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Our Ref
Your Ref

Date: 22 December 2023

Dear Councillor,

Planning Committee

A Meeting of the **Planning Committee** will be held at **Council Chamber**, Civic offices, Civic Way, Swadlincote on **Tuesday, 09 January 2024 at 18:00**. You are requested to attend.

Yours faithfully,

Chief Executive

To:- **Labour Group**

Councillor G Jones (Chair), Councillor D Shepherd (Vice-Chair) and
Councillors J Carroll, M Gee, I Hudson, A Jones, L Mulgrew and K Storey.

Conservative Group

Councillors K Haines, A Kirke and D Muller.

Liberal Democrats

Councillor J Davies.

Non-Grouped

Councillor A Wheelton.



AGENDA

Open to Public and Press

- 1** Apologies and to note any substitutes appointed for the Meeting.
- 2** To note any declarations of interest arising from any items on the Agenda
- 3** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 4** REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY) **3 - 68**
- 5** SECTION 106 VARIATION – LUCAS LANE, HILTON **69 - 70**

Exclusion of the Public and Press:

- 6** The Chairman may therefore move:-
That in accordance with Section 100 (A)(4) of the Local Government Act 1972 (as amended) the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraph of Part I of the Schedule 12A of the Act indicated in the header to each report on the Agenda.
- 7** To receive any exempt questions by Members of the Council pursuant to Council Procedure Rule No. 11.

Report of the Strategic Director (Service Delivery)

Section 1: Planning Applications

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

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.

Reference	Item	Place	Ward	Page
DMPA/2023/1487	1.1	Church Gresley	Church Gresley	6
DMPA/2023/1346	1.2	Mickleover	Etwall	10
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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. [DMOT/2023/1487](#)
Valid date: 20/11/2023
Applicant: SDDC
Proposal: The Felling and pruning of trees covered by South Derbyshire District Council Tree Preservation Order no. TPO 48 on Land At Sk2818 6245, Bramley Dale, Church Gresley, Swadlincote
Ward: Church Gresley

Reason for committee determination

The item is presented to the Committee as the Council is the applicant and owner of the trees.

Site Description

The 39 Trees in the report are within an early mature woodland which is owned by the Council and are located adjacent to residential properties with permitted public access to into the woodland.

The proposal

The proposal is for general woodland management works for removal of deadwood and the shortening of limbs overhanging residential gardens this is to reduce the likelihood of failure near the residential dwellings.

Applicant's supporting information

The Council's Tree Officer has submitted a Tree Report setting out the proposals.

Relevant planning history

9/2008/0227 The Felling and pruning of trees covered by South Derbyshire District Council Tree Preservation Order 48 - Approved 14.8.2008

Responses to consultations and publicity

Tree Officer - Recommends the works are granted as set out in the Tree Report.

There has been one response from a member of the public who requests that additional trees are considered to be included in the application.

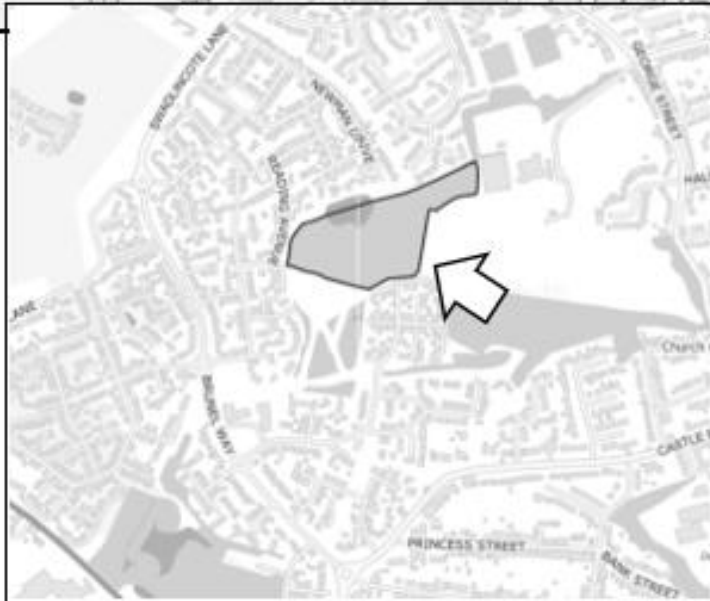
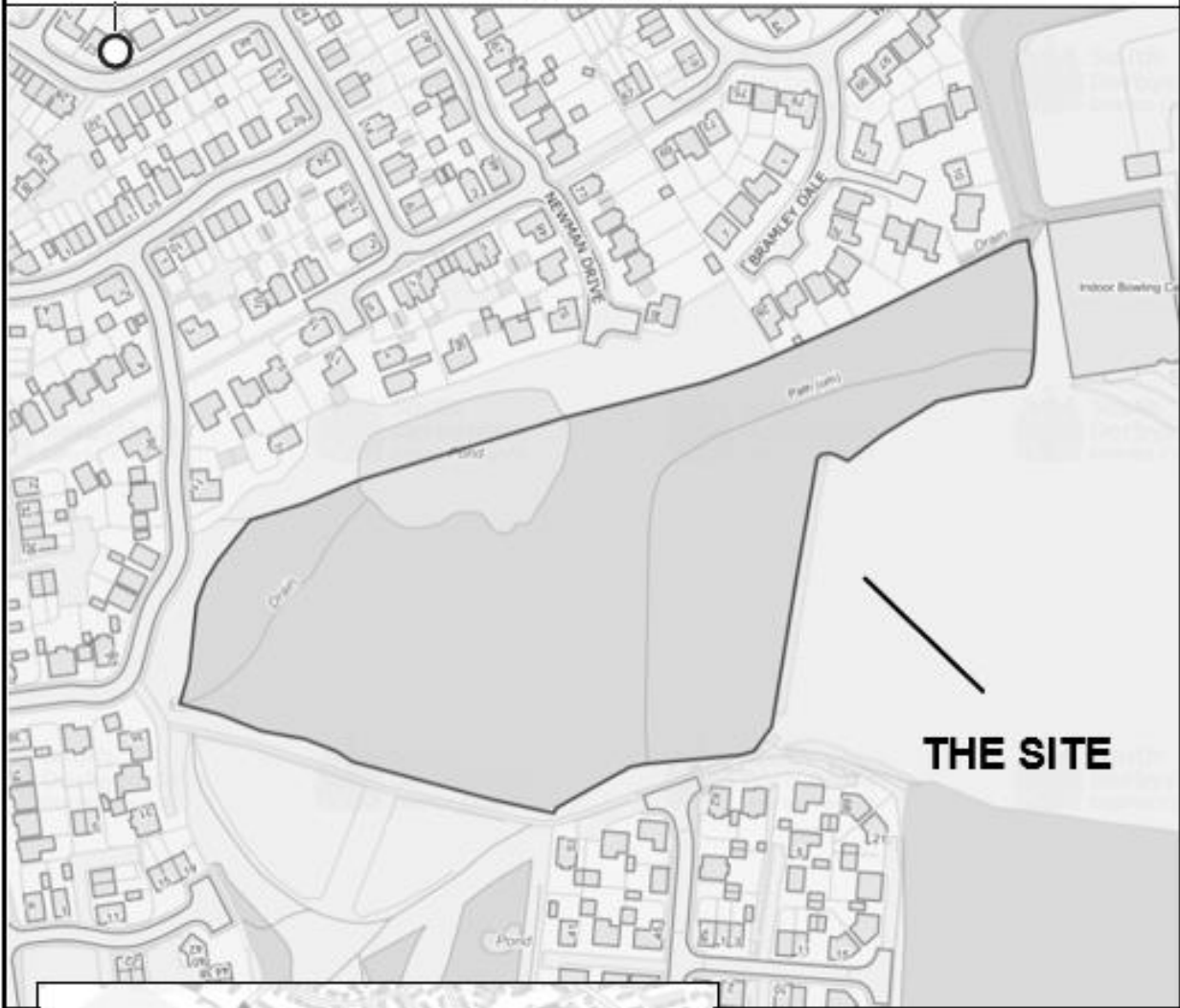
Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:
(2016) Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness)
(2017) Local Plan Part 2 (LP2): 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/2023/1487 - Land At Sk2818 6245, Bramley Dale, Church Gresley,
Swadlincote



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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

Whether the works are justified

The works proposed can be summarised as follows:

T3, T5, T7, T8 - T16, T18, T22, T25, T30 - T33, T38, T41, T44, T229 - T232, T239, T241, T243 - T263, T266, T267 includes the removal of deadwood within crown, Ivy and the removal of deadwood over footpaths. The species included in these works are:- Oak, Elm, Thorn and Cherry. These works are considered to be justified as it will remove the likelihood of the deadwood falling onto paths and the private gardens of the residential dwellings which are on the boundary of the woodland and is in the interest of safety and good woodland management.

T19, T21, T39, T40, T238, T240 are proposed to be felled. These trees include Cherry, Broadleaved trees and Ash trees. These works are considered to be justified as the trees are failing and it is considered in the interest of safety that they should be allowed to be felled.

T20 (Cherry) includes works for the reduction of 1 limb by 2/3m to a suitable growth.
T22, T109, T219, T220, T226, T227 (Oak, Holly, Cherry, Elm) requests a Crown lift to 3m.
T23 (Oak) works consist of Crown clean and reduce the limb to fork union.
T237, T264, T265 (Maple and Willow) pollarding of the trees.
T257 Oak for the removal of 1 limb and reduce the lowest limb by 2/3 to suitable growth point.

The above pruning works are considered justified as the limbs are considered hazardous and are overhanging residential properties and the works should be carried out as soon as possible.

Overall the works proposed are considered to be in the interest of safety and good woodland management and the works will have no detrimental impact on the amenity of the area.

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 woodland as a whole would not be unacceptably diminished, in accordance with policies BNE3, BNE4 & BNE7.

Other Matters

A member of the public has requested that trees near his boundary which are within the woodland should be considered within this application. Whilst this request is noted, it does not form part of this application and the relevant team has been advised of this.

Whilst there will be some loss of biodiversity through the general maintenance and felling works proposed it is considered that on balance the proposed works are proportionate given the size of the woodland and allow for appropriate management of the area such that it can remain an attractive, accessible feature of the area.

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 the works are carried out to an appropriate standard reflective of their protected status.

Item No. 1.2

Ref. No. [DMPA/2023/1346](#)

Valid date: 23/10/2023

Applicant: Homer

Agent: Sigma Architects Limited

Proposal: **Erection of two, two-storey dwellings to the rear of 12 & 13 Wilson Close 13 Wilson Close, Mickleover, Derby, DE3 0DT**

Ward: Etwall

Reason for committee determination

This item is presented to the Committee at the discretion of the Head of Planning and Strategic Housing due to the proposal not being in conformity with H1 of BNE5.

Site Description

The broadly flat site forms part of the rear gardens of the existing No 12 and 13 Wilson Close, residential dwellings previously associated with the former hospital site which was redeveloped in the early 2000s. The host dwellings front an area of green space and along the rear of the application site is a belt of trees separating the site from the A516 and Etwall Road.

The proposal

The proposal seeks permission for one three bedroomed two storey dwelling and one four bedroomed two storey dwelling with single garage in the rear of 12 and 13 Wilson Close.

Applicant's supporting information

In addition to the application form, certificate and relevant plans and elevations the applicant has submitted the following information:

Habitat and Protected Species Report - Desktop and site surveys were undertaken to determine the potential for protected species including bats birds and newts and other amphibians, reptiles and invertebrates. The report concludes that no designated sites or protected species will be directly or indirectly impacted by the proposals and sets out recommendations to secure net gain.

Tree Constraints and Protection Plans - Assesses the existing trees and categorises their value. The Tree Protection plan identifies the trees to be retained/lost.

Biodiversity Metric - Assesses the site in terms of potential biodiversity loss and concludes that the proposed landscaping would provide an above 10% net gain.

Swept Path Analysis - Several plans have been provided to demonstrate sufficient space has been provided for cars to enter the site and park in the spaces provided within the site.

