

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/2023/0906	1.1	Etwall	Etwall	8
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DMPA/2023/1374	1.3	Linton	Linton	21
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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
BNG	Biodiversity Net Gain
PRoW	Public Right of Way
POS	Public Open Space
LAP	Local Area for Play
LEAP	Local Equipped Area for Play
NEAP	Neighbourhood Equipped Area for Play
SuDS	Sustainable Drainage System
LRN	Local Road Network (County Council controlled roads)
SRN	Strategic Road Network (Trunk roads and motorways)
DAS	Design and Access Statement
ES	Environmental Statement (under the EIA Regulations)
FRA	Flood Risk Assessment
GCN	Great Crested Newt(s)
LVIA	Landscape and Visual Impact Assessment
TA	Transport Assessment
CCG	(NHS) Clinical Commissioning Group
CHA	County Highway Authority
DCC	Derbyshire County Council
DWT	Derbyshire Wildlife Trust
EA	Environment Agency
EHO	Environmental Health Officer
LEP	(D2N2) Local Enterprise Partnership
LLFA	Lead Local Flood Authority
NFC	National Forest Company
STW	Severn Trent Water Ltd

Item No. 1.1

Ref. No. [DMPA/2023/0906](#)

Valid date: 08/09/2023

Applicant: Derek Fentem **Agent:**

Proposal: The erection of a 1.5 storey bungalow with associated parking at 20 Mansfields Croft, Etwall, DE15 6NJ.

Ward: Etwall

Reason for committee determination

The item is presented to committee at the request of the Head of Planning and Strategic Housing as one of the objectors is an employee of South Derbyshire District Council.

Site Description

The application site is triangular shaped parcel of land comprising the eastern part of the side and rear garden at 20 Mansfields Croft. The site located within the settlement boundary of Etwall, with the northern boundary of the plot fronting onto Hilton Road. The land levels of the plot and those surrounding it are elevated from Hilton Road.

The proposal

Permission is sought for the erection of a 1.5 storey bungalow in the rear garden of 20 Mansfields Croft. It is proposed that the dwelling will front onto Hilton Road, with the main access, parking and turning area being from Hilton Road.

The dwelling would have a T shaped footprint with a bedroom and open plan living space downstairs and a bedroom and ensuite upstairs. The dwelling would have a pitched roof form with velux windows designed into the roofspace. There is a small amount of private amenity space to be provided located to rear and to the side of the proposed dwelling. The existing dwelling would retain a rectangular area of garden immediately to the north of the main rear elevation of the existing dwelling at 20 Mansfields Croft.

Applicant's supporting information

Planning Drawings

Site Location Plan 2023-07-53-02

Proposed Site Plan , Elevations and Floor Plans 2023-07-53-01

Topographical Survey, 6303 received 08 September 2023

Proposed Plan Indicating Visibility Splays, Parking and Turning received 09 October 2023

Supporting Documents

Design and Access Statement prepared by the applicant in support of the planning application, submitted 14 July 2023;

A supporting statement prepared by the applicant , submitted 09 January 2024 .

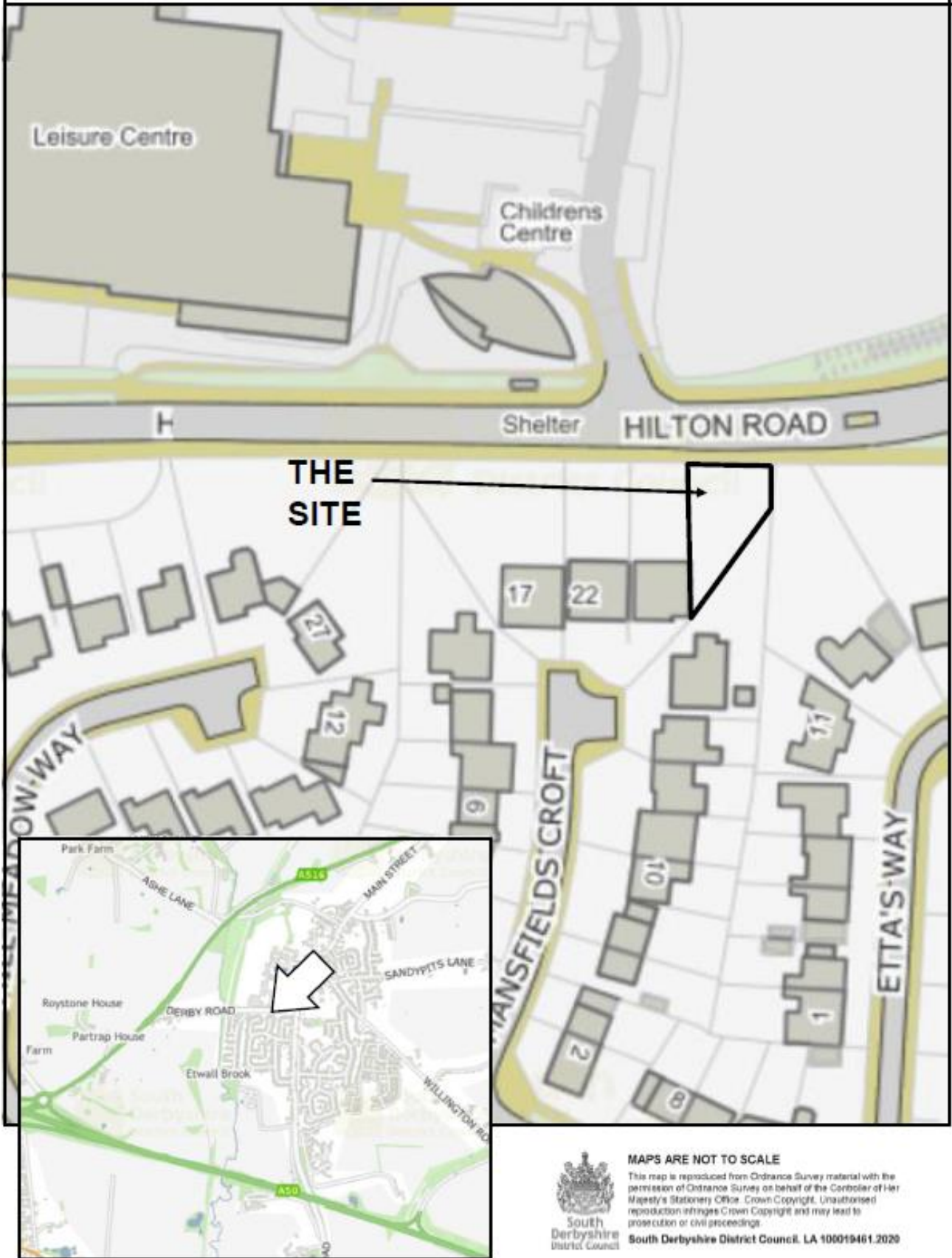
Aerial Photographs showing the application site in context with Hilton Road.

