

On balance, it is considered that the proposal would have no undue detriment on the safety of the local highways network. There is no evidence to support that there would be any additional vehicular trips to the property so significant as to increase local traffic or congestion. Resultantly, it is considered that the scheme would comply with the requirements of policy INF2.

### 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.

Representation has been received which objects to the proposal on the grounds of the perceived negative impact on air quality from idling vehicles. The application proposes the formation of a new access to the existing dwelling house. There is no reason for the local authority to assume that the number of vehicle trips to the property would increase or that vehicles would be left idling. As such it is considered that there would be no greater impact on air quality at the site than that which currently exists.

With such the proposed vehicle and pedestrian access is considered to have no significantly detrimental impacts on the amenity of the occupiers of the neighbouring dwellings or the visual amenity of the wider area and as such the proposal would meet the requirements of policies BNE1 and SD1.

### Any Other Matters

Further representations have been received which object and advise that elements of the application site are outside of the applicant's ownership. Certificate A of the application form has been signed to declare to the Local Planning Authority that the site defined within the application is owned by the applicant. The Local Planning Authority has consulted the neighbouring sites accordingly and the application has been accessible for public view via the Council's website. The granting of planning consent does not grant or affect land ownership and as such if there is dispute regarding the ownership of the land this is considered to be a civil matter between neighbours.

An outline planning application (9/2018/0774) for 15 additional dwellings to the rear providing all detail except means of access was submitted, this application is still pending subject to a legal agreement. Representation has been received that makes comment that; *"the grant of an additional dangerous and unnecessary access for the current development would be a precursor to proceeding with the larger development that would generate considerable additional traffic onto Heathcote Road close to junctions in an already narrow and dangerous location."* Each application received by the Local Planning Authority is assessed on its own merits based on the environment and relevant planning policies at the time of assessment. As the previous application is for outline planning consent a further reserved matters application with details of proposed access arrangements would be required to be submitted should the applicant wish to proceed with the development subject to entering into a legal agreement with the Local Planning Authority. As stated earlier, each application is assessed on its own merits and the access arrangements proposed within this application have been reviewed by a County Highways Engineer who has raised no concern with regards to the safety of the proposed access on the application site or wider highways network.

### Conclusion

The proposal for a vehicular and pedestrian access is considered to have no detrimental impact on the visual or residential amenity of the area and have no detrimental impact on the safety of the local highways network. On balance the proposal is considered to accord with the relevant policies of the local plan as stated above. Accordingly, it is recommended for approval.



## Recommendation

Approval subject to 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 the following plans/drawings and details:

Site Location Plan Drawing No. SL001 (March 22)

Existing Externals Drawing No. WD017 (Feb 22)

Proposed Externals & New Entrance Drawing WD018 (Feb 22)

Existing & Proposed Street Scene Drawing No. WD024 Rev A (March 22)

Proposed Street Scene Drawing No. WD022 (Feb 22)

Proposed "In & Out" Drawing No. WD025 (July 23)

Visibility Splay WD021 (Feb 22)

Pre-Development Tree Survey and Tree Protection Methodology

Tree Removal Drawing No. WD020 (Feb 22)

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.

3. The access hereby approved shall not be brought into use until it has been fully constructed, including the installation of traffic flow plates, in accordance with drawing no. WD025. The construction of the access is subject to the applicant obtaining a section 184 license to undertake work in the public highway.

Reason: To ensure conformity with submitted details.

4. The Development hereby approved shall not be brought into use until the proposed access gates have been set back 5 metres from the highway boundary (back of footway) and made to open inwards only.

Reason: In the interests of highway safety

### Informatives

- a) Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- b) 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.
- c) 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.** 1.7

**Ref. No.** [DMPA/2023/0826](#)

**Valid date:** 28/06/2023

**Applicant:** c/o agent **Agent:** Leah Bingham

**Proposal:** Regulation 77 application for the installation of 2 no. package treatment plants to support the conversion of a former agricultural barn to 2 no. dwellings at Stonehouse Farm, Ashby Road, Boundary

**Ward:** Woodville

### **Reason for committee determination**

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

### **Site Description**

Stonehouse Farm is located on the northern side of the A511 at Boundary, to the east of Woodville. The farmstead is accessed via a recently constructed access point onto the A511. There are a number of buildings within the farmstead including the original farmhouse, traditional red brick outbuildings that have recently been converted, and more modern steel and timber framed barns. The original farmhouse is served by a separate track, with a new access to the converted outbuildings and barns having recently been installed to the west.

### **The proposal**

The application is in relation to the impact of a barn conversion on the River Mease Special Area of Conservation (SAC) arising from the works proposed under Prior Notification ref. DMPN/2023/0414.