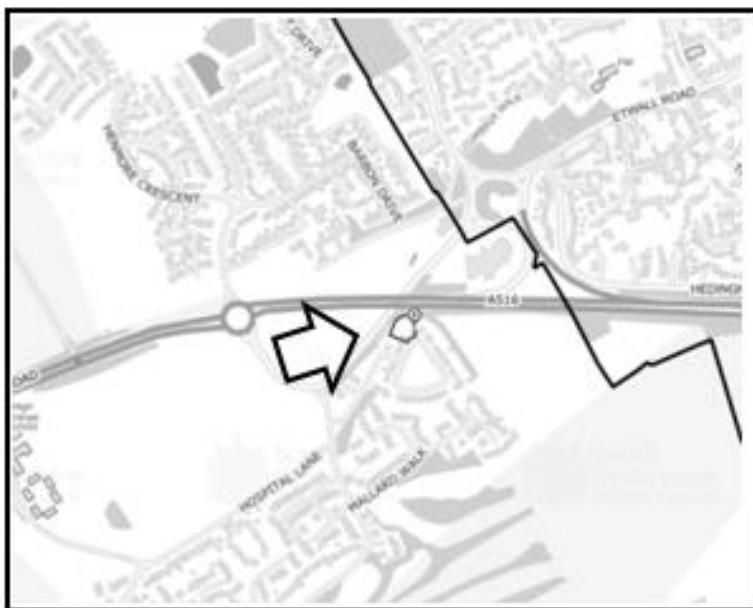
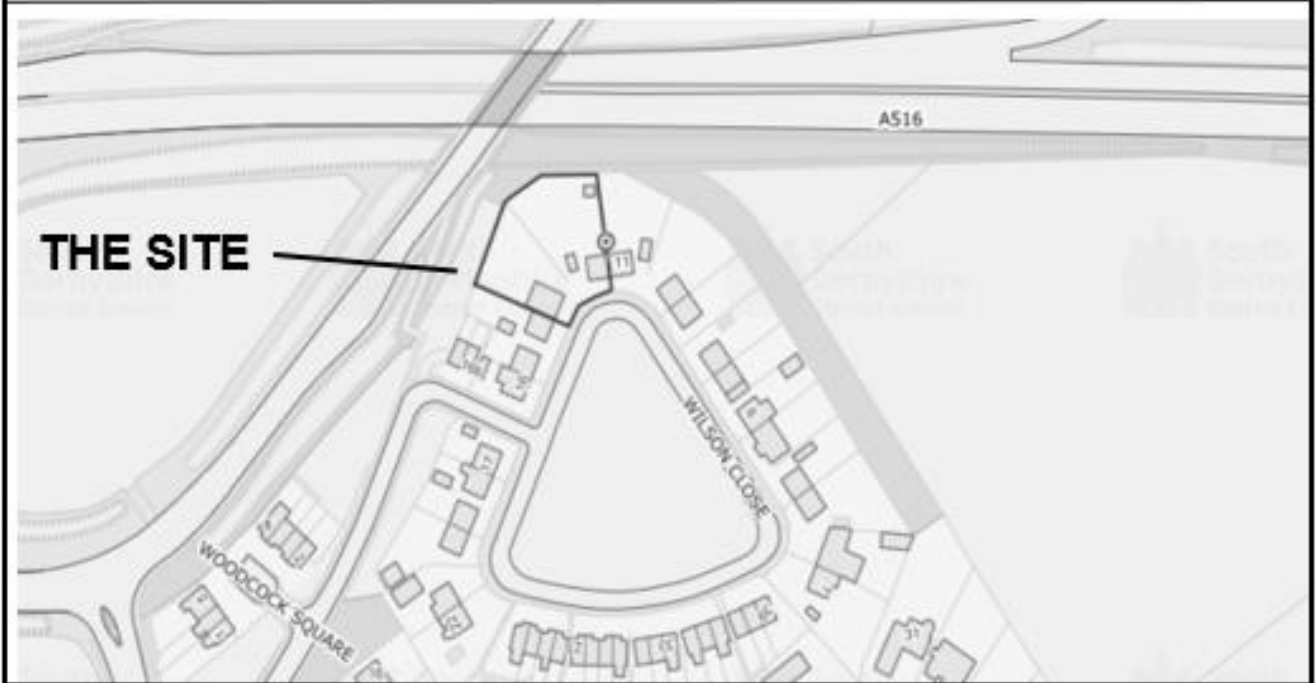
Relevant planning history

None.

Responses to consultations and publicity

County Highways - No objection subject to conditions relating to access, parking and turning, construction management plan and bin collection points.

DMPA/2023/1346 - 13 Wilson Close, Mickleover, Derby, DE3 0DT



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Environmental Health - No objections subject to conditions relating to hours of construction/deliveries and no burning of vegetation or other materials.

Two objections have been received from members of the public raising the following issues:

- a) Loss of garden space;
- b) new dwellings will cast a shadow over neighbouring gardens and existing dwellings;
- c) Loss of view;
- d) Loss of privacy/overlooking;
- e) Additional traffic/parking;
- f) Noise/light pollution;
- g) devalue neighbouring houses;
- h) New houses not in keeping with neighbouring houses;
- i) Parking on road a problem;
- j) Lack of parking provision;
- k) Visibility of children a problem with parked cars;
- l) Strain on existing water pipes;

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

(2016) Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S4 (Housing), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport)

(2017) 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 Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Planning considerations

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

- Principle of development;
- Character, design and residential amenity;
- Impact on Biodiversity
- Highway safety and parking;

Planning assessment

Principle of development:

The Council has adopted both parts of its Local Plan and the Council currently is able to demonstrate a housing land supply for a period in excess of 5 years, the adopted Local Plan is considered to be up to date; residential development must therefore either fall to be assessed against the Development Plan or must carry particular merits (material considerations) which justify a deviation in line with statute.

The site is outside any defined settlement boundary, the site being neither within the urban area of

Swadlincote, nor within any of the key, local or rural villages listed in Policy H1 and the site is not an allocation site under the Local Plan Part 1 (LP1) or LP2, the application falls to be assessed under BNE5. However, Whilst the proposal does not fall within any of the criteria set out in BNE5, the proposal is within an existing housing development - the former Pastures Hospital site granted consent for redevelopment in the late 1990s and built out in the early 2000s - and on the edge of the urban area of Derby City. The site is therefore close to existing services and facilities. Given the site is considered to be a sustainable location, it is therefore considered to be appropriate for the development of two additional dwellings.

Character, design and residential amenity:

The most applicable policies to consider in this assessment are BNE1 and SD1 of the LP1 supported by the Design SPD which seeks to ensure that new development is of an appropriate size, siting, scale, material componentry and character with regards to characteristics of the area in which they are located.

The proposal is for one large and one medium sized family home of contemporary appearance being partially rendered and partially timber clad. The host dwellings are semi-detached dwellings and the existing housing in the area is of functional character, the host dwellings being rendered. Whilst not semi-detached, the new dwellings would not be out of character as they will not be viewed as part of the existing streetscene - the new dwellings being to the rear of the existing houses, approached down a private driveway and views into the site will be screened by either the existing development or the established tree screening on the northern boundary - itself bounded by the A516/Etwall Rd. Although of a more contemporary appearance the new dwellings are of a scale and mass appropriate to the location and will add to the housing mix within the surrounding area, as such the proposal is considered to comply with BNE1 .

The new dwellings are located at the rear of existing gardens to the north and therefore the new development will have limited impact on the existing dwellings in terms of shadow and are orientated side on to the rear of 12 and 13 Wilson Close creating their own courtyard/parking and turning area. Both dwellings have no side windows and there is no overlooking of the existing dwellings. Whilst the gardens of the two new properties overlook the rear gardens of 11 and 14, this is away from the rear of the house, the most well used part of a rear garden and in any event the rear first floor windows of the new dwellings are set back the distance of the gardens which are approximately 9m. This is smaller than most of the adjoining gardens but not dissimilar to most new gardens on more recent housing developments and are considered to provide acceptable levels of amenity. The proposal is considered to comply with SD1 of the Local Plan part 1.

Impact on Biodiversity

Policy BNE3 seeks to support, protect and enhance the biodiversity and geodiversity of the district and deliver a net gain in biodiversity wherever possible. The large gardens of 12 and 13 are largely laid to grass or paved and therefore of low biodiversity value. Whilst it is not currently mandatory to use the BNG Metrics to deliver a minimum of 10% net gain, one was provided in this case alongside a Habitats and Protected Species Report as part of the application which concluded that a biodiversity net gain can be achieved of 11.9%. A condition has been added to ensure the recommendations of the Habitats and Protected Species Report are implemented in full. As such the proposal is considered to comply with BNE3.

Highway safety and parking:

Policy INF2 states that planning permission will be granted for development where travel generated would have no undue detrimental impact upon local amenity, the environment, highway safety and the efficiency of the transport infrastructure and availability of public transport services. It also requires that appropriate provision is made for safe and convenient access to and within the development, and car travel is minimised, the NPPF supports these principles.

The existing access and driveway is proposed to be used as an access for all four dwellings with parking provided for one car at the front of each of the existing dwellings and a further eight parking spaces at the rear in addition to a turning head and a single garage associated with the four

bedroomed dwelling at the rear of No 12. The Highway Authority raised no objection to the proposal subject to conditions relating to access, parking and turning, a construction management plan and bin location points. Subject to the inclusion of these conditions the proposal complies with INF2.

Conclusion and Planning Balance

Whilst the proposal is contrary to policies H1, SDT1 and BNE5 the proposal is considered to be in a sustainable location being located on an established housing estate with services and facilities in close proximity. The proposal would therefore add to housing delivery and mix and would not unduly impact on landscape character and quality and deliver a biodiversity net gain of a minimum of 11.3%, as such on balance the proposal is considered to be acceptable.

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 drawing refs:
00010 S3-P01 (Proposed Site Plan)
00011 S3-P01 (Proposed Plans - Unit 12A)
00012 S3-P01 (Proposed Plans - Unit 12B)
00017 S3-P01 (Proposed Elevations - Unit 12A)
00018 S3-P01 (Proposed Elevations - Unit 12B)
23.1764.001 - (Tree Constraints Plan)
23.1764.002 - (Tree Protection Plan)
00021 S3-P01 (Proposed Site Plan - BNG Areas)
unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. Prior to commencement of the development hereby permitted details of a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction period. The plan/statement shall include but not be restricted to:
 - Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - Advisory routes for construction traffic;
 - Any temporary access to the site;
 - Locations for loading/unloading and storage of plant, waste and construction materials;
 - Method of preventing mud and dust being carried onto the highway;
 - Arrangements for turning vehicles;
 - Arrangements to receive abnormal loads or unusually large vehicles;
 - Highway Condition survey;

- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development.

4. The Development hereby approved shall not be occupied until the access, parking and turning facilities have been provided as shown on the approved drawings 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.

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

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

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

6. Bin collection points shall be provided within private land at the entrance to the shared access, 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 retained thereafter free from any impediment to their designated use as such.

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

7. Notwithstanding the submitted details, prior to their incorporation in to the buildings hereby approved, details 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 building(s) and the surrounding area.

8. Notwithstanding the plans hereby approved, 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 respective dwellings to which they serve are first occupied.

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

9. Each 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 (2015). The developer must inform the building control body that this optional requirement applies.

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

10. The development shall be carried out in strict accordance with the enhancement recommendations detailed in Section 6 of the Habitat and Protected Species Report and Biodiversity Metric prepared by Paul Hickling Associates dated September 2023. Prior to their installation, the location and type of bird boxes and bat boxes/bricks shall be submitted to and

approved in writing by the Local Planning Authority. The ecological enhancement measures shall be retained and maintained as such thereafter.

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

Item No. 1.3
Ref. No. [DMPA/2023/1385](#)
Valid date: 01/11/2023
Applicant: Andrew Kirke
Proposal: **Erection of single storey rear/side extension at 89 Egginton Road, Etwall, Derby, DE65 6NP**
Ward: **Etwall**

Reason for committee determination

The item is presented to the Committee as the applicant is councillor Andrew Kirke.

Site Description

89 Egginton Road (the Site) is a semi-detached late Victorian villa constructed in brick with a hipped tiled roof. The third storey is in the roof space with dormers to the front and side roof slopes to create the required head height. There are indications that it was entering the Edwardian era and there are some early arts and craft features, such as the surround around the dormer in the main elevation, tall chimneystacks and stone detailing.

From the street it has the appearance that it once formed one large house although it is shown as two on the Derbyshire LIV.9 published in 1901 and was not present in the version published in 1881 so is likely to have originally been built as two dwellings in the late 1800s.

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

The proposal

Permission is sought for a single storey rear/side extension.

The extension will house a gym and facilitate the reconfiguration of the existing kitchen and utility to create a more modern open plan kitchen/dining space.

The extension will replace an existing conservatory that has come to the end of its useful life as well as making use of the gap between the existing structure and main dwelling.