Emails between the bus company , applicant and Derbyshire County Council Public Transport Team

Relevant planning history

DMPA/2019/1243 - The erection of two storey side extension, single storey rear extension and front porch, Approved December 2019.

DMOT/2023/0906 – 20 Mansfields Croft, Etwall, Derby, DE65 6NJ



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South Derbyshire District Council. LA 100019461.2020

Responses to consultations and publicity

Derbyshire County Highway Authority

Original comments - Pedestrian visibility splays of 2m x 2m measured perpendicularly back from the back of footway shall be provided on both sides of the access. These splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above the adjoining ground level. The pedestrian visibility splays should be shown on the site layout, which should be drawn on the topographical survey and also show the vehicle visibility splays.

There is a concern that the proposed turning area is not large enough to ensure that all vehicles can enter and leave in a forward direction. The applicant is therefore requested to show the dimensions of the parking/turning area and submit swept path drawings for a large car.

It is noted that the access is located adjacent to a bus stop, the bus operator should be contacted to establish if they have any concerns.

Upon receipt of the requested information further comments will be issued.(27/09/2023)

Final comments - A response to this application was issued by the highway authority that requested additional information in respect of access and parking arrangements. This information has now been submitted and following review is considered acceptable. Therefore, there are no highway objections to the application subject to the conditions below being imposed should approval be granted.
(19/02/2024)

Environmental Health

No objection subject to conditions regarding working hours and contaminated land assessment.

Etwall Parish Council

The Parish Council object for the following reasons:

- Concerns raised regarding the proposed access onto Hilton Road, which is opposite the busy entrance to the Leisure Centre and car park for the John Port Spencer Academy. This entrance is used throughout the day and night. In addition, the proposed access is located at a point on the road where it curves rather sharply creating several blind spots for vehicles leaving the village.
- Approving a development here with the proposed access may set a precedent for other houses wishing to establish a new private access over a public footpath.
- It is believed the on-site turning area is not of sufficient size and dangerous reversing into or out of the site may take place.
- An access here would pose a serious risk to pedestrians using the footpath.

Four comments representations have been received from Neighbours and Members of the Public. The comments are summarised below.

- Policy INF2 and Highway Safety concerns especially as the proposed development entrance is located opposite a bus stop and main entrance for John Port Secondary Academy & Etwall Leisure Centre;
- The development is a backfill idea.
- The bungalow will make it impossible for use of green space in garden.
- The proposed entrance / exit is positioned just after a sweeping downhill right-hand bend therefore it would be a blind turn out of the proposed driveway with reduced visibility.
- Ecological Impacts need to be considered, especially as the Council has declared an ecological emergency.

- Potential overbearing impacts and loss of privacy upon neighbouring properties.

Relevant policy, guidance and/or legislation

The relevant development plan policies are:

- 2016 South Derbyshire Adopted Local Plan Part 1 (LP1) : S1 (Sustainable Growth Strategy) ;S2 (Presumption in Favour of Sustainable Development); S4 (Housing Strategy); H1 (Settlement Boundary); H20 (Housing Balance), SD1 (Amenity and Environmental Quality); BNE1 (Design Excellence); INF2 Sustainable Transport
- 2017 South Derbyshire Adopted Local Plan Part 2 (LP2) : SDT1 (Settlement Boundaries and Development);

The relevant local guidance is:

- The South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national planning policy and guidance is:

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

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 and residential amenity
- Access and Highway Safety

Planning assessment

Principle of the Proposed Development

The key Local Plan policies to consider are S1, S2 and S4 which encourages growth to take place to meet its objectively assessed housing needs within the plan period, whilst the housing provided is being developed in a sustainable manner. The proposed application site is within the settlement boundary of Etwall, which is a Key Service Village under policy SDT1 and H1. In principle, both policies support development within the settlement boundary as defined within the accompanying policies map whereby the proposal accords with other policies of the development plan and national policy. In addition, key policies to consider from the development plan are H20, SD1 and BNE1 alongside the Design Guide SPD. This planning application is submitted in full, providing the detailed design, layout and access details.

Therefore the principle of the proposed development is deemed acceptable subject to the above policies and other relevant policies of the development plan, national guidance alongside material considerations.

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

The proposal that is submitted is for a new two bedroomed 1.5 storey bungalow within the rear garden of 20 Mansfields Croft. The current garden will be divided to allow for the new development, with the access for the property being onto Hilton Road. Due to the change in land levels towards Hilton Road, there is a stepped access from the private amenity space and the property to the driveway. This together with the siting of the dwelling to the rear of the existing property at 20 Mansfields Croft, results in the new dwelling being prominent when viewed on the street scene from Hilton Road. The proposed dwelling is set closer to Hilton Road than other dwellings that can be viewed from the street scene to the south of Hilton Road. The size and triangular shape of the plot, the siting of the dwelling and its elevated position, would in combination, result in a form of built development that is harmful to the spacious landscaped character of the garden areas on this section of Hilton Road. It is acknowledged that the residents with properties backing onto this section of Hilton Road can erect domestic curtilage buildings in their gardens, albeit that most would need planning permission. The outbuilding to the rear of 20 Mansfields Croft (ref 2023/1376) was granted planning permission at committee recently, but only on the basis of a condition requiring additional screening to the building. The reason for this was in the interests of the visual setting of the development and the amenity of the occupants of the neighbouring property. With a 1.5 storey proposed dwelling, it will not be possible to screen this to the same extent given its scale and more substantial footprint.