The proposal relates to the proposed method for management of foul water and surface water that would arise from the barn conversion. The proposal is for the installation of 2no. package treatment plants (PTP) that would be located within the curtilage of the previously approved barn conversion.

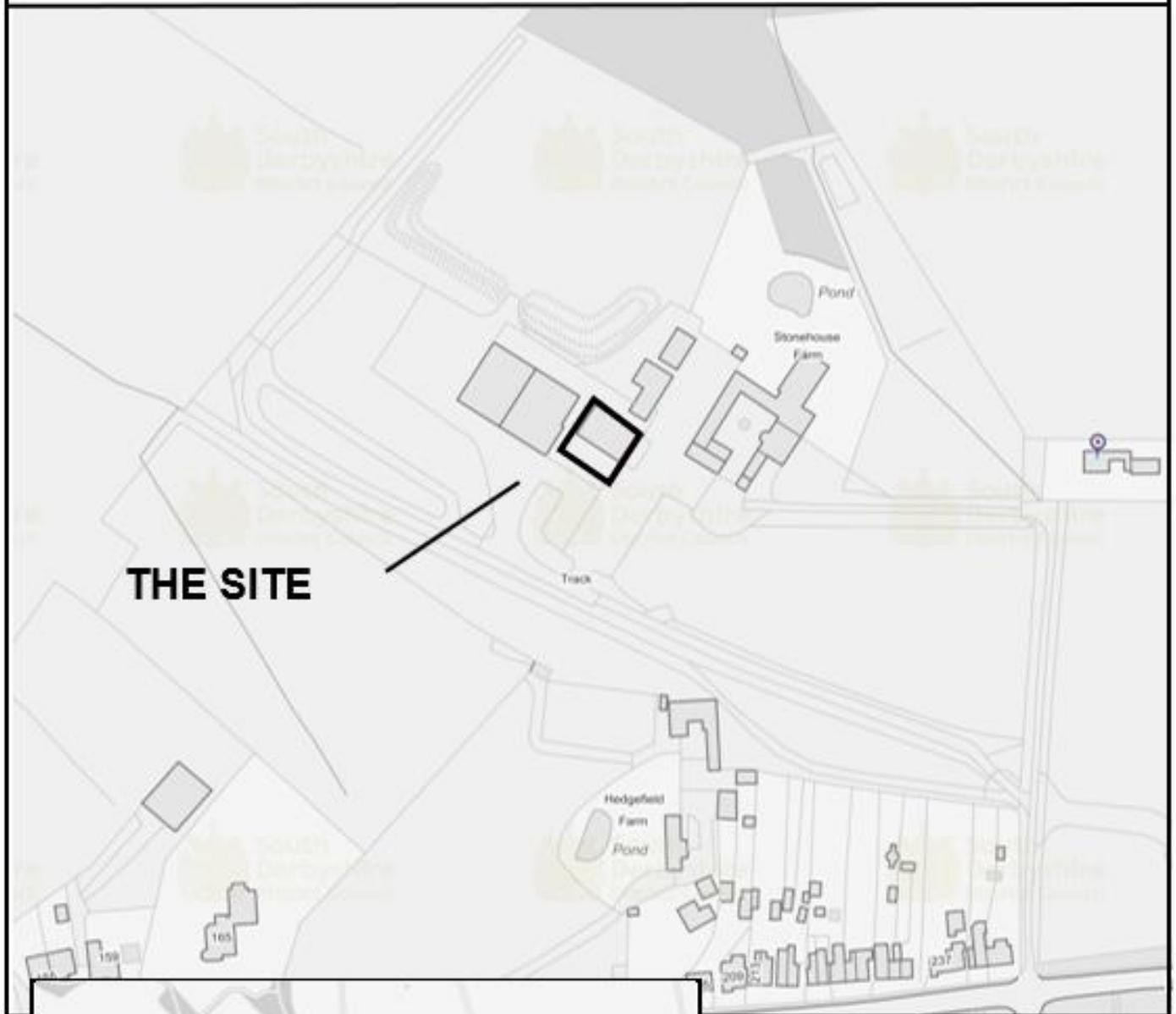
### **Applicant's supporting information**

- Planning Statement (June 2023)
- Drainage Strategy / Water Quality Impact Assessment prepared by Pheonix Adam Consultants (ref. 1372-02, July 2023)
- Drainage Plan (ref. 7421 (08) 45)
- Location Plan (ref. 7421 (03) 3)

### **Relevant planning history**

DMPN/2023/0414 - Prior Notification for the change of use of an agricultural building to two dwellings (use class C3) - Approved July 2023.