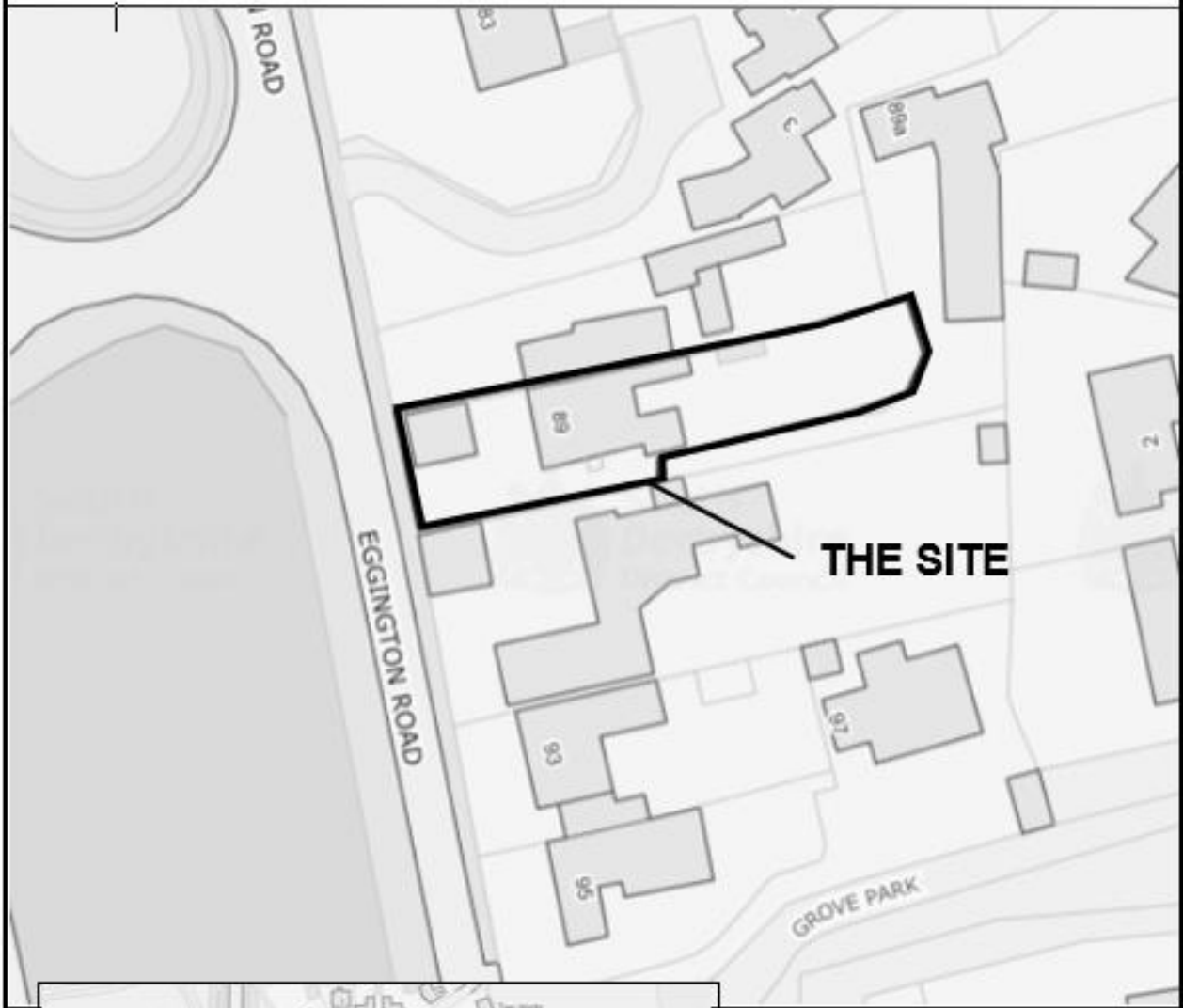
Whilst it will predominantly be to the rear of the property the extension will protrude to the side by approximately 1m as the existing conservatory already does.

The section of extension that replaces the conservatory will be of a similar form with a pent roof, at the same angle as that being replaced, leading up to the infill section which will have a flat roof with a glazed lantern. The pent section of roof will be tiled and contain two rooflights. The walls will be constructed in brick to match the host dwelling.

To the rear there will be glazed French doors with side panels serving the gym and a window serving the dining area. These will match the style of windows already present in the host dwelling. Due to the difference in land levels the window to the dining area will be quite high level when viewed from the outside.

It is also proposed to remove a door that currently serves a storage space at the rear of the property and replace it with an obscure glazed window. The internal layout of this space will be altered so that this becomes a w/c accessed from the inside.

DMPA/2023/1385 - 89 Egginton Road, Etwell, Derby



South Derbyshire District Council

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Applicant's supporting information

Application Drawings (received 01/11/2023)

The application includes the following technical planning drawings:

- Site Location Plan (ref. 22349SP)
- Proposed Block Plan (ref. 22349BP)
- Existing Plans and Elevations (ref. 22349-1)
- Proposed Ground Floor and Roof Plan (ref. 22349-2B)
- Proposed Section and Elevations (ref.22349-3B)

Relevant planning history

9/2013/0096 - Erection of a double garage - approved with conditions 09/04/2013

9/2013/0095 - Change of use from workshop to a residential dwelling and the erection of a link to garage incorporating a garden room and an extension on south elevation - approved with conditions 25/04/2013

Responses to consultations and publicity

No comments have been received in response to the publicity and consultation process.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

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

(2017) Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development); and H27 Residential Extensions and other Householder Development

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Planning considerations

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

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

Planning assessment

Main Issues

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

The extension will be very similar in form to the existing conservatory with the addition of an infill section. The modern roof lantern feature will be tucked away to the rear of the property so will not be visible from the street scene.

The rooflights to the pent roof on the side elevation will be above head height and the windows to the rear elevation will look onto the garden of the host dwelling.

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

It is of an acceptable design and due to its siting, set back a significant distance from highway and largely contained to the rear of the property it is not considered that it would have a significant impact on the character and appearance of the property or wider streetscene.

Adequacy of parking provision

The proposals do not add any bedrooms and there is no change to the existing parking provision on the site, as such the proposal will not have any impact on existing parking provision which is considered to be adequate.

Conclusion and Planning Balance

For the reasons set out above it is considered that the proposal will not have an adverse impact upon the host dwelling, character and appearance of the area residential amenity or adequacy of parking provision and therefore the accords with the aforementioned policies of the development plan.

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

Recommendation

Approve with conditions.

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

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

2. The development hereby permitted shall be carried out in accordance with the proposed block plan (ref. 22349BP), proposed ground floor and roof plan (ref. 22349-2B) and proposed section and elevations (ref.22349-3B) received 01/11/2023 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. All external materials used in the development shall match those used in the existing building in colour, coursing and texture unless, prior to their incorporation into the development hereby approved, alternative details are first submitted to and approved in writing by the Local Planning Authority pursuant to an application made in that regard, whereafter the approved alternative details shall be incorporated into the development.

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

Item No. 1.4

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

Valid date: 05/07/2023

Applicant: Mr L Evans

Agent: Mr T Beavin

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

Ward: Woodville Ward

Reason for committee determination

This planning submission is being reported to Planning Committee due to comments of concern/objection received from members of the public. It was deferred from the meeting on 12 December for a site visit.

Site Description

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

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

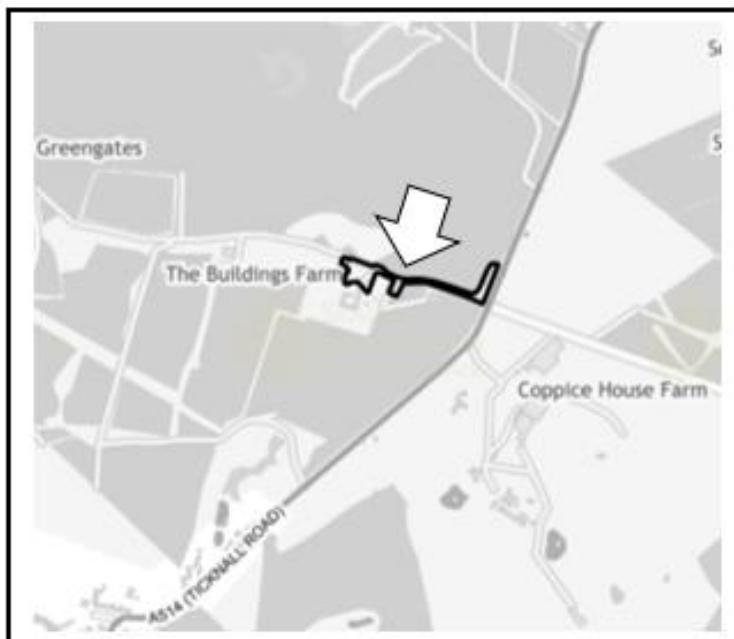
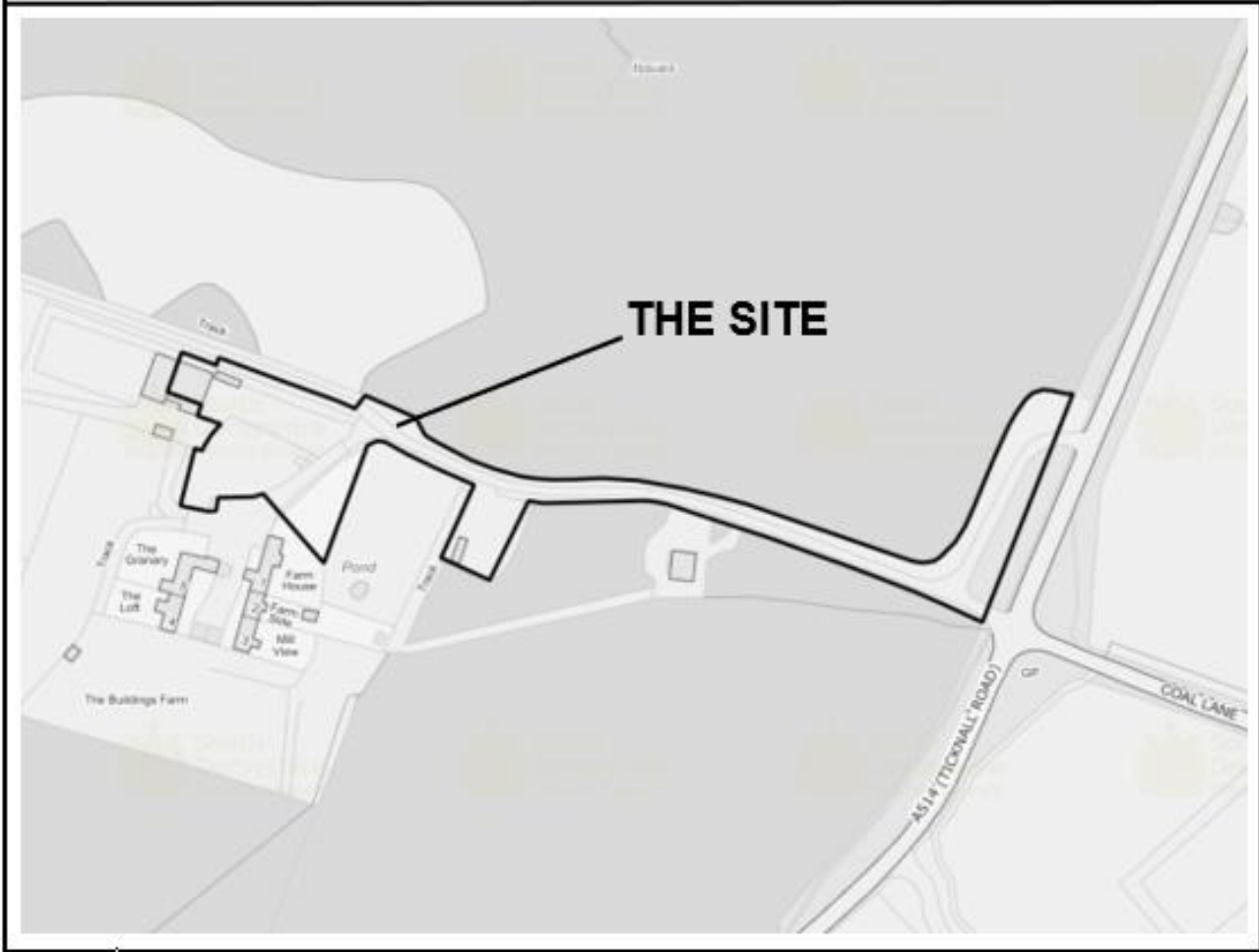
Residential properties under the addresses of No.1 to No.5, which comprise of Farm House, Farm Side, Mill View, The Loft and The Granary, are situated within relative proximity to the south of the site under consideration. No.1 Farm House has been edged within the blue line and falls under the ownerships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

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

The Proposal

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

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



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South Derbyshire District Council, LA 100019461,2020

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

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

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

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

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

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

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

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

The following hours of opening are proposed:

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

Applicant's supporting information

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

- Design and Access Statement - Ref: N/A - 23 June 2023
- Phase 1 Geo-Environmental Assessment - Ref: EAL.68.23 Version 1.0 - 05 July 2023
- Existing Site Survey Site 1 - Ref: 222-68-01 - 23 June 2023
- Survey of Existing Site 2 - Ref: 222-68-02a - 23 June 2023
- Proposed Site Plan Overview - Ref: 222-68-03a - 23 June 2023
- Proposed Site Plan Site 1 - Ref: 222-68-04b - 07 August 2023
- Proposed Log Storage Building Site 1 - Ref: 222-68-05a - 23 June 2023
- Proposed Site Plan Site 2 - Ref: 222-68-06a - 23 June 2023
- Existing Building - Site 2 - Ref: 222-68-07 - 23 June 2023
- Proposed Extensions and Alterations - Ref: 222-68-08 - 23 June 2023
- Proposed Side, Rear and First Floor Plan - Ref: 222-68-09 - 23 June 2023

- Proposed Retention of Log Storage Area - Ref: 222-68-10 - 23 June 2023
- Location Plan - Ref: 222-68-11a - 07 August 2023

Relevant planning history

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

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

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

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

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

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

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

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

Responses to consultations and publicity

Summary of consultation responses:

Woodville Ward -
No comments received.