The application would therefore result in an unacceptable change in the visual character of the main Hilton Road. This is considered to be contrary to policy BNE1 e) and g) which requires new development to respond to their context and that new development should contribute to achieving continuity an enclosure within the street scene. With regard these policies it is considered that the size and shape of the proposed plot is out of character with the other gardens backing onto Hilton Road. It is however, considered whilst modest the dwelling has adequate outdoor space.

Policy SD1 states the Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers, and Policy BNE1 h) states that new development should not have an adverse effect on the privacy and amenity of existing nearby residents or occupiers, and also that the occupiers of new development should not be unduly affected by neighbouring land uses. These policies are supplemented with the Councils adopted Design SPD. The effect on the host dwelling (20 Mansfields Croft) needs to be considered. In line with guidance in the Design SPD, a 45-degree line has been drawn from the centre point of the existing patio doors of the host dwelling to the proposed dwelling, and it is considered that there is a breach in the 45-degree guidance. Even allowing that the roof of the proposed dwelling will slope away from the new boundary with this property, the siting and scale of the property together with its proximity to the boundary will add to the enclosure of the main rear elevation of No.20 Mansfields Croft and will amount to an unacceptable overbearing effect contrary to Policies SD1 and BNE1(h) of the Local Plan, together with the Design SPD.

In terms of the impact on neighbouring properties, to the west elevation, facing the boundary with 20 & 22 Mansfields Croft blank elevations are provided to help maintain the privacy with two Velux windows to the roof of the property. To the south of the property facing the boundary with 18 Mansfields Croft, it is proposed for a kitchen to the downstairs, which will have a three-pane bi-fold door facing onto the patio and amenity garden area. In accordance with BNE1, the distance guidelines are maintained, and the property is facing onto blank elevations of 18 Mansfields Croft with suitable screening in between. To help ensure the privacy is maintained with the upstairs ensuite window, with other matters addressed, it would be possible to condition this to be obscurely glazed. Consequently, it is not considered that the proposed dwelling results in unacceptable impacts on dwellings other than the property at No.20 Mansfields Croft.

Access and Highway Safety

The proposed access for the new dwelling is from Hilton Road. In accordance with the South Derbyshire Design SPD the Council encourages two car parking spaces per dwelling, the applicant has

submitted a site plan illustrating two car parking spaces in accordance with the SPD. Following consultation with Derbyshire County Council Highway Authority it was requested that a plan showing the visibility splay to be provided and the dimensions of the parking area to be provided. Upon receipt of this a further consultation was undertaken whereby no objections were raised subject to conditions.

It was advised for views to be sought from the Bus Operator (Trent Barton) as to whether they are concerned as to the potential implications of the driveway entrance on the nearby bus stop. Documentation was provided showing no objection from Trent Barton stating that this is a matter for Derbyshire County Council, whom their Public Transport Team confirmed that there is no objection to a vehicle crossing at this location as long as it is clear of the boarding area of the bus stop. In accordance with the proposed plan, there will be six kerb lengths space at minimum provided on Hilton Road in order to allow a clear boarding area for the Trent Barton V1 Bus.

The proposal is therefore considered to comply with Policy INF2.

Conclusion and Planning Balance

For the reasons set out above, it is considered that the proposal will not have an adverse impact upon the highway safety of the surrounding area, including that of Hilton Road. Whilst the dwelling is acceptable in terms of potential overlooking impacts and will have the benefit of providing a new dwelling in a sustainable location, this is considered to be outweighed by the harm to the host dwelling by reason of overbearing impacts and the adverse impacts on the character and appearance of the wider area. The application is considered to be contrary to policies SD1 A, BNE1 parts e), g) and h), the South Derbyshire Design SPD, and the NPPF para 128 - 130 and supporting guidance in the PPG.

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. 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

Refuse

1. Policy SD1 states the Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers, and Policy BNE1 h) states that new development should not have adverse effect on the privacy and amenity of existing nearby residents or occupiers and that the occupiers of new development should not be unduly affected by neighbouring land uses. It is considered that due to its size, siting and proximity to the main rear elevation of 20 Mansfields Croft the proposed dwelling would have an unacceptably overbearing and oppressive impact on the amenities of this property contrary to Policies SD1 (A) and BNE1 (h) of the Local Plan part 1 and advice in the National Planning Policy Framework and associated Planning Practice Guidance (PPG)
2. Policy BNE1 e) and g) requires new development to respond to their context and that new dwellings should contribute to achieving continuity an enclosure within the street scene. It is considered that the application would result in an unacceptable change in the visual character of the main Hilton Road. It is considered that the size and shape of the proposed plot, and the scale and prominent location of the proposed dwelling, will be out of character with the other properties in the immediate area with their gardens backing onto Hilton Road. The development would therefore be contrary to policies BNE1 e) and g) of the Local Plan part 1, the South Derbyshire Design Supplementary Planning Document, paragraph(s) 128-130 of the National Planning Policy Framework (NPPF) and associated Planning Practice Guidance (PPG).

Item No. 1.2

Ref. No. [DMPA/2023/1519](#)

Valid date: 23/11/2023

Applicant: Janet Clarke

Agent: JSA Architects

Proposal: Partial demolition of external walls to form porch and private terrace, internal alterations to facilitate mezzanine floor over part of rear reception room, and external remodelling with render and timber cladding and replacement windows at 2 Lawnswood Close, Etwall, Derby, DE65 6QH

Ward: Etwall

Reason for committee determination

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

Site Description

2 Lawnswood Close is one of seven detached houses built approximately 15 years ago. Two of the seven face onto Burnaston Lane; the remaining five, of which one is the subject of this application, is accessed off a private way. The overall site was once rear garden land belonging to properties on Lawn Avenue. Those gardens were divided however to create a new site on which the houses (now primarily Lawnswood Close were built).

No 2 is specifically a two-storey property with some parking space to the front, an integral garage and some rear garden space. The area front of the property could be described as open in character with little or no discernible boundary treatment. Thereafter the five properties accessed off the private way afford an easterly outlook over open countryside. As pointed out before however their rear gardens butt up to the rear gardens of the properties on the eastern side of Lawn Avenue.

The site falls within the defined settlement boundary of Etwall Village. There are no public footpaths near the site.