**DMPA/2023/0826 – Stonehouse Farm, Ashby Road, Boundary, Derbyshire,  
DE11 7BP**



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## **Responses to consultations and publicity**

### Natural England

No objections subject to the appropriate mitigation being secured and confirmation that the foul drainage infiltration system has capacity to accommodate the additional flows from the proposed development (3 August 2023).

### Environmental Agency

As the proposal comprises a non-major development, a formal bespoke response would not be provided. The Local Planning Authority should satisfy itself that the proposal would meet the general binding rules for small discharges, otherwise an application for an Environmental Permit may need to be submitted to the Environment Agency (1 August 2023).

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

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), BNE3 (Biodiversity);
- Local Plan Part 2 (LP2): BNE5 (Development in Rural Areas)

The relevant national policy and guidance is:

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

The relevant legislation is:

- The Conservation of Habitats and Species Regulations 2017

## **Planning considerations**

The applicant is required to submit an application in accordance with Section 77 of the Habitat Regulations to allow the Council to assess the potential effects of the proposal on the European Site prior to the commencement of the development. The scope of consideration under this application rests on the response of Natural England as the expert authority in respect of impacts on the River Mease SAC/SSSI in this case.

## **Planning assessment**

The overall aim of the application is to determine whether the previously approved application DMPN/2023/0414 has been designed sustainably to ensure that there are no detrimental effects on phosphates within the River Mease from the proposed foul sewage proposals or surface water run off issues.

The agent has instructed a Drainage Consultant (Pheonix Adams Consultants) to provide full design and specification of the drainage detail for the system in question. As per the submitted drainage strategy, this would comprise 2no. Harlequin Hydroclear HC6 moving bed biological reactor PTPs, as per the specification set out in page 6 of the document. Treated effluent would discharge to the ground via the existing unlined detention pond on site (shown on the Drainage Plan ref. 7421 (08) 45) which would serve as the drainage field for the plant. Surface water would be directed to a second, existing stormwater detention pond within the site. The contents of the ponds infiltrate to the ground and the information states that this arrangement has been operating to serve Stonehouse Farm for 20 years without incident.

Natural England raised no objection, although recommended that the planning authority satisfy itself that the infiltration pond would have capacity to accommodate the additional flows from the

development. The Drainage Consultant was requested to comment on this matter and responded that the increase in wastewater flow would be 0.01 litres per second and the stormwater flow would be reduced (as there would be an increase in permeable surfaces within the site) so that there would be no additional flow to the ponds.

With respect to the Environment Agency comments, it is considered that the PTP would meet the requirements of the general binding rules for small discharges, albeit it is recommended that the developer confirm this with the Environment Agency directly and an informative be attached to any forthcoming permission to highlight this.

A Habitat Regulations Assessment (HRA) has been carried out by the local planning authority. From the information submitted it can be concluded that the amount of phosphorous which is likely to reach the River Mease SAC from the barn conversion is insignificant; thus it will not cause an adverse effect on the integrity of the site. Taking these factors into account the LPA is satisfied the drainage details provided by the agent will work as intended for the lifetime of the development and thus will have no impact on the River Mease.

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

## **Recommendation**

Approve.

- Drainage Strategy / Water Quality Impact Assessment prepared by Pheonix Adam Consultants (ref. 1372-02, July 2023)
- Drainage Plan (ref. 7421 (08) 45)
- Location Plan (ref. 7421 (03) 3)

## Informatives:

- f. It is recommended that the developer confirm that the drainage solution meets the requirements of the Environment Agency's general binding rules for small discharges and does not require an Environmental Permit.

**Item No.** 1.8  
**Ref. No.** [DMOT/2023/0923](#)  
**Valid date:** 20/07/2023  
**Applicant:** South Derbyshire District Council  
**Proposal:** Felling, pruning and pollarding of trees covered by Tree Preservation Order 207 at Land at The Cutting, Hartshorne Road, Woodville, Swadlincote  
**Ward:** Woodville

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

This item is presented to Committee as the Council is the applicant

#### **Site Description**

The application affects an area of trees on a Council owned parcel of land, the land set within woodland adjacent to the highway with the nearest roads being Hartshorne Road, The Cutting and Bentley Dale. The site is slightly sloped in a westerly direction, featuring mainly willow, sycamore, cotoneaster and ash trees.

#### **The proposal**

The proposal is for general tree maintenance works, including felling, removal of dead wood, crown lifting and pruning on trees covered by the Order.

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

Full arboricultural surveys and assessments have been submitted as justification for the proposed works.

#### **Relevant planning history**

No relevant planning history.

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

The Tree Officer has no objections and advises that the works are acceptable as they are to be carried out in the interest of highway safety and good tree maintenance.