Hartshorne Parish -
No comments received.

Hartshorne Residents Association -
No comments received.

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

Derbyshire Wildlife Trust -
Can confirm that although no specific ecology report has been provided, the application documents do include adequate information to assess likely impacts as well as details of proposed mitigation and enhancements.
Potential impacts on protected species are anticipated to be limited to nesting birds, depending on the timing of clearance works. The small loss of existing hedgerow to facilitate new access points into the yard would be offset by the proposed tree and hedgerow planting around the site boundaries and we recommend that this uses native species and includes a diverse range rather than single species.

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

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

-Retained trees and hedgerows shall be protected during construction.

-No vegetation clearance during the period March to August (inclusive) unless preceded by a check for nesting birds by a suitably experienced ecologist no earlier than 24hrs in advance of planned works.

Any active nests shall be left in situ and undisturbed until the young have fledged.

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

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

(21 August 2023)

County Highways -

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

(04 September 2023)

County Public Rights of Way -

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

(07 September 2023)

Peak and Northern Footpaths -

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

(17 August 2023)

Environmental Health -

No concerns and do not propose any comments.

(15 September 2023)

Responses to publicity:

Following the formal consultation, which included neighbour notification letters, the publication of a press advert, and the displaying of a site notice, a total of x13 formal comment of representation have

been received. These comments incorporate x7 comments of objection and x6 comments of no objection/ support. A summary of the key points arisen is presented below:

Comments of Objection:

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

Comments of Support:

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

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

Relevant policy, guidance and/ or legislation

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

The relevant Development Plan policies are:

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

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

The relevant local guidance is:

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
- Public Rights of Way
- Ecology and Biodiversity
- Drainage
- Other Matters

Planning assessment

Principle of the Development

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

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

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

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

The development of the existing site of Buildings Farm as proposed is considered to be acceptable in principle, and in accordance with Policy E2 (Other Industrial and Business Development) and Policy BNE5 (Development in Rural Areas) of the South Derbyshire Local Plan. These policies seek to

support the expansion of existing businesses, and redevelopment of established industrial or business land or premises, provided such does not give rise to undue impacts on the landscape character of the area or residential amenity. Providing that material planning considerations are met, it is considered that the proposed scheme of development is acceptable in principle.

Design, Character, and Appearance

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

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

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

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

Amenity

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

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

It is considered that the areas under consideration as part of this planning application are situated a reasonable distance away from the neighbouring residential properties. It is however accepted that due to the nature of the business some amenity related implications may occur, but that this will not result in a significant detrimental loss of amenity to neighbouring residents. The Environmental Health team

have commented that there are no objections and they do not propose any comments on environmental health related grounds.

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

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

Access and Highway Safety

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

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

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

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

Public Rights of Way

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

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

Section 130 of the Highways Act places duties on the Highways Authority to protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority, including any

roadside waste which forms part of it, and sub-section 3 of that section imposes a duty on them to prevent obstruction of any highway for which they are the authority. Section 137ZA empowers them to require the removal of any obstruction and Section 137 provides that obstructing a highway is an offence.

Ecology and Biodiversity

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

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

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

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

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

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

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

The whole site application area comprises of 8,090 sqm/ 0.809 ha of land. Policy INF8 (The National Forest) of the South Derbyshire District Local Plan sets out dedicated tree planting and landscaping requirements. In the instance of this planning application the site area is below the threshold requiring a set percentage of National Forest planting. The policy sets out that Industrial, Commercial and Leisure Development under 1 ha requires normal landscaping appropriate to the sites setting rather than a set

percentage of the development area to be woodland planting and landscaping. The National Forest Company have formally advised that there are no comments to make in regard to this planning application.

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

Drainage

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

Other Matters

No other matters to be considered.

Planning Balance

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

Conclusion

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

Recommendation

Approve subject to the following Conditions: -

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

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

2. The development hereby permitted shall be carried out in full accordance with the following details:
 - Design and Access Statement - Ref: N/A - 23 June 2023
 - Phase 1 Geo-Environmental Assessment - Ref: EAL.68.23 Version 1.0 - 05 July 2023
 - Existing Site Survey Site 1 - Ref: 222-68-01 - 23 June 2023
 - Survey of Existing Site 2 - Ref: 222-68-02a - 23 June 2023
 - Proposed Site Plan Overview - Ref: 222-68-03a - 23 June 2023
 - Proposed Site Plan Site 1 - Ref: 222-68-04b - 07 August 2023
 - Proposed Log Storage Building Site 1 - Ref: 222-68-05a - 23 June 2023
 - Proposed Site Plan Site 2 - Ref: 222-68-06a - 23 June 2023
 - Existing Building - Site 2 - Ref: 222-68-07 - 23 June 2023
 - Proposed Extensions and Alterations - Ref: 222-68-08 - 23 June 2023
 - Proposed Side, Rear and First Floor Plan - Ref: 222-68-09 - 23 June 2023
 - Proposed Retention of Log Storage Area - Ref: 222-68-10 - 23 June 2023
 - Location Plan - Ref: 222-68-11a - 07 August 2023

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. All external materials used in the development shall match those detailed within the approved plans and documentation. Any alternative details shall be first submitted to and approved in writing by the Local Planning Authority, whereafter the approved alternative details shall be incorporated into the development.

Reason: In the visual interest of the built form and the surrounding area.

4. The use hereby permitted shall not be open outside of the times of Monday to Friday: 08:00am to 17:00pm, and Saturday: 08:00am to 13:00pm.

Reason: To protect the amenities of neighbouring properties and the locality.

5. No logs or machinery shall be stored along the restricted byway. The visibility splays outlined within the approved documentation shall not be obstructed at any time.

Reason: In the interests of access and the safety of the public using the route, and as recommended by the County Highways team and the Rights of Way team at Derbyshire County Council.

6. Retained trees and hedgerows shall be protected during construction.

Reason: In the interests of ecology and biodiversity, to protect the amenity and visual interest of the locality, and as recommended by the Derbyshire Wildlife Trust at Derbyshire County Council.

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

Reason: In the interests of ecology and biodiversity, to protect the amenity and visual interest of the locality, and as recommended by the Derbyshire Wildlife Trust at Derbyshire County Council.

8. Biodiversity strategy including landscape planting and bird/bat boxes shall be implemented as per the layout plans (SG Design Studio drawings 222-68-06a and 222-68.04b).

Reason: In the interests of ecology and biodiversity, to protect the amenity and visual interest of the locality, and as recommended by the Derbyshire Wildlife Trust at Derbyshire County Council.

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

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

10. The approved full and comprehensive scheme of landscaping, planting, and turfing/ seeding shall be implemented in full in the first planting and seeding season following the date of this planning approval. Any trees or plants which die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

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

Informatives

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

Item No. 1.5

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

Valid date: 16/11/2022

Applicant: A Ward

Agent: Roger Yarwood Planning Consultant Ltd

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

Ward: Hilton

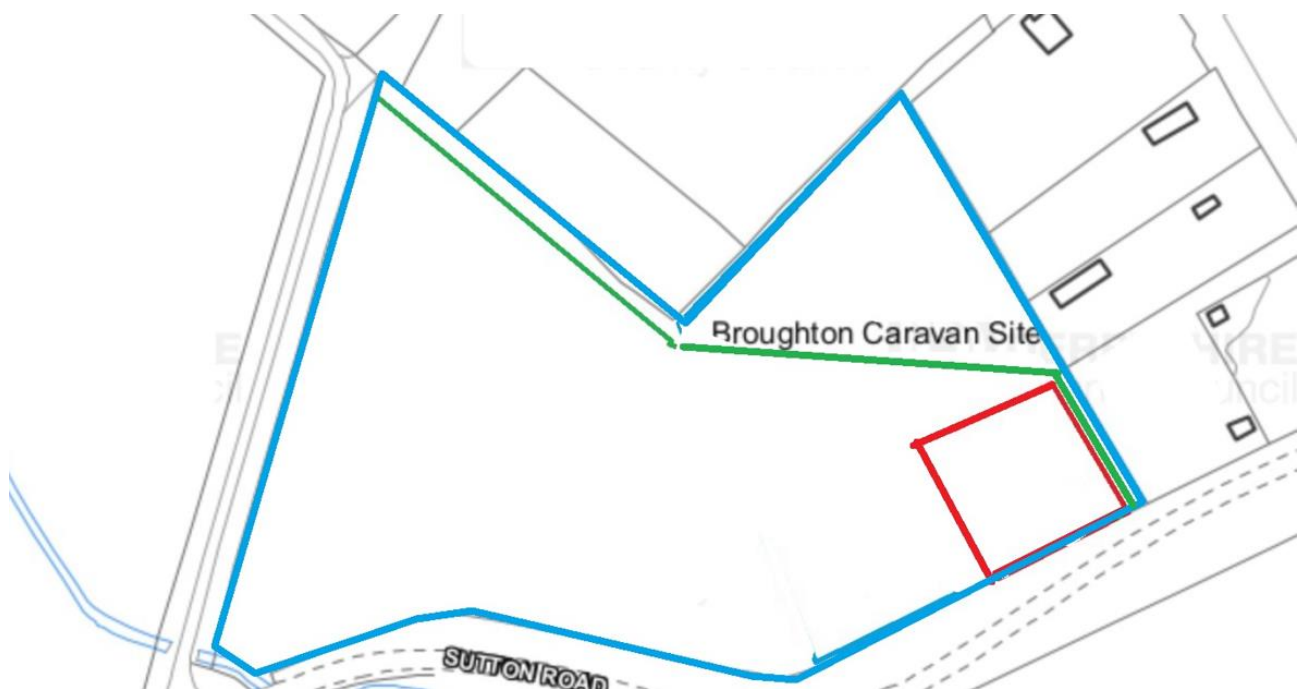
Reason for committee determination

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

Update report

Members will recall this application was brought before them on 14th November 2023 where it was deferred to allow the submission of further information and clarification regarding land ownership and the re-routing of the public footpath.

The applicant has submitted a plan to show land ownership (contained within the blue line) and the possible altered route of the footpath (in green) as below. It is considered that this satisfies the members requests.



Item No. 1.5
Ref. No. DMPA/2022/1498
Valid date: 16/11/2022
Applicant: A Ward **Agent:** Roger Yarwood Planning Consultant Ltd
Proposal: Change of use of agricultural land to a single pitch Traveller site and construction of a new access on Land West of Church Broughton Caravan Park, Sutton Road, Church Broughton, DE65 5DB

Ward: Hilton

Reason for committee determination

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

Site Description

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

The proposal

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

Applicant's supporting information

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

Relevant planning history

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

Responses to consultations and publicity

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

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

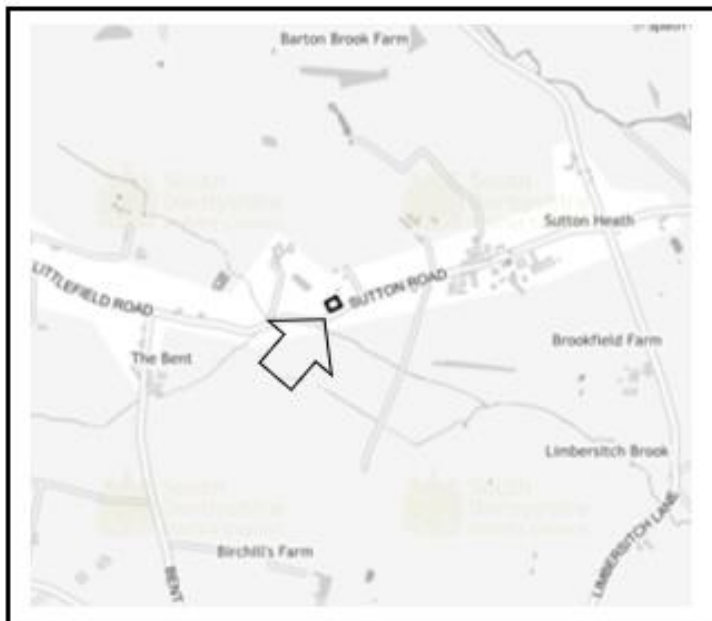
Church Broughton Parish Council object on the grounds of impact on the PROW, highways safety, the suitability of the site for residential development and occupier amenity.

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

- a) Ecological impact – destruction of mature hedgerows
- b) Highways safety – suitability of siting of access
- c) Drainage – surface water flooding

- d) Principle of development – loss of open countryside
- e) Principle of development – unsustainable location

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



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f) Design – negative impact on the streetscene

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

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

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

The relevant local guidance is:

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

The relevant national policy and guidance is:

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

Planning considerations

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

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

Planning assessment

Principle of development

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

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

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

2034.

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

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

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

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

Design and layout

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

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

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

Highways and access

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

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

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

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

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

Recommendation

Approve subject to conditions.

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

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

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

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

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

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

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

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

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

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

Informatives:

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

Item No. 1.6

Ref. No. [DMOT/2023/1341](#)

Valid date: 20/10/2023

Applicant: Jason Whittenham

Agent: The Green Arborist Limited

Proposal: The felling of a cedar tree covered by South Derbyshire District Council Tree Preservation Order 507 at Hawthorn House, Main Street, Scropton, Derby, DE65 5PP

Ward: Hilton

Reason for committee determination

This item is presented to the Committee at the request of Councillor Andrew due to local concern having been expressed about a particular issue.