The proposal

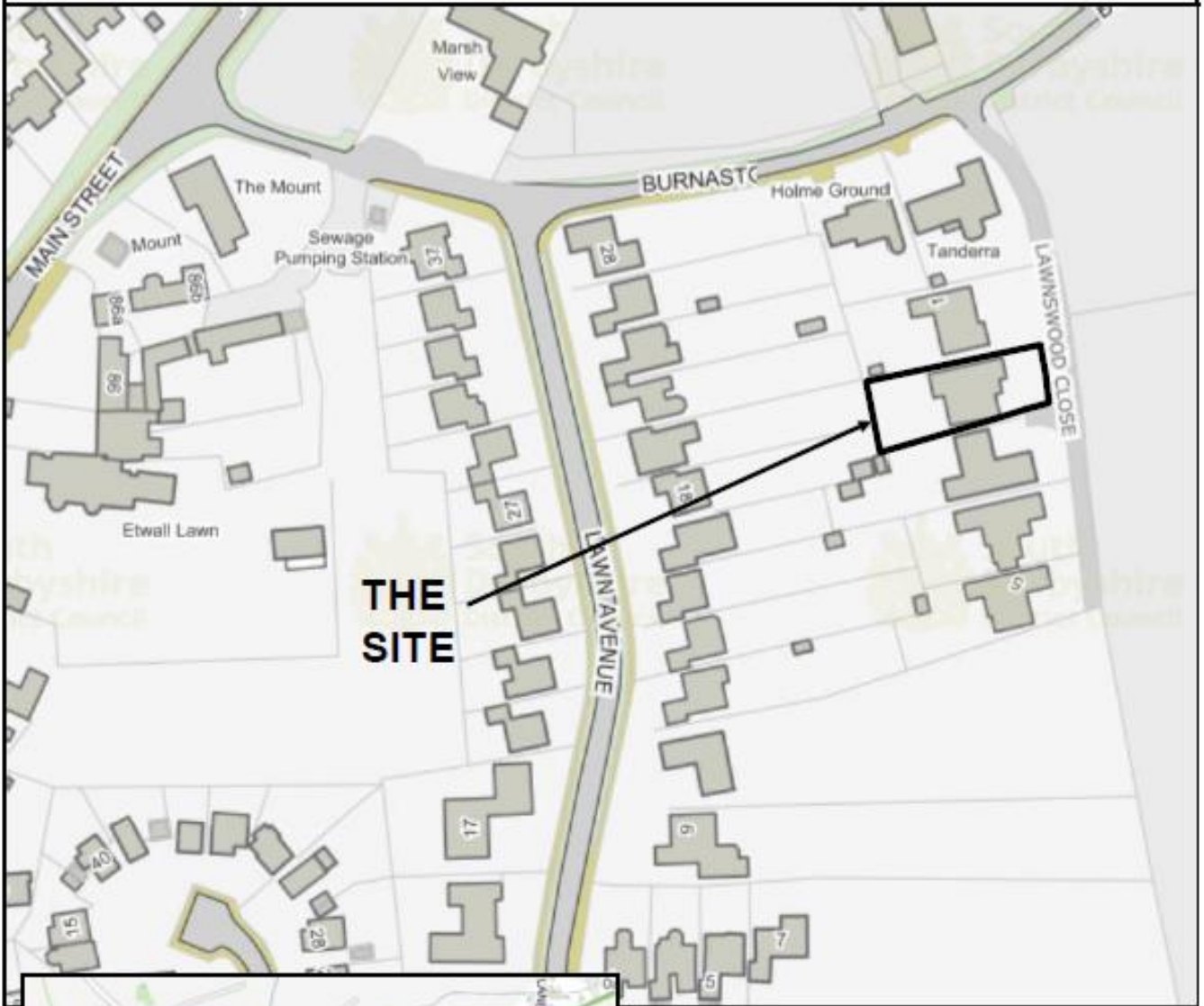
The proposal includes several elements but very little in way in extension, more remodelling of the current interior and exterior. From the front the external changes include a revision to the central gable to create a new porch with terrace over and an amalgamation of two garage doors into one. There would also be changes to the windows, not so much in size but form; and the adding of a new skin to the property, covering up the current brick finish with render at ground floor and timber clad at first floor. To the sides and the rear there would be similar changes, covering up parts of the brickwork with timber and clad and the introduction of a brise soleil over the upper part of the main full height/feature window in the rear facing gable.

Internally the plans show primarily the introduction of a mezzanine floor 'over' part of the rear reception room. There is the capability to do this as the reception room has a vaulted ceiling. The mezzanine space would have sloping walls in part however, effectively part situated up in the eaves. The mezzanine would not cover the whole of the reception space underneath, more it designed to leave an area of void so would sit back from the existing gable window and roof lights.

Applicant's supporting information

The applicant has submitted drawing number 305 Revision B which details the proposal but also more latterly adds a prescribed set-back off 60cm from the mezzanine balustrade and the nearest edge of the existing side facing roof lights.

DMOT/2023/1519 - 2 Lawnswood Close, Etwall, Derby, DE65 6QH



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Relevant planning history

2001/0665 Outline – Approved the principle to develop the land here.

2003.0414 Details – erection of 6 dwellings - approved

2007/1454 F – The erection of one dwelling (now known as 2 Lawnswood Close) – approved Feb 2008. There are no restrictions in regards permitted development attached to this decision.

Responses to consultations and publicity

5 Neighbours returned comment/objection:

- Concern that the position of the existing rooflights is inconsistent between the submitted floor plans and elevations; and that the new mezzanine space could result in a loss of privacy to their main living area and patio space (the patio immediate to the back door). The proximity of those windows/view to the shared boundary would exacerbate that concern;
- Objection questioning the lack of consultation. The objection continues stating the render will have an enormous visual impact on habitable rooms at the rear of their house; and that the terrace will cause a loss of privacy to nearby gardens and windows;
- Concern that the development would be out of character, as it's always been, not up to the standards that others in the close had to adhere to – i.e. their designs had to be rustic reflecting the edge of countryside situation whilst this house did not have such restrictions placed on it. Now some time on we're faced with this application which would introduce materials out of keeping (render and cladding) with the brick of those buildings adjacent and subsequently stick out like a sore thumb, visible from great distance. The objection continues (as above) that the terrace would cause overlooking of a main bedroom and that the mezzanine would allow a view over the rear lounge area;
- Parking concern if the craft room is used for others (not just the occupiers);
- Timber structure of host may not lead to alteration as easily as thought;
- Concern over construction/contractor vehicles and maintaining of fair access during any works/deliveries;
- The elevated view from the mezzanine would impact on the privacy I enjoy in my garden and the trees that currently offer a level of screening here will not be around forever. The same comment continues believing there were to be no windows at first floor etc that could look back towards Lawn Avenue from an elevated level unless obscure or Velux style.