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

The relevant Development Plan policies are:

(2016) Local Plan Part 1: BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness)  
(2017) Local Plan Part 2: BNE7 (Trees, Woodland and Hedgerows)

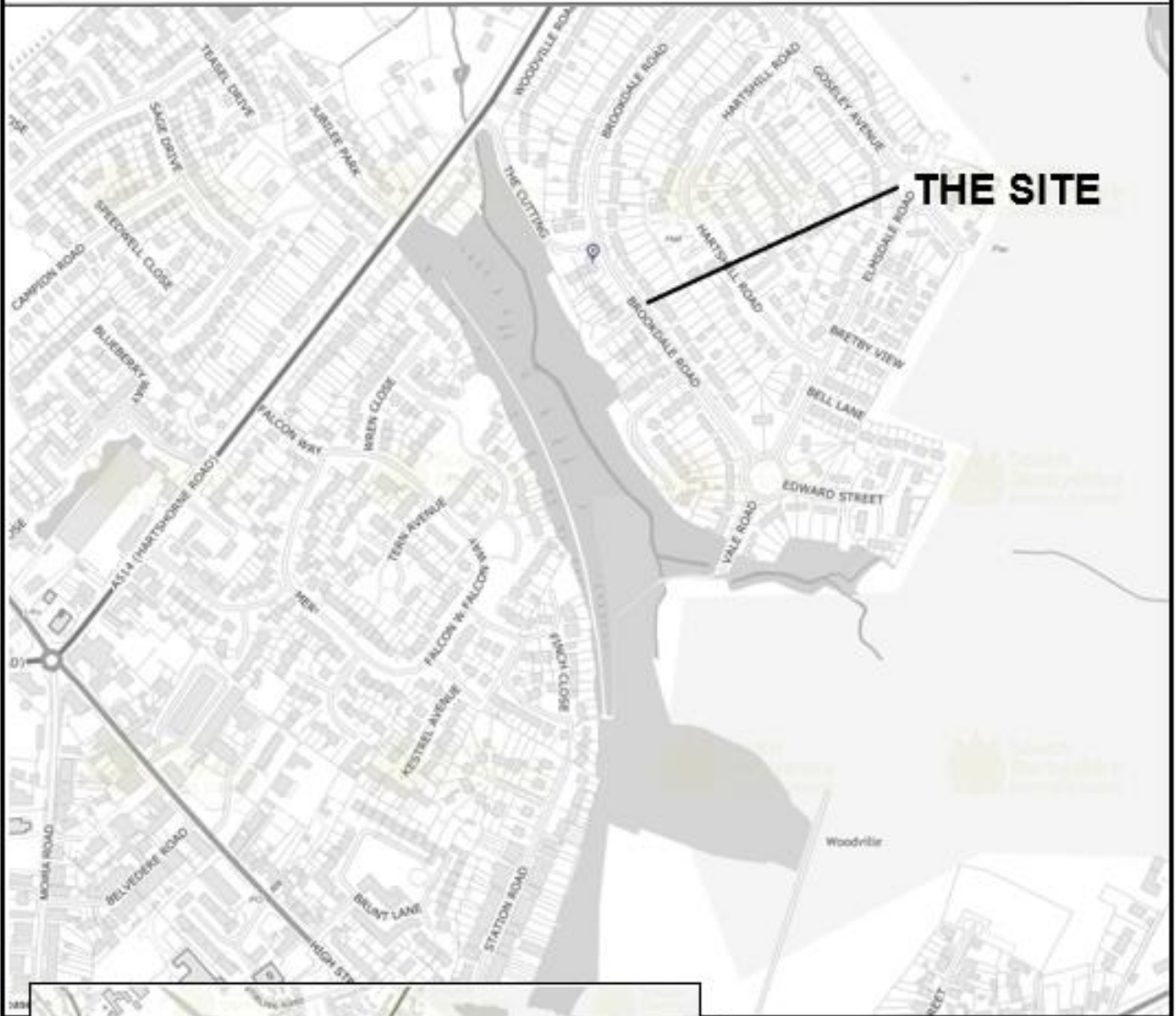
The relevant national policy and guidance is:

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

The relevant legislation is:

The Town and Country Planning (Tree Preservation) Regulations 2012

**DMOT/2022/0923 – Land at The Cutting, Hartshorne Road, Woodville,  
Swadlincote, DE11 7HS**



South  
Derbyshire  
District Council

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## 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:

- Whether the works are justified; and
- Whether the resultant biodiversity and amenity value remains acceptable.