Site Description

The Blue Atlantic cedar T1 is a mature tree located in the front garden adjacent to the driveway of the residential property Hawthorn House. It is 5.0m from the south facing elevation of Hawthorn House. The tree has an estimated stem diameter of 50cm, height of 14.0m and average crown width of 12.0m that overhangs the driveway and partly the access road to the east of the property. The tarmac on the driveway is lifted and cracked by the roots of the tree. The tree is screened by the protected Blue Atlantic Cedar and Weeping Willow to the very front of the site and is therefore not considered to be overly prominent in the street scene.

The proposal

The proposal is to fell a Blue Atlantic Cedar tree covered by South Derbyshire District Council Tree Preservation Order 507. The tree is located to the front of the property in close proximity to the house. There are two other protected trees to the very front of the curtilage which will remain.

Applicant's supporting information

The applicant has submitted an application form and photographs of the tree in question. Their justification for the removal of the tree was is that the tree is over shadowing the area, branches are regularly snapping off and the road for the approved development on the adjacent site would cut through the root bowl of the tree raising further concerns.

Relevant planning history

None of relevance

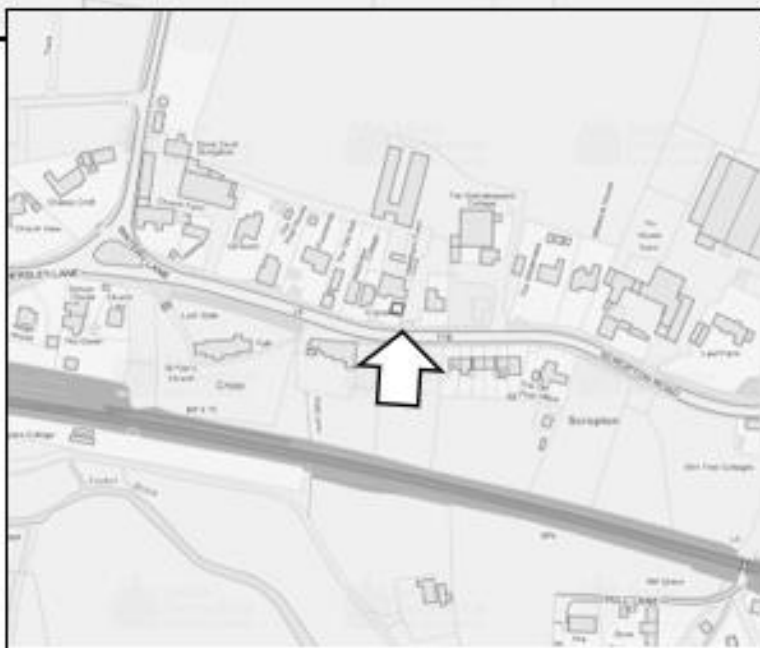
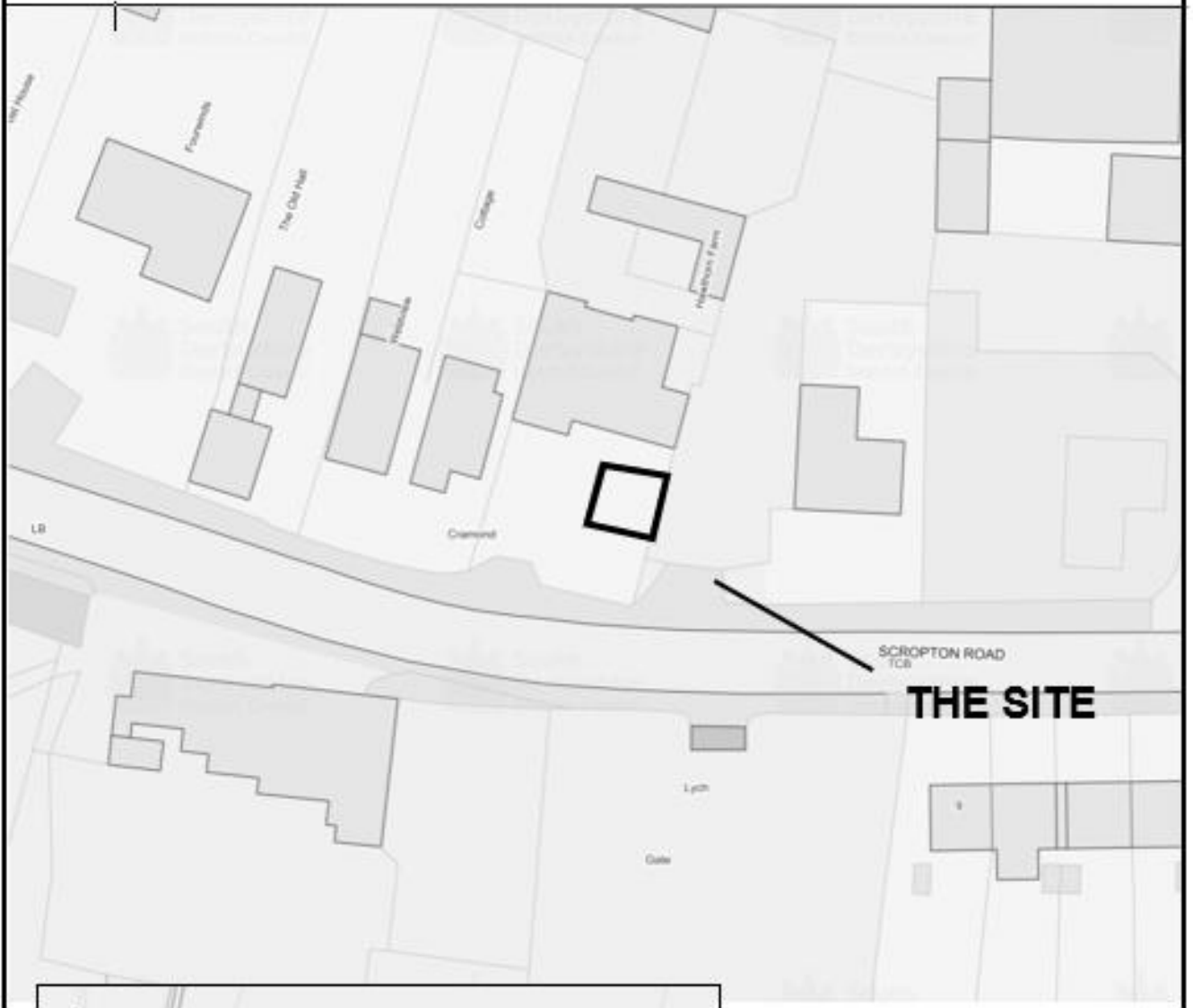
Responses to consultations and publicity

SDDC Tree Consultant - Recommends consent is granted to fell the tree.

Foston and Scropton Parish Council - object on the following grounds:

- a) Change to character of the village
- b) The Cedar is a beautiful mature tree
- c) There are no safety issues
- d) A TPO is put on a tree to protect it from being felled

DMOT/2023/1341 – Hawthorn House, Scropton, DE65 5PP



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South Derbyshire District Council. LA 100019461.2020

Councillor Grahame Andrew and Councillor Jayne Davies object on the grounds that the tree is protected and it should be the absolute exception to allow removal.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

(2016) Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness)
(2017) Local Plan Part 2 (LP2): 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

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

The existing condition of the trees

The Blue Atlantic cedar T1 is mature located in the front garden adjacent to the driveway of the property. It is 5.0m from the south facing elevation of Hawthorn house. The tree has an estimated stem diameter of 50cm, height of 14.0m and average crown width of 12.0m that overhangs the driveway and partly the access road to the east of the property. The tarmac on the driveway is lifted and cracked by the roots of the tree. There is a protected mature weeping willow and a further Blue Atlantic cedar on the frontage of the property.

The proposed works

It is proposed to fell the Blue Atlantic cedar (T2) closest to the front elevation of the property.

The reason provided by the applicant for the proposal to fell is that the Blue Atlantic cedar tree has outgrown the location, branches are breaking out of the tree, the roots are lifting the driveway and that the construction of proposed new development on the adjacent site will potentially intrude into the root protection area (RPA) of the tree.

Whether the proposed works are justified and whether the resultant biodiversity and amenity value remains acceptable

Blue Atlantic Cedar trees have the potential to grow to over 20.0m in height with a crown width of over 15.0m. The main and secondary branches in the crown are susceptible to fail when burdened by the weight of ice and snow. The trees produce sap and shed needles and seeds throughout the year. Blue Atlantic Cedar is not a suitable species to be retained close to residential properties and car parking areas due to the risk of branch drop.

The proximity of the tree to the frontage of the house and the shading of the front rooms of the house together with the damage to the driveway by the Blue Atlantic Cedar T2 is reducing the Applicant's enjoyment of their property.

The removal of the Blue Atlantic Cedar T2 will have a minor detrimental impact on the amenity and biodiversity value of the area. Any local loss of amenity on Main Street will be partly mitigated by the protected Blue Atlantic Cedar and Weeping Willow to the front of the site which screen the Blue Atlantic Cedar T2 resulting in it not being as prominent in the street scene as the other two trees.

Due to the heavily protected tree context and proximity to the front of the property it is not recommended that a replacement tree is planted. Whilst this will have some impact on biodiversity it is considered that this is unavoidable. The removal of one Blue Atlantic Cedar will also allow the other two trees to flourish more in their context without having to compete with a third tree.

It is therefore considered that the removal of the Blue Atlantic Cedar T2 is acceptable and will ensure that the immediate area outside the house is safe from branch drop.

It is considered that there is insufficient space on the frontage of the property to facilitate the planting of a replacement tree, at a safe distance from the house, due to the shade cast by the 2 remaining protected trees.

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

Approval.

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 trees.

2. Works shall be carried out in accordance with British Standard 3998:2010 - Tree Work (or equivalent document which may update or supersede that Standard).

Reason: To ensure that the works are carried out safely and in the best interests of the health of the remaining trees.

Item No. 1.7
Ref. No. [DMPA/2022/1618](#)
Valid date: 10/01/2023
Applicant: Mr Robinson **Agent:** Mr Reynolds
Proposal: **Proposed clubhouse, laundry building and 10-holiday apartments at Pete Robinson Holiday Homes Ltd, Colliery Lane, Linton, Swadlincote, DE12 6PB.**
Ward: Linton Ward

Reason for committee determination

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

Site Description

The application site is addressed as Pete Robinson Holiday Homes Ltd, Colliery Lane, Linton, Swadlincote, DE12 6PB. The site is located to the south of and is accessed from Colliery Lane which is off Main Street/ Linton Heath.

The application site is an established holiday home site which consists of a series of single storey lodges arranged around an access road, a substantial brick-built holiday cottage, and other facilities including a fishing lake, play area, and 5-a-side football pitch. There is also a large events marquee located on the western side of the site, where the proposal is to be located. There are several residential properties to the north of the site.

The site is located just outside of the settlement boundary of Linton, a Key Service Village. The application site is not situated within a Conservation Area and does not fall within proximity of Listed Buildings. The site lies within the River Mease Catchment and is also situated within the National Forest. 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.