Relevant policy, guidance and/or legislation

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

South Derbyshire Local Plan – Part 1

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

- INF2 Sustainable Transport

South Derbyshire Local Plan - Part 2

- SDT1 Settlement Boundaries and Development
- 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
- Impact on residential amenity
- Adequacy of parking provision

Planning assessment

Main Issues

Principle of the proposed development

Policies H27, BNE1, and SD1 of the development plan support in principle householder development, where it does not harm the character and appearance of the host dwelling and the character of the area, is of an appropriate design quality and is not unduly detrimental to the living conditions of adjoining properties. The SPD reinforces policies H27, SD1, and BNE1 by citing the importance of design, context, amenity and impact upon the host dwelling in the decision-making process.

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

As raised before, there is no significant change to the mass/built silhouette proposed here, rather primarily, alterations from an external/cosmetic and internal/layout point of view. It is noted that there was a design code (of sorts) in place in respect of the new dwellings (as raised by an objector) when first approved back in 2001, to help soften impacts on the landscape, but these houses do not read as farm outbuilding conversions (despite the hard work of the development group at the time), nor are they part of the Conservation Area. After 15 or so years they continue to assimilate well in the context but that is mainly down to their low-lying nature and general situation (accessed off the main road down a private drive). Their finish thereafter is certainly quite grand with large gables with large windows/balconies etc at first floor level, those parts not particularly rural features. Fortunately, those deemed grander elements are screened, by distance from the public realm and intervening hedgerows. It should also be reiterated the situation is edge of village and within the development boundary, not in the Countryside and that render/painted brick is prevalent in Etwall, especially in the Conservation Area.

The main change from an external point of view is the introduction of a render skin to the lower part of the property and use of timber clad to the upper floor. Monocouche type render is suggested by the agent which in most parts allows for a high-end finish whilst the timber clad could be controlled by condition but would read as a softer finish. The same can be said for the windows, still sizeable but with grey coloured recessive frames. There is an argument to say the change to the windows would soften their impact when viewed across the fields etc.

The change to the garage is of no significant consequence, each house in the street different in design from the other whilst the porch/terrace over are considered proportionate to the host mass.

The cosmetic changes to the rear feature more timber than render and so would not create such a visual 'glare' as to adversely affect the character here, more so when viewed from the properties on Lawn Avenue with 50m+ separating with some vegetation further softening impacts.

The remainder of the works here are internal and such not visible publicly to where character would be affected.

Impact on residential amenity

Given the lack of new built form here, the changes are unlikely to overbear or overshadow. With the introduction of a terrace though and the construction of the mezzanine, privacy impacts should be closely assessed.

The small terrace space to the front would allow an occasional view towards the 'side facing' windows at No3 (two bedroom windows at first floor and a ground floor study space). Whilst a modest screen on the terrace would have softened impacts, given the balcony is to the front of the house, in an area where privacy is not as high (with people regularly coming and going in and around that space) as say a rear garden space, a screen is not deemed essential. Certainly, a different view would have been taken if it had indeed looked directly into a primary window, of which the bedroom in question affords, but that room's largest (and primary aspect) looks out to the east and would continue to do so/not unduly affected in any way. SPD also does give a steer here where an adjacent primary room affords more than one outlook, solely protecting the main opening with an on its merits assessment allowable on side facing/second openings. With that in mind, some effort was made to seek some screening, but the agent feels it would not suit the proposed aesthetic of the project.

In respect of the impacts from the mezzanine, any elevated view towards the houses on Lawn Avenue would be well in excess of the SPD requirements where a new outlook (from first floor level) allows a direct view. At well over 50m separation, that level of distance is seen to be sufficient to reduce impacts to a non-significant level. SPD asks for a minimum of 21m in such a case.

The potential for the mezzanine to utilise the immediate roof lights (and look over the adjacent neighbours) has been carefully considered and again a request was made of the agent to consider some obscure glaze. This has not been offered though. What has been offered is a set-back (of the mezzanine balustrade) from the roof lights of some 60cm which would remove a direct view of the adjacent primary spaces but leading to something more oblique/peripheral, in accord with the sector of view requirements of the SPD. To that end, privacy to the adjacent spaces would be maintained at a fair level in accord with the requirements of the SPD, a mind that the addition of a mezzanine could actually be achieved by way of permitted development anyway, without control. To offer a setback as such is seen as a reasonable offer from the applicant/agent.

Adequacy of parking provision

It is considered that the proposal does not alter the current situation in regards parking, adding no extra bedrooms, nor altering the garage space/frontage to where current provision would be compromised. Comment was raised about how the craft room may be used but there is no evidence that this is anything other than a personal hobby space.

Concluding comments

Overall, due to the modest but useful mitigation in respect of the balustrade set-back and the factors in play respect of the front terrace and its more public situation, it is not considered that the proposal would not lead to an unacceptable loss of privacy to neighbouring properties. For the reasons set out above it is also considered that the proposal will not have an adverse impact upon the host dwelling, character and appearance of the area and therefore the accords with the aforementioned policies of the development plan, rendered properties found in the countryside/sensitive locations.

Regarding concerns raised by neighbours, some of the points raised have been touched on above. In respect of appropriate consultation however, all neighbours within 4m of the site were consulted, in line with the Statement of Community Involvement.

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

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 ref 101 and 102 - Revision A received 24 November 2023 and 103 Revision B received 6 February 2024 (confirming the minimum 600mm balustrade set back from the nearest edge of the closest light as detailed on the floor plan part); 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 their incorporation into the extension hereby approved, details (including colour) and/or samples of the external finishes (monocouche and clad) 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, a preference that the monocouche should be painted an off white, rather than a stark bright white.