## Planning assessment

Policy BNE7 states that:

*The felling of protected trees, groups of trees or woodland and/or removal of important hedgerows, will be considered in accordance with the relevant national guidance and regulation, taking account in particular of their amenity, ecological, landscape and historic value.*

### Whether the works are justified

The works are justified as routine safety/tree maintenance works. There are liability concerns here given the proximity to the highway and that needs an element of resolution. The general maintenance of the protected trees, including the felling of two trees is considered essential to the safety of the public and the adjacent highway. The trees are located in an area of high tree density and therefore the potential visual amenity impact is limited.

### Whether the resultant biodiversity and amenity value remains acceptable

Providing the work is carried out to the appropriate standard (to be secured by condition) the long term amenity and wildlife value of the area would not be unacceptably diminished and would still make a valuable and positive contribution to the character of the area, all species are known for their hardy nature and generally recover well when pruned.

The works offer a considered balance between the need to remove identified hazards, given the proximity to high target areas, whilst upholding the trees elevated status. To that end the proposed works are recommended for approval and considered to comply with policies BNE3, BNE4 & BNE7.

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 work hereby approved shall be carried out within two years of the date of this consent.  
Reason: To conform with Regulation 17 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, in order to enable the Local Planning Authority to consider any proposals beyond this period in the interests of safeguarding the amenity value of the tree(s).
2. The works shall be carried out in accordance with BS3998:2010 - Tree Work.  
Reason: To ensure that the works are carried out in the best interests of the health of the tree(s).

**Item No.** 1.9  
**Ref. No.** [DMOT/2022/0027](#)  
**Valid date:** 11/01/2022  
**Applicant:** South Derbyshire District Council  
**Proposal:** **The pruning of trees covered by South Derbyshire District Council Tree Preservation Order no. 131 at Willow Park Way, Aston on Trent, DE72 2DF**  
**Ward:** Aston

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

This item is presented to Committee as the Council is the applicant

#### **Site Description**

The application affects two areas of public open space within the Willow Park Way housing site.

#### **The proposal**

The main body of the proposed work is essential pruning and routine maintenance of various trees as identified in the application.

The felling of two small trees (Hawthorn ID14 and Maple ID57) is also proposed. These are not protected by the Tree Preservation Order.

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

The proposal is accompanied by a detailed tree survey and arboricultural assessment

#### **Relevant planning history**

TPO131 was made in 1996, in response to applications to re-develop the former Aston Hall Hospital.

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

No responses have been received.

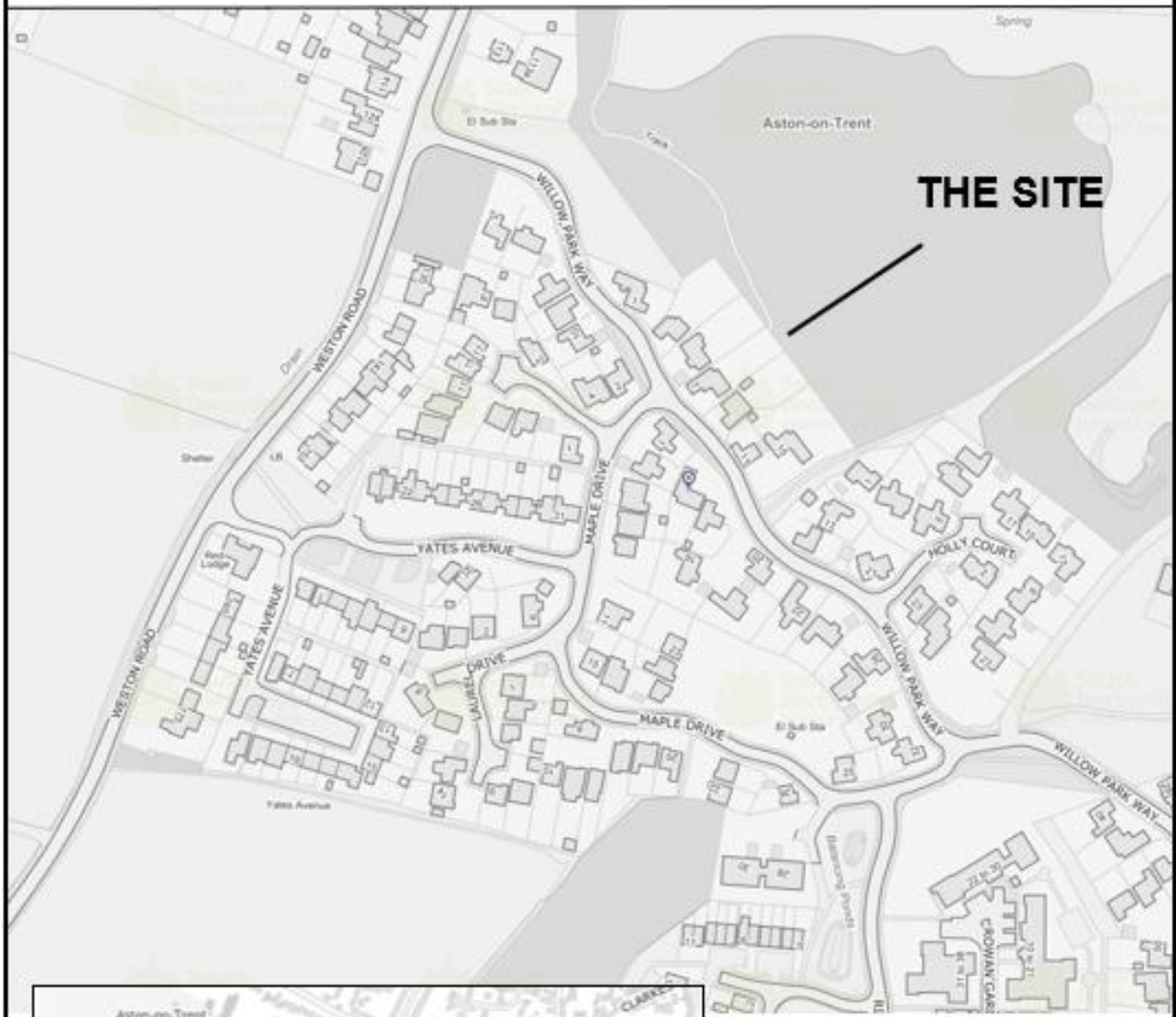
#### **Relevant policy, guidance and/or legislation**