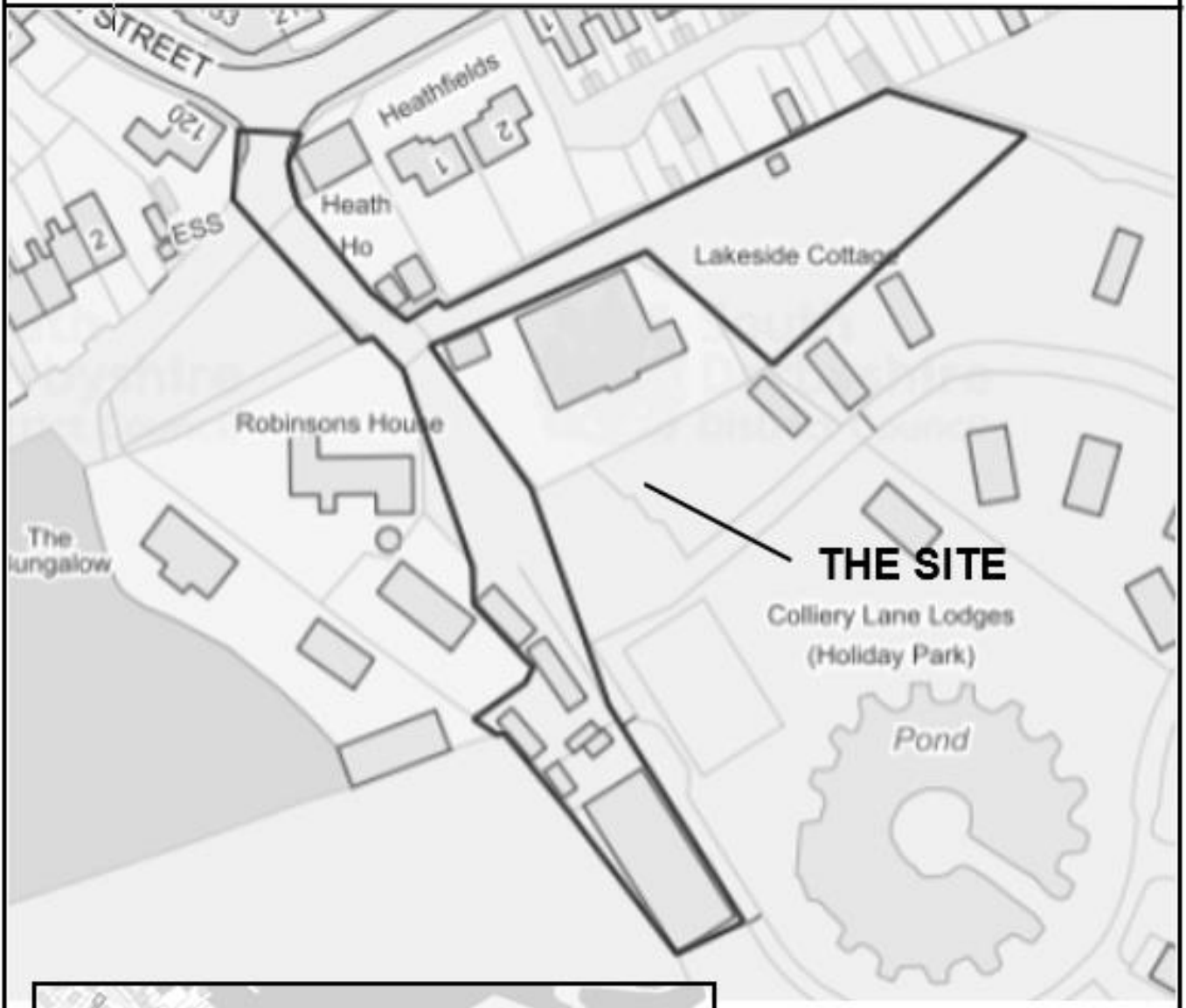
The Proposal

The proposal is to construct a clubhouse, laundry/office/storage building along with 10 holiday apartments on an existing holiday park. The clubhouse will replace the approved marquee and toilet block which will be removed from the site. The proposal will also provide 10 holiday apartments to add to the mix of accommodation available on the site. No demolitions are required however the existing marquee and toilet blocks will be removed from the site.

The Local Planning Authority have worked with the applicant/ agent with regards to this development proposal and sought amended plans. The proposed scheme has been reduced from x11 holiday apartments as originally submitted to x10 holiday apartments. An improved design for the proposed blocks has been requested and received. The proposed buildings have evolved significantly since the application was originally submitted following ongoing extensive dialogue with the applicant/ agent.

The latest plans would provide substantial buildings over two floors which would be of a significant height and mass relative to the other structures on the site. Access to the first-floor accommodation would be via spiral staircase at each end with an external walkway across the full length of the first floor of the building. Whilst the proposed buildings are of significant length, it has been designed such that

DMPA/2022/1618 - Pete Robinson Holiday Homes Ltd, Linton, Swadlincote, DE12 6PB



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the overall mass has been reduced through the introduction of a break in the larger of the two buildings at first floor. When viewed from the wider surrounding area, this reduces the overall mass. The roof has been designed with to be curved, with the walls being mainly of timber cladding along with blue bricks for the single storey element. The overall design approach is one of a linked pair of Dutch style barns which have been converted in a contemporary manner.

It is noted that the proposal includes the provision of 11 parking spaces for the proposed holiday apartments. In addition, it is confirmed in the submitted Transport Statement that the existing car parking area will be improved to provide a more formal arrangement which is considered to be beneficial to the whole site.

A further submitted Ecological Impact Assessment (Harris Lamb, November 2023) was provided to the Local Planning Authority for formal consideration on 04 December 2023.

Applicant's supporting information

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

- Site Location Plan - Ref: 50493-2020-PR-01A
- Existing Site Layout - Ref: 50494-2020-LB-06B
- Proposed Site Layout - Ref: 50494-2020-LB-05B
- Proposed Function and Apartments - Ref: 50494-2020-LB-03L
- Proposed Laundry & Apartments - Ref: 50493-2020-PR-04E
- Proposed Site Layout, Proposed First Floor Plans, Proposed Roof Plans - Ref: 50493-2020-PR-02E
- Ecological Impact Assessment (Harris Lamb) - Ref: PE0433 - Received by the LPA: 04 December 2023

Relevant planning history

DMOT/2022/1443 - Approval of details required by condition 3 attached to planning application ref. DMPA/2021/1844 (Retention of a marquee, toilet cabin, storage container, and car parking area). - Under Consideration.

DMPA/2021/1844 - Retention of a marquee, toilet cabin, storage container, and car parking area. - Approved.

DMPA/2020/0009 - Retention of holiday let accommodation. - Approved.

DMPA/2019/1297 - Change of use from annex (Use Class C3) to holiday let accommodation (Use Class C1) with associated works. - Withdrawn.

9/2016/1144 - The erection of 14 holiday lets and the creation of an all weather pitch, access track and hardstanding along with associated landscaping and retention of fishing pegs. - Approved.

9/2013/0640 - The erection of four holiday units, access and associated landscaping. - Approved.

Responses to consultations and publicity

Summary of consultation responses:

Cllr Alistair Tilley - Linton Ward Cllr:

Concerns regarding this submission have been presented. These include regarding visibility, number of employees, re-cycling, and noise.

(19 January 2023)

County Highways:

No objections to the application subject to recommended planning conditions should approval be recommended. Conditions recommended requiring the submission and approval of a Highway Construction Management Statement/ Plan prior to the commencement of development, and a condition requiring the permitted parking areas in accordance with the approved plans.
(19 January 2023)

Derbyshire Wildlife Trust:

The completion of a Preliminary Ecological Appraisal (PEA) is required.

Following a review of the further submitted Ecological Impact Assessment (Harris Lamb, November 2023) and the Derbyshire Biological Records Centre a formal consultation response has been provided with the Derbyshire Wildlife Trust formally recommending the incorporation of a series of planning conditions.

(28 February 2023 and 05 December 2023)

Natural England:

The development will not cause any significant impact to the Mease. The proposal can be screened out.

(08 February 2023)

Environmental Health:

More favourable to such a scheme in the place of the currently proposed marquee which does not offer the same degree of acoustic attenuation. Points of consideration have been provided.

(31 January 2023)

Business Compliance Team Environmental Health:

No objection in principle. Informative recommended with regards contacting the Environmental Health team on all matters relating to food hygiene, and health and safety. Requirement to register any food business with the council at least 28 days prior to opening for business.

(17 January 2023)

National Forest Company:

At 0.3ha, the site area is below the threshold in Policy INF8 requiring National Forest planting. If the current application is approved, the planting which was anticipated under planning approval 9/2016/1144 should be appropriately mitigated. As there does not appear to be sufficient space onsite to accommodate this planting, the mitigation may be met by a financial contribution in lieu of on-site provision.

(19 January 2023)

Case Officer Note - For a site of this nature formal consultation input from the National Forest Company would not normally be requested. In this instance the consultation was actioned in error however the input provided has still been reviewed and considered.

Coal Authority:

The application site does not fall within the defined Development High Risk Area and is located instead within the defined Development Low Risk Area. No requirement under the risk-based approach for a Coal Mining Risk Assessment.

(17 January 2023)

Lead Local Flood Authority:

Surface water is proposed to discharge into the exiting drainage within the site. The applicant should clarify what the site drainage outfalls to, what the site discharge rate is and how the 2 new connections will affect this.

(22 March 2023)

Responses to publicity:

Following the formal consultation, which included neighbour notification letters, the publication of a press advert, and the displaying of a site notice, a total of x9 formal comments of concern/ objection have been received. A summary of the key points arisen is presented below:

- a. Increased noise and disturbance
- b. Impact on neighbouring residential amenity
- c. Overdevelopment of the site
- d. Visual appearance of the development
- e. Recycling plan for the site
- f. Highway safety concerns

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

The Local Planning Authority have worked proactively with the applicant/ agent with regards to this development proposal and addressing points of concern arisen including the visual appearance of the development. An improved design for the proposed blocks has been requested and received. In addition to this the proposed scheme has been reduced from x11 holiday apartments as originally submitted to x10 holiday apartments.

It was considered by the Local Planning Authority that a formal re-consultation would not be required.

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), S6 (Sustainable Access), H1 (Settlement Hierarchy), H28 (Residential Conversions), E2 (Other Industrial and Business Development), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewage Infrastructure), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF8 (The National Forest) and INF10 (Tourism Development).

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 Supplementary Planning Document
Trees & Development Supplementary Planning Document
Sustainable Tourism Accommodation Design Guide

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
- River Mease Special Area of Conservation
- Ecology and Biodiversity
- National Forest Planting
- 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 site is located just outside the settlement boundary of Linton, a Key Service Village as outlined in Policy SDT1. Policy INF10 supports tourism development within or adjoining the urban area or the Key Service Villages, especially within the National Forest. Policy INF10 also requires that new tourist development should be provided in one of three ways;

- I. Provided through the conversion or re-use of existing buildings; or
- II. Accommodation of a reversible and temporary nature; or
- III. Sustainable well designed new buildings, where identified needs are not being met by existing facilities, subject to all other relevant policies in the local plan.

There is a strong policy support for new tourism development within the District and as outlined in Policy INF10. The site is located well within the boundary of the National Forest and therefore the principles that the National Forest promote in terms of tourism would be applicable for this site.

Policy E7 also sets out that 'development proposals which diversify and expand the range of sustainable employment activities on land outside of settlement boundaries will be supported by the Council provided they support the social and economic needs of the rural communities in the District.'

The proposal is an expansion of an existing holiday let business on site and The National Forest Growth Plan continues to recognise the need to expand tourist accommodation provision, particularly in regard to the self-catering sector, in (and close to) the National Forest. The site is located close to other tourist attractions and is well connected to a number of local services which will enhance the visitors staying in this National Forest location. The scheme of development is considered to satisfy Policy INF10, Part C, Section iii) 'sustainable and well-designed new buildings, where identified needs are not met by existing facilities, subject to all the other relevant policies in the Local Plan'. The new tourism development, as amended, is considered to be sustainable and comprise of well-designed new buildings. This has been achieved via amendments and revisions following engagement between the applicant/ agent, the Local Planning Authority, and the Design Officer (SDDC). The proposal is therefore considered to be in compliance with Policy INF10 and Policy E7.

The scheme of development hereby under consideration proposes a new clubhouse, laundry building and 10-holiday apartments. The tourism use is already established on the Colliery Lane site. The applicant is seeking an intensification of the uses which are currently present across the wider site. Overall, the development proposal is considered to be acceptable when assessed against the relevant aforementioned planning policy in regard to the principle of the development.

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 application site is an established holiday home site which consists of a series of single storey lodges arranged around an access road, a substantial brick-built holiday cottage, and other facilities including a fishing lake, play area, and 5-a-side football pitch. There is also a large events marquee located on the western side of the site, where the proposal is to be located.

The proposal, as amended, is to construct a clubhouse, laundry/office/storage building along with 10 holiday apartments on an existing holiday park. The clubhouse will replace the approved marquee and toilet block which will be removed from the site. The proposal will also provide 10 holiday apartments to add to the mix of accommodation available on the site. No demolitions are required however the existing marquee and toilet blocks will be removed from the site.

The proposed buildings have evolved significantly since the application was originally submitted following extensive dialogue with the applicant/ agent. The latest plans would provide substantial built form over two floors which would be of a significant height and mass relative to the other structures on the site including the marquee which would be replaced, and those structures in the wider surroundings. The proposals would create a replacement for the events marquee with ground floor accommodation consisting of kitchen, bar, storage space, and toilets at ground floor level, plus holiday lets above at first floor level with each containing a bedroom, bathroom, and an open plan kitchen/dining/lounge area. The proposed scheme has been reduced from x11 holiday apartments as originally submitted to x10 holiday apartments.

Access to the first floor accommodation would be via spiral staircases with an external walkway across the full length of the first floor. Whilst the larger of the two buildings is of a significant length, it has been designed such that the overall mass has been reduced through the introduction of a break in the first floor accommodation which, when viewed from the wider surrounding area, will reduce the overall mass and give the appearance of two joined two storey buildings.

The roof for both buildings has been re-designed to be curved, with the walls being mainly of timber cladding along with blue bricks. The overall design approach is one of a linked pair of Dutch style barns which have been converted in a contemporary manner. In terms of the general design approach, this successfully integrates the proposal into the area on a part of the site which is on the edge of what is a rural landscape. The main windows and doors in the buildings have been positioned on the eastern elevation of the building which faces into the site, towards the lodges, and as a result the utilitarian appearance of what has been designed as a converted Dutch barn when viewed from outside the site to the west is created. This design approach is considered to be acceptable for this development in this location. However, care needs to be taken in the choice of materials in order to ensure that the development is acceptable in design terms. A darker, standing seam roof material has been provided

which would ensure that the roof, which will be very prominent due to the height and location, will have a high quality and a distinctive appearance. Full details of materials can be controlled via the use of a suitably worded planning condition.