Reason: In the interests of the amenity and general character of the area.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the mezzanine hereby permitted shall not be enlarged, extended or altered, beyond that detailed on the approved plans as part of this application.

Reason: To maintain control in the interests of the residential amenity of the area.

Informatives:

Through neighbour consultation, concern was raised in respect of the shared driveway/access road in respect of contractor vehicles etc. Whilst the issue raised is not specifically material from a planning perspective, some

consideration of the shared spaces here would be greatly appreciated. It should be noted though this is a private matter.

Item No. 1.3

Ref. No. [DMPA/2023/1374](#)

Valid date: 06/11/2023

Applicant: W&S Cooper

Agent: Gwynfor Humphreys

Proposal: Change of use from a dwelling (use class C3) to a Children's Home (use class C3b) at 37 Winchester Drive, Linton, Swadlincote, DE12 6PP

Ward: Linton

Reason for committee determination

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

Site Description

The application site is located on the northern side of Winchester Drive, inside the settlement boundary for Linton, a key service village. The site comprises a semi-detached dwelling with a parking area in front and amenity space to the rear. A large single storey adjoining garage is located on the western side in between the site and no. 35. The floor plan currently incorporates 3no. bedrooms and a bathroom at first floor level, 1no. reception room, kitchen, garage space and W/C at ground floor level.

The proposal

The proposal is for the change of use of the building from a dwelling (use class C3) to a children's home (use class C3b). There would be no external alterations to the building as part of the change of use. The home would be occupied by 1no. child with a staffing ratio of 2:1 ie. 2 carers to the 1 child. The Block Plan shows that there would be parking for 3. no vehicles.

Applicant's supporting information

Planning Application Drawings

- Location Plan (received 30/10/2023)
- Block Plan (received 30/10/2023)
- Existing and Proposed Floor Plans (received 30/10/2023)

Management Statement

This document has been prepared by the applicant. It sets out how information about the property and staffing information. (30/10/2023)

Additional Statement

This document has been prepared by the applicant. It sets out further information on staffing, shift patterns, traffic movements and parking, and other supporting information including the OFSTED rating (15/11/2023)

Email from Agent: Response to Consultation Feedback

Clarifications from the agent on the proposed use class and management of noise/disturbance (13/12/2023)

Relevant planning history

N/A

Responses to consultations and publicity

DMPA/2023/1374– 37 Winchester Drive, Linton, Swadlincote, DE12 6PP



South
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Linton Parish Council

Objection to planning application DMPA/2023/1374 - Change of use from a dwelling (use class C3) to a Children's Home (use class C3b) - 37 Winchester Drive, Linton, Swadlincote, DE12 6PP

Linton Parish Council are not in agreement to the above application and would strongly object on the following grounds:

The Plans attached to the application when viewed by Councillors, prior to them making a decision, were not plans for 37 Winchester Drive, Linton. The plans shown were for a property in Welshpool. We note that this information has since been removed and correct plans have been added, but this does beg the question as to who is responsible for checking what information is provided to make sure that it is correct.

In light of this, the Parish Council have requested that District Councillor Alistair Tilley calls this application before a full Planning Committee Meeting for a decision to be made. We do not agree that this decision should be made under delegated authority by an officer alone.

1. Winchester Drive, Linton is a residential area and in our opinion it is not a suitable place for a Children's Home. In our opinion it will have a negative effect on amenity (neighbours and community), which if granted would include noise disturbance regarding shift changes.

2. The proposal is totally out of character for the area, and we feel it will have a negative/adverse impact to the surrounding residents in that particular locality. If the application were to be passed it would be entirely to the detriment of all local residents who have for many years enjoyed living in a community-spirited, quiet residential area.

3. Parking is also a concern as the properties were built entirely for residential use and as such are not intended to be used by companies to operate businesses from. No staff would be permanently living in the premises as the staff rota will operate on a shift basis. This will increase the traffic in that area, with the comings and goings, which is not acceptable.

4. The Parish Council and residents are also very concerned about any anti-social behaviour that could arise if the property was converted to a Children's Home.

For the above reasons the Parish Council would strongly suggest that this application be refused.
(05/12/2023)

County Highways Authority

It is understood that there will be a maximum of 3 staff on site at any time. It is clear that on site parking is available for 3 cars which is considered satisfactory to serve the proposed development. The proposed use of the property may increase vehicle movements above that generated by a 3 bed residential dwelling but any increase would be minimal and, given that Winchester Drive is not a through route, would not be detrimental to the operation of the road network or on road safety. Taking the above into account there are no highway objections to the planning application. (29/11/2023)

Environmental Health

A response was initially received on 17 November 2023, however this was withdrawn and superseded with comments on 30 November 2023 as follows.

In regard to the above application, I have concerns regarding noise due to experiences with other homes of this nature on the district. The proposed residents are likely to have been exposed to significant trauma which may lead to behavioural problems. The semi-detached nature of the house means that noise generated within the property is likely to be audible next door.

I therefore recommend the following condition -

Prior to the permission being granted, a scheme for the control and mitigation of noise emanating from the building shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the use hereby permitted commences and thereafter operated in accordance with it with any mitigation maintained in situ/in working order. (30/11/2023).

Subsequent Response (following email from agent on 13/12/2023) - Thanks for the information. It is good to hear they intend to soundproof the property and a full specification for this works should be provided to address our proposed condition.

SDDC Environmental Services

The developer should contact the Environmental Health section on all matters related to food hygiene and health and safety. Food businesses must register with the local authority at least 28 days prior to opening for business. (14/11/2023).

Neighbour Reponses

2no. objections were received in response to the planning consultation. The comments highlighted the following matters:

- a) The property is semi-detached, not detached as highlighted in the Management Statement, which raises a significant difference that has not been taken into account by Environmental Health;
- b) Whether class 3b is the appropriate use class taking into account the shift patterns presented; and
- c) The potential for disruptive behaviour in an area with elderly residents.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

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

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

Planning considerations

The determining issues are as follows:

1. Principle of the development;
2. Highway Safety;
3. Residential Amenity;
4. Other Matters.

Planning assessment

Principle of the Development

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

'The planning system should not be a barrier to providing homes for the most vulnerable children in society. The purpose of the statement is to remind local planning authorities that, as set out in

paragraph 62 of the National Planning Policy Framework, local planning authorities should assess the size, type and tenure of housing needed for different groups in the community and reflect this in planning policies and decisions. Local planning authorities should consider whether it is appropriate to include accommodation for children in need of social services care as part of that assessment.