The relevant Development Plan policies are: ·  
(2016) Local Plan Part 1: BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness)  
(2017) Local Plan Part 2: BNE7 (Trees, Woodland and Hedgerows)

The relevant national policy and guidance is:  
National Planning Policy Framework (NPPF) ·  
Planning Practice Guidance (PPG)

The relevant legislation is:  
The Town and Country Planning (Tree Preservation) Regulations 2012

DMOT/2022/0027 – Willow Park Way, Aston on Trent, DE72 2DF



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South Derbyshire District Council. LA 100019461.2020

## 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: -

- Whether the works are justified; and
- Whether the resultant biodiversity and amenity value remains acceptable.

## Planning assessment

### Whether the works are justified

The proposed pruning and maintenance works are supported by the submitted risk assessed tree survey, and in the context of trees in public open space, within a built up area, the works are considered to be justified.

### Whether the resultant biodiversity and amenity value remains acceptable

Providing the works are carried out to the appropriate standard (to be secured by condition) the long term amenity and wildlife value of the area would not be unacceptably diminished as a result of the proposed works.

The works would promote the long term health of the trees, whilst maintaining their high public amenity and biodiversity value, in accordance with Policies BNE3, BNE4 and BNE7.

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 work hereby approved shall be carried out within two years of the date of this consent.

Reason: To conform with Regulation 17 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, in order to enable the Local Planning Authority to consider any proposals beyond this period in the interests of safeguarding the amenity value of the tree(s).

2. The works shall be carried out in accordance with the recommendations contained in BS3998:2010 Tree work.

Reason: In the interests of good arboricultural practice.

## 2. Planning and Other Appeals

(References beginning with a DMPA, DMPN, DMOT or 9 are planning appeals and references beginning with an ENF or E are enforcement appeals)

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Outcome</b>	<b>Decision level</b>
DMPA/2022/0176	Willington	Willington	Allow	Delegated



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## Appeal Decision

Site visit made on 17 July 2023

by **J D Westbrook BSc(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1<sup>st</sup> August 2023

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**Appeal Ref: APP/F1040/W/23/3315297**

**Land west of Ferry Green, Willington, Derby, DE65 6BL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Glebe Homes against the decision of South Derbyshire District Council.
  - The application Ref DMPA/2022/0176, dated 18 February 2022, was refused by notice dated 9 December 2022.
  - The development proposed is the erection of a 3-bedroomed detached bungalow with associated vehicular parking and outdoor amenity space.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of a 3-bedroomed detached bungalow with associated vehicular parking and outdoor amenity space at Land west of Ferry Green, Willington, Derby, DE65 6BL, in accordance with the terms of the application, Ref DMPA/2022/0176, dated 18 February 2022, and the plans submitted with it, subject to the conditions set out in the Schedule below:

### Procedural Matter

2. The planning application and decision notice refer to the proposal as "the erection of one, 4 bedroom detached dormer bungalow with associated vehicular parking and outdoor amenity space". It is clear from the information before me and from the Council's appeal statement that the decision has been made on the basis of an amended scheme, submitted during the course of the processing of the application, that proposes the erection of a 3-bedroomed detached bungalow with associated vehicular parking and outdoor amenity space. It is this description that I have taken in my description above and I have referred to the appropriate plans in the schedule of conditions below.