Overall, the proposal is considered to not result in unacceptable harm to the area, 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.

There are several residential properties to the north of the site. It is noted that concerns have been arisen from the consultation undertaken with regards to noise and associated impacts on the surrounding neighbouring amenity from the development proposal. The Environmental Health team have reviewed this planning submission and have advised that the scheme is more favourable to the existing marquee which does not offer the same degree of acoustic attenuation. Points of consideration have been provided. Should planning approval be recommended a planning condition shall be incorporated requiring the submission and approval of a Noise Management Plan in the interests of protecting the amenity of the locality, especially for people living and/ or working nearby.

Given the distance between the proposed buildings and the neighbouring residential development, together with the betterment in terms of enclosure of the function room in comparison to the permitted marquee, it is considered that, subject to a Noise Management Plan, the development proposal would be unlikely to lead to significant unacceptable impacts upon neighbouring amenity.

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

Access and Highway Safety

A technical assessment of the development proposal and a consideration of the potential associated access and highway related implications has been undertaken by the County Highways team at Derbyshire County Council. A formal consultation response has been provided with the County Highways team formally advising that there are no objections on highway grounds subject to relevant planning conditions.

It is noted that the proposal includes the provision of 11 parking spaces for the proposed holiday apartments which is acceptable. In addition, it is confirmed in the submitted Transport Statement that the existing car parking area will be improved to provide a more formal arrangement which is considered to be beneficial to the whole site. In addition, the event Parking Management Plan will ensure that future events will not result in traffic issues. The Transport Statement also confirms that 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. This is accepted by the County Highways team at Derbyshire County Council.

It has been advised that should planning approval be recommended conditions would be required with regards to the submission and approval of a Highway Construction Management Statement/ Plan prior to the commencement of development, and a condition requiring the permitted parking areas in accordance with the approved plans.

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.

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

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

River Mease Special Area of Conservation

The site lies within the River Mease Catchment and Natural England had commented that a Habitat Regulation Assessment should be carried out by the Council to ensure that there will be no harmful discharges of foul or surface water from the application site into the River Mease or its tributaries. The Lead Local Flood Authority have noted that surface water is proposed to discharge into the existing drainage within the site, and it has been requested that the applicant should clarify what the site drainage outfalls to, what the site discharge rate is and how the two new connections will affect this. On checking with Severn Trent Water, the nearest sewer to the application site drains to a pumping station that pumps to STW's Coton Park treatment works, which is outside of the SAC catchment. Therefore whilst the site itself is within the SAC catchment it wouldn't discharge any of its foul waste to within the SAC catchment, and so no SAC foul drainage mitigation is needed for the proposal. The applicant has confirmed that any surface water that does not soak into the car park area flows through a system which runs into the fishing lake. Natural England have advised that the development will not cause any significant impact to the Mease and the proposal can be screened out on this basis. This therefore complies with Policy SD3 (Sustainable Water Supply, Drainage and Sewage Infrastructure) of the South Derbyshire Local Plan.

Ecology and Biodiversity

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

A technical assessment of the development proposal and a consideration of the potential associated ecology and biodiversity related implications has been undertaken by the Derbyshire Wildlife Trust. Following a review of the further submitted Ecological Impact Assessment (Harris Lamb, November 2023) and the Derbyshire Biological Records Centre a formal consultation response has been provided with the Derbyshire Wildlife Trust not objecting and formally recommend the incorporation of a series of planning conditions.

The Derbyshire Wildlife Trust have advised that any lighting scheme should avoid light spill onto adjacent habitats and on new bat/bird boxes provided as biodiversity enhancement. Further to this it has also been advised that 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. A Construction Environmental

Management Plan and a Biodiversity Enhancement Plan should be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. Should a recommendation to approve be made relevant planning conditions shall be incorporated in this regard.

Subject to the incorporation of these relevant planning conditions, the proposed scheme of development is considered to be acceptable on ecology and biodiversity related grounds.

National Forest Planting

The site lies within the National Forest. The National Forest Company have been formally consulted with regards to this development proposal. A formal consultation response has been provided with the National Forest Company formally advising that 'if the current application is approved, the planting which was anticipated under planning approval 9/2016/1144 should be appropriately mitigated. As there does not appear to be sufficient space onsite to accommodate this planting, the mitigation may be met by a financial contribution in lieu of on-site provision'.

The application site is situated within the National Forest, and the site area extends to a total of approximately 3,000 square metres/ 0.3 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 policy sets out that Industrial, Commercial and Leisure Development under 1 ha requires normal landscaping appropriate to the sites setting rather than a set percentage of the development area to be woodland planting and landscaping.

The 0.3 hectares site has been carefully considered by the Local Planning Authority with regards to the National Forest Planting requirements. For a site of this nature formal consultation input from the National Forest Company would not normally be requested. Due to the relatively small nature of the site, the comparison between the existing and proposed scheme, and the extensive tree planting currently present across the wider site, the proposed scheme of development is considered to be acceptable.

Other Matters

A Public Right of Way adjoins the site under consideration to the north. The proposed scheme of development will not present any implications to the detriment of this Public Right of Way.

Planning Balance

The principle of the proposed scheme of development is firstly considered to be acceptable. There will be some impact on the character and appearance of the area. An improved design for the proposed blocks has been requested and received. The proposed buildings have evolved significantly since the application was originally submitted following ongoing extensive dialogue with the applicant/ agent. An acceptable form of design is presented which therefore complies with policies S2, E7, BNE1, BNE4, INF8, INF10, BNE5 and BNE7 of the South Derbyshire District Local Plan, the South Derbyshire Design Guide SPD, and the National Planning Policy Framework. The proposal is considered to not have a significant adverse impact on the residential amenity of the nearest neighbouring properties in addition to the existing situation, and the Environmental Health team have noted that the proposed building should achieve a betterment in terms of noise mitigation. In addition to this the scheme of development as proposed is considered to be acceptable on access and highways safety grounds and has achieved the support of the County Highways team at Derbyshire County Council. Subject to relevant planning conditions, the development proposal is considered to be acceptable when considered against the aims and objectives of the South Derbyshire District Local Plan, Supplementary Planning Documentation, and the National Planning Policy Framework. There are no material considerations that would reasonably warrant refusal of planning permission in this instance.

Conclusion

The proposed scheme of development as amended at the site under the address of Colliery Lane, Linton, Swadlincote, DE12 6PB 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: -

11. 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).
12. The development hereby permitted shall be carried out in full accordance with the following details:
 - Site Location Plan - Ref: 50493-2020-PR-01A
 - Existing Site Layout - Ref: 50494-2020-LB-06B
 - Proposed Site Layout - Ref: 50494-2020-LB-05B
 - Proposed Function and Apartments - Ref: 50494-2020-LB-03L
 - Proposed Laundry & Apartments - Ref: 50493-2020-PR-04E
 - Proposed Site Layout, Proposed First Floor Plans, Proposed Roof Plans - Ref: 50493-2020-PR-02E
 - Ecological Impact Assessment (Harris Lamb) - Ref: PE0433 - Received by the LPA: 04 December 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.
13. Prior to the commencement of the development hereby permitted, a full and comprehensive scheme of all external materials and finishes to be used in the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be undertaken in complete accordance with the approved details. 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.
14. Prior to the commencement of the development hereby permitted, a Highway Construction Management Statement/ Plan shall be submitted to and approved in writing by the Local Planning Authority. The statement/ plan shall include details specifically relating to: a) parking for vehicles of site personnel, operatives and visitors b) site accommodation c) storage of plant and materials d) provision of roadside boundary hoarding behind any visibility zones e) any proposed temporary traffic management. Only the approved details shall be implemented, which shall be maintained throughout the construction period.
Reason: To ensure safe and suitable access for all users, in the interests of highway safety, recognising that initial preparatory works could bring about unacceptable impacts/ inconvenience for existing highway users/ nearby residents.
15. Prior to the first occupation of the buildings hereby permitted, the parking areas 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.

16. Prior to the commencement of the development hereby permitted, a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority in conjunction with the Environmental Health team. Only the approved details shall be implemented, which shall be maintained throughout the lifetime of the development.

Reason: To protect the amenity of the locality, especially for people living and/ or working nearby.

17. Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority. 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 light spill to any sensitive ecological zones/ features. Guidelines can be found in Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023). Such approved measures will be implemented in full.

Reason: In the interests of protecting and enhancing ecology and biodiversity, including the safeguarding of bats and other nocturnal wildlife.

18. 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: In the interests of protecting and enhancing ecology and biodiversity, including the safeguarding of birds and other wildlife.

19. Prior to the commencement of the development hereby permitted, (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials), a Construction Environmental Management Plan (CEMP: Biodiversity) shall be 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 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 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 protecting and enhancing ecology and biodiversity, including the safeguarding of wildlife including amphibians, badgers and hedgehogs.

20. Prior to the commencement of the development hereby permitted, a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall clearly show positions, specifications and numbers of features, which will include the following: - universal nest boxes at ratio of 1:1, in line with British Standard 42021:2022, - integrated bat boxes, - insect bricks/ towers, - fencing gaps 130 mm x 130 mm to maintain connectivity for hedgehogs, - summary of ecologically beneficial landscaping (full details to be provided in Landscape Plans). The approved measures shall be implemented in full and maintained thereafter.

Reason: In the interests of protecting and enhancing ecology and biodiversity, including the safeguarding of wildlife.

21. 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. Premises that are to be used as a food business and have not already registered with the Council, then: - 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. 1.8
Ref. No. [DMPA/2020/0970](#)
Valid date: 23/10/2020
Applicant: Jodie Scott
Proposal: **The formation of a hard surface for vehicular access on land west of 24, Queensway, Melbourne, Derby, DE73 8FG**
Ward: Melbourne

Reason for committee determination

This item is presented to the Committee as the land is within the ownership of the council.

Site Description

The site is within a residential area of Melbourne which largely consists of ex-local authority housing in the form of semi-detached two storey dwellings of a similar form and design. Along Queensway between the public highway and a number of residential properties is an area of informal greenspace. This is an open, relatively flat piece of land which has no formal designation. There is an informal parking bay across part of the frontage and a mature tree in the southern corner of the site which would be unaffected by the proposals.

The proposal

Applicant's supporting information

The applicant has submitted the required application form, fee and plans to support the application.

Relevant planning history

None of relevance.

Responses to consultations and publicity

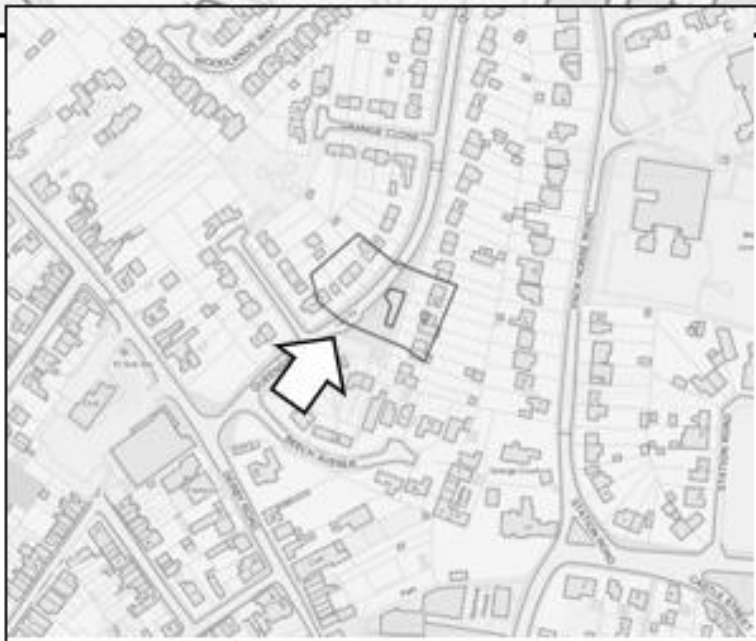
Melbourne Civic Society – The Civic Society do not like the application in its current form. The triangle of grass is the focal point and only relief to a mid-1950's development that is otherwise humdrum. The grass verges have suffered badly from car wheels already. The society, therefore, urge the Council to employ a Landscape Architect to look at the whole triangular space and see whether access to these houses (and the others) could be provided in tandem with a landscape scheme for the whole piece of land.

County Highways – The Highway Authority raise no objection but recommend a number of conditions relating to the provision of visibility splays.

Melbourne Parish Council – The Parish Council raise no objection but request conditions that; a). the tarmac is replaced with grasscrete; b). parking is not permitted on the new access, the work is to permit access to the site only; c). there is protection for the existing tree; d). to cordon the area off for the protection of area, similar to the scheme opposite where bollards are in situ in order to be in keeping with the existing area.

Environmental Health – The Environmental Health Officer has no comments in regard to this application.