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

Policy H1 of the Local Plan sets out the Settlement Hierarchy for the District which is based on the range of services and facilities that are offered by each settlement. Policy SDT1 identifies the locations for which settlement boundaries are defined. The application site is located within the key service village of Linton where development of all sizes is considered appropriate, and the specific context of comprises predominantly residential uses. The principle of the development for a children's home would accord with Policy H1.

Overall, the proposal would accord with national and local policy and would be acceptable in principle.

Highway Safety

The NPPF (Paragraph 111) states that: '*development should only be prevented or refused on highways ground if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*'

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

The proposal would use the existing access to the site. The applicant has provided information on the traffic movements, parking and staffing shift patterns in the Additional Statement (15/11/2023). Three parking spaces would be provided on site.

The concerns of the Parish Council related to the parking provision are noted. The Highway Authority however raised no objection to the proposals and confirmed that the level of parking provision would be satisfactory to serve the development, and noting specifically that vehicle movements would not be detrimental to the operation of the road network or on road safety.

It is considered that there would be sufficient parking to meet the requirements of the development taking into account the number of staff, which would comprise 2 no. carers. The applicant's Management Statement identifies that the third parking space would be available should the Manager visit the property, and staff team meetings would take place off-site. Taking all of this into account, and in particular the absence of any objection from the Highway Authority and wording of the NPPF, it would not be reasonable to recommend refusal on the potential impact of the development on the public highway.

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

Amenity

Policy BNE1 sets out principles for design excellence, which is supported by the detail within the South Derbyshire Design Guide SPD. Policy SD1 states that the Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments.

The recent appeal decision 61 Ashby Road, Woodville (DMPA/2022/1202, appeal reference: APP/F1040/W/23/3319968) is noted. In this case the Planning Inspector recognised that there is a difference in use of a property as dwellinghouse or care home, however concluded that the proposal

would not result in any unacceptable impacts on the living conditions of neighbouring occupants.

37 Winchester Drive includes a semi-detached dwelling and therefore has one neighbour (no. 39) immediately adjacent. No. 35 is separated from the dwelling by its single storey garage. There are neighbouring dwellings also to the north and south.

The concerns of the Parish Council and local community are noted in respect to the potential for noise and disturbance to arise from the development, particularly given the semi-detached nature of the dwelling. The Council's Environmental Health Officer (EHO) has been consulted as part of the planning process and initially raised concerns due to experience with other children's homes within the District. It was noted that the semi-detached nature of the house would mean noise generated within the property would be audible next door, and a condition was recommended for a scheme for the control of noise mitigation to be submitted prior to determination.

The applicant responded to the EHO comments in the email received 13 December. This email confirmed that there would be a scheme of soundproofing and acoustic design to minimise sound transmission between rooms and areas; and provision of designated quiet areas within the existing garage floorspace. The email also highlighted that staff are trained with a view to minimising disruption from the home.

The EHO reviewed the applicant's response on 13 December and requested a full specification for the soundproofing works to be provided through planning condition. Although it is noted that the development would likely have a similar level of activity and disturbance as could occur from any C3 dwelling, this is considered to be a reasonable pre-commencement requirement in this instance due to the semi-detached nature of the dwelling. With this condition in place it is considered that the proposal would comply with policies BNE1 and SD1 and that there would be no undue impact on neighbouring land uses.

Other Matters

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

One neighbour highlighted that the property is semi-detached and that this was not picked up in the initial EHO response. The initial EHO response on 17 November 2023 was withdrawn and an updated response provided taking into account the semi-detached nature of the property.

The use class of the development was queried with the applicant. It is noted that similar applications within the District have sought use class C2, however the current application is for use class C3b. The definition of use class C3b is for 'use as a dwellinghouse b) accommodating not more than six residents living together as a single household with care for residents', which the applicant has confirmed is appropriate. The application relates to provision of care for a single child with two carers and would therefore meet this definition.

The Parish Council commented that the proposal would be out of character for the area and that the property was not intended to be used by companies to operate businesses from. It is noted that the application would not result in any external modifications to the dwelling. The use class that is applied for would not result in a material difference in character from that of an ordinary C3 dwelling, as is emphasised through the recent appeal decision for 61 Ashby Road (DMPA/2022/1202, appeal reference: APP/F1040/W/23/3319968).

The Parish Council raised concerns about anti-social behaviour that could arise. It is noted that the behaviour of occupants cannot be controlled by the Use Class, and the same safety concerns could arise for any C3 (dwelling). In the case of the children's care home proposed, the applicant has set out policies and procedures in the Management Statement and Additional Statement that should provide some reassurance as to how the home would be managed to avoid such concerns. It is also noted that the building would accommodate only 1no. child, who would be supervised by professional carers, which would limit the potential for such occurrences.

It is recommended that the comments from Environmental Services related to food hygiene and health and safety be attached to any forthcoming planning permission by informative.

Conclusion

Section 38 (6) of the Planning and Compulsory Purchase Act (2004) sets out that the determination of applications must be made in accordance with the development plan, unless material considerations indicate otherwise. In this case there is no specific policy that relates to the principle of the provision of children's care homes within the Local Plan, and the Department for Levelling Up, Housing and Communities Message from Chief Planner (dated 19 June 2023) and Planning for Accommodation for Looked After Children Ministerial Statement (dated 23 May 2023) are material in the principle of this case. The proposal would provide sufficient parking for the use and the Highway Authority is satisfied that there would be no material impact on the safety of the public highway. The Council's EHO requested specification details for the proposed soundproofing and noise mitigation which could be secured by planning condition. It is also noted that the building would be occupied by only 1no. child. With conditions in place to control the intensity of the use, it is considered that the proposal would be in accordance with the development plan policies related to highways and amenity. Accordingly, the application is recommended for approval subject to conditions.

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

Recommendation

Approve subject to conditions.