### Main Issue

3. The Main issue in this case is the effect of the proposed dwelling on the setting of the nearby Listed Building at 'Hall Cottages and The Hall'.

### Reasons

4. The appeal site is a plot of land situated at the southern end of Ferry Green. At the time of my site visit it was a rough, unused piece of land. It is bordered to the north by the rear garden of Willington Hall, from which it is separated by a leylandii hedge. To the east is a row of four detached dwellings along Ferry



Green; to the south are dwelling Nos 5 and 6 Ferry Green; and to the west is the rear garden to a residential property that runs alongside that of the Hall. The proposed dwelling would be a three-bedroomed, detached bungalow with parking for three cars to the front, and with vehicular access from Ferry Green.

5. Policy BNE2 of the Council's Local Plan (LP) indicates that development which affects South Derbyshire's heritage assets will be expected to protect, conserve and enhance the assets and their settings. Policy BNE10 of the LP indicates that all development that affects national assets will be determined in accordance with national policy and that, in particular, such developments should be accompanied by a heritage assessment and should demonstrate how the proposal has taken into account of, amongst other things, the scale, siting and setting of the heritage asset, in order that it minimises harm to it.
6. The Council contends that the proposed dwelling should be considered part of the historic curtilage of the Listed Building, Willington Hall, and that the bulk, height and site coverage of the proposal is such that it should be considered incongruent to its surroundings and, as such, would impact upon the setting of the Listed Building and the views into and out of the Listed Building. The Council does not consider that any public benefits of the additional dwelling and access improvements at the junction of Hall Lane and Ferry Green outweigh the harm to the setting of the Listed Building.
7. The appellants contend that a thorough heritage assessment has taken place with a conclusion that the proposed development would cause no harm to the significance of the Listed Building and that its significance would therefore be preserved in line with local and national planning policies. This conclusion is based largely upon the location of the appeal site; the effect of recent developments around the Listed Building; the limited visibility of the Listed Building due to the nature of its existing garden area; and the limited scale of the proposed dwelling as amended. In addition, the appellants make note of potential benefits to the junction of Hall Lane and Ferry Green from minor alterations that could be carried out as part of the development.
8. From the information before me, it would appear that the gardens that originally surrounded the Listed Building have progressively been developed for housing, including all of the houses along Ferry Green and the detached house to the west of the Hall. The existing garden is now characterised by the existence of a large number of mature trees, which are mainly deciduous but with conifer trees and a Leylandii boundary hedge also in existence. At the time of my site visit, it was not possible to see the Hall through the tree cover. I accept that most, though not all, of the trees would lose their leaves in the winter, but the density of cover is such that any view of the Listed Building from the south would be extremely limited. Any such views from the southern end of the roadway of Ferry Green itself would, in any case, be unaffected by the proposed building.
9. With regard to views out from the Listed Building, there are the same issues relating to tree cover. In addition, the recent development of a double garage with accommodation in the roof-space at No 6 Ferry Green, immediately behind the appeal site, appears to restrict any potential views southwards to a certain extent, and the existence of the large dwelling at No 5 further obstructs the outlook. The proposed bungalow would be no higher than the garage at No 6 or the main house at No 5, and would have little, if any, additional impact.

10. The Council and other local residents note that the appeal site was once part of the gardens to the Listed Building. This may well have been the case, but it would appear that the houses on Ferry Green and the detached dwelling to the west were also part of the gardens, and that the setting of the Hall is now irrevocably and substantially different from the date of its listing in 1973. Moreover, the details of the listing appear to indicate the significance of the Listed Building is primarily, if not exclusively, concerned with the appearance of its main front façade on Hall Lane to the north and certain of its internal features. Whilst the setting of the Listed Building can clearly be said to go beyond merely the features visible from Hall Lane, I do not consider that the proposed dwelling would be harmful to the current setting of the Hall, where effective views to and from the south are significantly limited and the existing garden with substantial planting forms the essential character of that setting.
11. The Council and local residents have contended that since the appeal site once formed part of the curtilage of the Listed Building it should continue to be considered as such and, if possible, returned to a single land-ownership. However, from the information before me, I do not consider that there is any reasonable likelihood of the site becoming once again part of the curtilage of the Listed Building in the future. Whilst the site remains part of the immediate surroundings of the Hall, its development for a bungalow, which would effectively become a part of the residential development that is Ferry Green, would not lead to a loss of the significance of the Listed Building, as set out in the listing. On this basis, it would preserve its character and appearance.
12. In conclusion, I find that the proposed bungalow would not be harmful to the setting of the Listed Building that is Wellington Hall Cottages and Hall. On this basis, it would not conflict with Policies BNE2 and BNE10 of the LP.