DMPA/2020/0970 – 24 Queensway, Melbourne, DE73 8FG



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A total of 3 public responses have been received on the application. A summary of the key issues raised in the responses, are as follows:

- The green space is used as a play area for local children.
- Potential increase in surface water flood risk to the area.
- Impact on the trees located within the site.
- Concerns on use of road as parking.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

(2016) Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), INF2 (Sustainable Transport) BNE1 (Design Excellence)

(2017) Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development).

Melbourne Neighbourhood Plan – OS1 (Local Green Spaces)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

South Derbyshire Design Guide SPD (Design SPD)

Planning considerations

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

- Principle of development
- Highway safety
- Drainage
- Other considerations

Planning assessment

The planning application seeks permission for the creation of a hard surfaced vehicular access that will be located to the front of properties 20-28 Queensway, Melbourne. The frontage is currently comprised an area of greenspace and the properties are not directly accessible by vehicle from the road.

The proposed development will include the provision of a 6m wide road with soakaway. This will also include the creation of a new access (4.5m width) directly on to Queensway, which will include a dropped curb. The road will be constructed using tarmac.

Ultimately, the proposed development will result in an improvement to the existing access arrangements at the site. The proposals will prevent the property owners from having to unsafely mount the curb and drive across the green space to access their homes.

It has been highlighted to the Council that the green space that will be affected by the proposed development is used as a play area for local children. The proposals would, however, prevent vehicles from accessing the properties in an unsafe manner, and therefore, will create a safer environment for children.

The Highway Authority have reviewed the proposals and raise no objection. However, they have requested a condition is applied, which requires that the access visibility splays are maintained and free from obstruction throughout their lifetime.

There is a large tree located within the green. This will be retained as part of the proposed

development. The extent of the proposed access road is located a sufficient distance away from the tree. The foundation works will be at a depth of 225mm. The proposed access is not therefore considered to impact on the established root system of the tree.

Whilst the proposed development will result in an increase in impermeable surface, the site is not in an area of elevated surface water flood risk and the proposals include the provision of soakaways that will ensure that any surface can be appropriately drained from the access road.

It should be noted that the application site is not a designated green space within either the Local Plan or the Melbourne Neighbourhood Plan, and therefore, is not protected by any policy.

Conclusion and Planning Balance

The application will result in an area of hardstanding on a currently open area of land. This will result in some change to the character and appearance of the area. The open space is not protected by any policy designation and the hard surfacing will result in an improvement to both highway and pedestrian safety by providing a safe vehicle access point to the properties. The tree on the southern edge of the site will not be adversely affected by the proposed works.

On the basis of the above, the proposed development is considered to be acceptable.

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

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 works hereby permitted shall be carried out in accordance with the Site Plan (received by the Council on 3rd December 2020) and the Specification of Works (received by the Council on 9th September 2020) unless as otherwise required by condition attached to this consent.

Reason: For the avoidance of doubt.

3. The provision of 2m x 2m x 45° pedestrian intervisibility splays on either side of the access at the back of the footway shall be provided before the development is first brought into use and the splay areas shall be maintained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.

Reason: In the interests of highway safety

Item No. 1.9
Ref. No. [DMOT/2023/1423](#)
Valid date: 06/11/2023
Applicant: Gareth Haines
Proposal: The felling of a Sycamore tree at 54 Main Street, Newton Solney, Burton On Trent, DE15 0SJ
Ward: Repton

Reason for committee determination

The item is presented to the Committee as the applicant related to Councillor Kerry Haines.

Site Description

The sycamore T1 is on the frontage of the site adjacent to the boundary with the Hawthorns and is growing within the group of ornamental Highclere holly and an early mature yew. The tree is mature with an estimated stem diameter of 40cm, height of 15.0m and average crown width of 7.0m. There is a bark wound at the base of the main stem that will become decayed in time. The crown of the sycamore T1 is suppressing a better-quality ornamental Highclere holly tree and an early mature yew and growing over the boundary of the neighbouring property The Hawthorns.

The proposal

This is a notification to allow the felling of 1 no. Sycamore (T1) in a Conservation Area.

Applicant's supporting information

The applicant has an arboricultural report in support of the application,

Relevant planning history

None relevant.

Responses to consultations and publicity

SDDC Tree Consultant - recommends consent is granted to fell the sycamore

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

Local Plan Part 1 (LP1): BNE4 (Landscape Character and Local Distinctiveness)

Local Plan Part 2 (LP2): BNE7 (Trees, Woodland and Hedgerows)

The relevant local guidance is:

Newton Solney Conservation Area Character Statement

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/2023/1423 – 54 Main Street, Newton Solney



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Planning considerations

In taking account of the submitted documents and individual site circumstances, the main issues central to the determination of this application is whether the proposed works are appropriate, given the Conservation Area situation and whether public amenity offer is compromised, to the point where a Tree Preservation Order (TPO) is required.

Planning assessment

The proposed works consist of the felling of 1 no. Sycamore (T1) which is suppressing a better-quality ornamental Highclere holly tree and an early mature yew and growing over the boundary of the neighbouring property (The Hawthorns).

The tree has a TEMPO score of 5 and therefore is not considered worthy of protection by way of a TPO.

The works are considered necessary in order to avoid damage to properties and adjacent healthy trees.

It is considered that the removal of the Sycamore is proportionate and appropriate for the long term health and wellbeing of the trees in the area. The removal would have no significant impact on biodiversity given the heavily treed context and it is not considered that a TPO is warranted in relation to this tree.

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.

Informatives:

- a. The work hereby approved shall be carried out within two years of the date of this consent.
- b. The works shall be carried out in accordance with BS3998:2010 - Tree Work
- c. The decision relates only to the tree listed in the description. Other trees on the site are covered by Derbyshire County Council TPO 157 which will require a separate application to be made to Derbyshire County Council.

Item No. 1.10

Ref. No. [DMPA/2023/1240](#)

Valid date: 28/09/2023

Applicant: Kalila Storey

Agent: Catherine Shipman

Proposal: Replacement window at 25 Church Street, Swadlincote, DE11 8LE

Ward: Swadlincote

Reason for committee determination

The applicant is SDDC Councillor Storey (elected member).

Site Description

The site to which this application relates is within the Swadlincote Conservation Area, and is subject to an Article 4 Direction. The property is a red brick semi-detached dwelling, with existing white uPVC windows.

The proposal

The proposal seeks approval for the replacement of one rear elevation white upvc bedroom window with a white grained vertical sliding sash window with run through sash horns and white grained external and internal appearance.

Applicant's supporting information

- Application Form dated September 2023
- Location Plan and Block Plan dated September 2023
- Proposed Elevation dated September 2023
- Product Specification dated October 2023

Relevant planning history

No relevant planning history.

Responses to consultations and publicity

SDDC Conservation Officer - No Objections. The scheme should not result in any material harm to the host dwelling or character and appearance of the Conservation Area.

One comment was received from a member of the public questioning whether planning approval is required as it appears to be a like for like replacement.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

Local Plan Part 1 (LP1) (2016):

- S2 (Presumption in Favour of Sustainable Development),
- SD1 (Amenity and Environmental Quality)
- BNE1 (Design Excellence).

DMPA/2023/1240 – 25 Church Street, Swadlincote, DE11 8LE



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- BNE2 (Heritage Assets)

Local Plan Part 2 (LP2) (2017):

- H27 (Residential Extensions and other Householder Developments)
- SDT1 (Settlement Boundaries and Development),
- BNE10 (Heritage).

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

Additional local guidance is provided within the following:

South Derbyshire Design Guide Supplementary Planning Document (SPD).
Swadlincote Conservation Area Management Plan

Planning considerations

- Principle of the proposed development
- Impact on the host dwelling and the character and appearance of the Conservation Area
- Impact upon residential amenity

Planning assessment

Site and context

The site is a semi-detached red brick dwelling with existing white upvc windows. The property is located within the Swadlincote Conservation Area and is therefore subject to the Conservation Area's Article 4 Direction. The properties along Church Street are similar in character and age, whilst also displaying a mix of material types and colours through latter additions to bay windows and window styles, as well as paint work and finish to cills, windows, doors and bays.

The application seeks approval for the replacement of a rear elevation window which is currently white upvc, to a white grained upvc window constructed as a vertical sash.

Impact upon the living conditions of the adjacent and adjoining properties, and the character and appearance of the Conservation Area

The proposed window is a replacement only, and the applicant does not therefore propose any new openings or other structural works to the building. Adjacent properties have made use of various window styles, materials and colours, which results in less uniformity along the Article 4 buildings. Therefore, there is some flexibility in design and material use with regards to glazing.

It is considered that the change from white storm proof upvc to white grained sash upvc is appropriate in this instance as it should not result in the removal of historic fabric and should appear subservient to the host dwelling, its neighbouring dwellings, and the wider Conservation Area.

Impact upon residential amenity

As it is a replacement only, the proposed replacement window should not result in any material changes to neighbouring amenity in terms of overlooking or overbearing, and should not alter the

relationship with the heritage features of the host dwelling or wider Conservation Area.

Conclusion and planning balance

As assessed above, the character of the existing building would be preserved by the sympathetic window replacements proposed and as a result there would be a negligible impact on the existing street scene and the general character of the area. There would be no immediate public views of the proposed alteration from the Conservation Area due to the location and orientation of the building.

The proposal would therefore be considered to be in accordance with the requirements of NPPF and with the objectives of Policy BNE1 and BNE2 of the LP1 and Policy H27 and BNE10 of the LP2 in that the proposed development would be in keeping with the character of the existing host and would not be unduly detrimental to the living conditions of adjoining properties or the general character of the area. It is considered that the proposal would conform to Policy SD1 of the LP1 in that it would not lead to adverse impacts on the environment or amenity of existing and future occupiers within and around the proposed development, and is therefore recommended for approval.

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

Recommendation

Grant planning approval 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 ref. Application Form; Block Plan; Proposed Elevation no.01., and Product Specification received by the Local Planning Authority on 19 October 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.

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 5
DATE OF MEETING:	09 JANUARY 2024	CATEGORY: DELEGATED
REPORT FROM:	HEAD OF PLANNING AND STRATEGIC HOUSING	RESTRICTED
MEMBERS' CONTACT POINT:	JESSICA CHEADLE Jessica.cheadle@southderbyshire.gov.uk	DOC:
SUBJECT:	SECTION 106 VARIATION – LUCAS LANE, HILTON	REF: DMPA/2019/1143
WARD(S) AFFECTED:	HILTON	TERMS OF REFERENCE:

1.0 Recommendations

- 1.1 That the Committee approves the request to amend the Section 106 Agreement (S106) by means of Deed of Variation (DoV) to include the model National Housing Federation (NHF) Mortgagee in Possession (MiP) clause into the agreement and other strategic housing plan as considered relevant by the Strategic Housing Team including in relation to the changes to the housing mix approved by the Council pursuant to the reserved matters approval under application reference number DMPA/2021/1277 (RMA).
- 1.2 That the Committee delegate authority to the Head of Planning and Strategic Housing to agree the finer detail and wording of the obligations to be secured under the DoV.

2.0 Purpose of Report

- 2.1 To inform the Committee of the proposed changes to the S106, primarily the inclusion of a MiP clause and the changes to the housing mix pursuant to the RMA.

3.0 Background

- 3.1 Members may recall that the site, known as Land at Lucas Lane was granted planning permission in September 2020 for up to 57 homes within Hilton. The original S106 agreement called for a 30% affordable housing contribution, with a tenure mix of 68% of the affordable homes provided as social rent homes and 32% provided as shared ownership homes within South Derbyshire.

4.0 Discussion

- 4.1 The Strategic Housing Team have been approached by the Affordable Housing Provider (AHP) who are in contact to purchase the affordable homes on the site. They would like to propose a variation to the formally agreed affordable housing definitions across the development being undertaken by Morris Homes by means of a DoV.

- 4.2 The proposed change would include a standard MiP clause, which means that in the unlikely instance that the AHP defaults on their loan payments or mortgage terms, their lender can take control of their affordable housing assets against which the loan is secured.
- 4.3 In such instances, the clause offers protection and allows for another AHP, including the Council, to purchase the affordable homes within a specified time period, however, in circumstances where a buyer cannot be found, the lender is free to sell the homes without the affordable housing restrictions to allow them to regain some or all of the loan provided.
- 4.4 The Council now includes the MiP as a standard clause in all S106 agreements in order to allow an AHP to borrow money to purchase the S106 affordable homes on sites. This S106 agreement pre-dates the use of this clause, and therefore these changes seek to rectify this.
- 4.5 The Strategic Housing Team would like to take the opportunity to update the S106 to be more aligned with current working practice by making other minor amends to the agreement.
- 4.6 The Strategic Housing Team are content that the changes to the housing mix pursuant to the RMA are minor and consistent with local housing requirements.

5.0 Financial Implications

- 5.1 There are no financial implications associated to the Council for this change as the costs of the DoV will be paid for by the AHP.

6.0 Corporate Implications

- 6.1 None.

7.0 Community Implications

- 7.1 There would be the same number of affordable homes delivered on the site.

8.0 Background Information

- a. Section 106 Agreement:

<https://southderbyshire.my.site.com/s/planning-application/a0b4J000000Hgpz/dmpa20191143>