#### **Other Matters**

13. There have been a number of objections to the proposal, including objections relating to increased car usage of Ferry Green and the junction with Hall Lane. A previous application for a bungalow on the site was refused in 2003 and was dismissed on appeal, the main issue being the inadequacy of sight lines at the road junction. The current proposal includes results of further surveys at and around the junction which indicate that design standard visibility splays can, in fact, be achieved at the Ferry Green junction with Hall Lane in its current layout. The Highway Authority has accepted this conclusion and, although minor alterations at the junction would be welcomed, it would not appear that these would be necessary to render the situation acceptable in highway safety terms. I accept this analysis and I do not consider that any conditions are necessary to ensure highway safety.
14. Another objection relates to the scale of the proposed bungalow on its site. It would appear that the appeal site is, in practice, little different in size or site coverage to the plot sizes and coverage of Nos 1 – 4 Ferry Green, and I do not consider that the proposal would appear significantly out of scale with the tone of development set by Nos 1 – 4.
15. Other objections have concerned possible adverse effects on trees around the site. There has been a Tree Survey submitted with the proposal and suggested methods of protecting nearby trees can be secured by way of a suitable condition. I have added a condition accordingly.



## Conditions

16. I have attached a number of conditions relating to this proposal, largely in line with suggestions made by the Council.
- I have added a condition relating to plans because it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning.
  - I have attached conditions relating to materials, landscaping, tree protection, boundary treatment and restriction of permitted development rights in the interests of protecting the visual amenities and character of the area around Ferry Green.
  - I have attached conditions relating to construction management and hours of work in the interests of protecting the residential amenities of the area with particular respect to noise and safety. The pre-commencement condition is necessary to protect the amenities of existing residents throughout the development process.
  - I have attached conditions relating to parking and gates in the interests of highway safety along Ferry Green.
  - Finally, I have attached a condition relating to water consumption in order to ensure that future water resource needs, wastewater treatment and drainage infrastructure are managed effectively.

## Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1760\_101\_B (Proposed Layouts and Elevations); 1760\_102\_D (Proposed Site Plan)
- 3) Prior to their incorporation into the building hereby approved, details and/or samples of the facing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved facing materials.
- 4) No development shall commence until a Highway Construction Management Statement/Plan has been submitted to and approved in writing by the Local Planning Authority. The statement/plan shall include details specifically relating to:
  - parking for vehicles of site personnel, operatives and visitors
  - site accommodation
  - storage of plant and materials
  - any proposed temporary traffic management.Only the approved details shall be implemented, which shall be maintained throughout the construction period.
- 5) The dwelling shall not be occupied until space has been laid out within the site in accordance with drawing ref 1760\_102\_D (Proposed Site Plan) for 3 cars to be parked, and that space shall thereafter be kept available at all times for the parking of vehicles.

- 6) There shall be no gates or other barriers within 5 metres of Ferry Green boundary, and any gates shall be designed so as to open inwards only.
- 7) Except in an emergency, no demolition, site clearance, construction, site works or fitting out shall take place other than between 08:00 hours and 18:00 hours Mondays to Fridays, and between 08:00 hours and 13:00 hours on Saturdays. There shall be no such activities whatsoever on Sundays, public holidays and bank holidays.
- 8) Prior to the occupation of the dwelling a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. Details of soft landscaping should evidence compliance with British Standard (BS) 3936: 'Part 1 - Specification for trees and shrubs', BS3969 - 'Recommendations for turf for general purposes' and BS4428 - 'Code of practice for general landscape operations (excluding hard surfaces)'. All hard landscaping/surfacing shall be carried out in accordance with the approved details prior to occupation of the dwelling, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of the dwelling; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.
- 9) The development hereby permitted shall be carried out in accordance with the British Standards 5837:2012 Tree Survey, Arboricultural Impact Assessment & Arboricultural Method Statement (including Tree Protection Plan), submitted under reference JH0122FERRYGRN and dated January 2022.
- 10) Prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the dwelling is first occupied.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the dwelling hereby permitted shall not be enlarged, extended or altered, and no buildings, gates, walls, fences or other means of enclosure (except as authorised by this permission or allowed by any condition attached thereto) shall be erected on the site without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.
- 12) The dwelling shall be constructed and fitted out so that the estimated consumption of wholesome water by persons occupying the dwelling will not exceed 110 litres per person per day, consistent with the Optional Standard as set out in G2 of Part G of the Building Regulations (2010), 2015 edition as amended in 2016. The developer must inform the building control body that this optional requirement applies.

*J D Westbrook*

INSPECTOR