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings: Location Plan (received 30/10/2023), Block Plan (received 30/10/2023), Existing and Proposed Floor Plans (received 30/10/2023), Management Statement (received 30/10/2023), Additional Statement (received 15/11/2023), and Email from Agent (received 13/12/2023), unless otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. Prior to commencement of the development, a scheme for the control and mitigation of noise emanating from the building shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the use hereby permitted commences and thereafter operated in accordance with it with any mitigation maintained in situ/in working order.

Reason: In the interest of the amenity of the locality and in accordance with Policies BNE1 and SD1 of the Local Plan.

4. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 2015 (as amended) the premises shall be used solely for the purposes of a children's home, as defined by Class C3(b) of that legislation, and for no other purposes whatsoever. Proposals to use the premises for any other purpose within that class shall not take place unless a separate formal

planning application has first been submitted to and approved in writing by the Local Planning Authority.

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

5. The use hereby approved will accommodate a maximum of 1no. child and 3 no. carers (including 1no. manager) within the site at any one time as per the Additional Statement (received 15/11/2023). This arrangement will be retained for the lifetime of the development.

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

6. Prior to first use of the development, the parking arrangement for the site shall be set out as shown on the approved Block Plan (received 30/10/2023). The parking arrangement shall be retained as such for the lifetime of the development.

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

Informatives:

- a. 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: 1.4
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.

Update Report

This application was previously considered at the planning committee meeting held on 09 January 2024 but at the request of committee members was deferred. The reasoning for this deferral was to allow for the submission of amended plans to enable further clarity to be provided with regards to the proposals. The following extract presents a summary of the further clarifications.

Updated Details/ Clarifications

Amended plans have been submitted by the applicant/ agent. The sections of the committee report headed "Applicant's supporting information" and "Condition 2 - Approved Plans" are therefore to be updated to include the following:

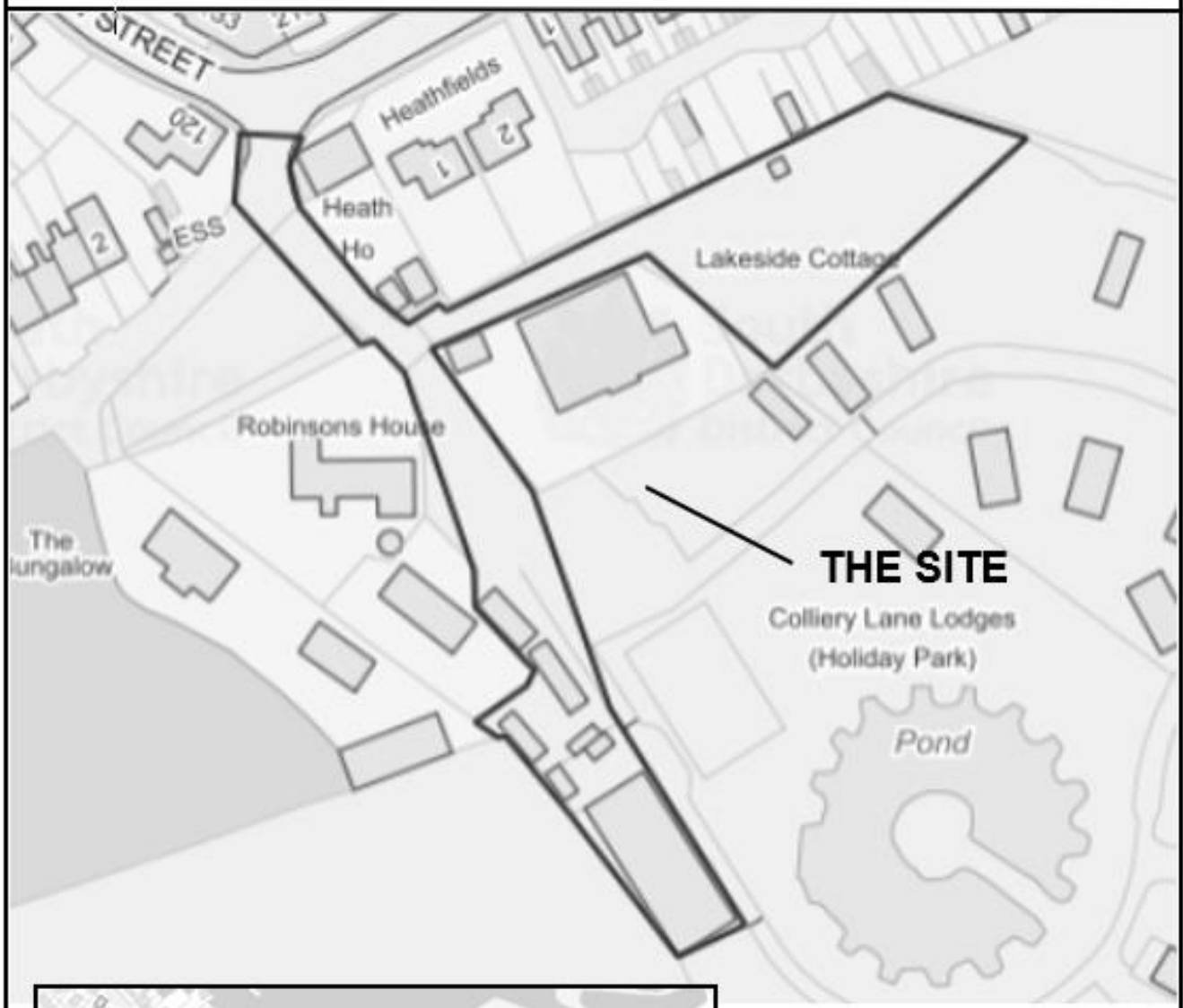
- Site Location Plan - Ref: 50493-2020-PR-01C
- Existing Site Layout - Ref: 50494-2020-LB-06D
- Proposed Site Layout - Ref: 50494-2020-LB-05D
- Proposed Function and Apartments Elevations - Ref: 50494-2020-LB-03N
- Proposed Laundry and Apartments - Ref: 50493-2020-PR-04E
- Proposed Function and Apartments Plans - Ref: 50493-2020-PR-02G
- Ecological Impact Assessment (Harris Lamb) - Ref: PE0433 - Received by the LPA: 04 December 2023

The Existing Site Layout - Ref: 50494-2020-LB-06D plan presents the existing unmarked car parking area within the northern part of the application site, and the existing storage buildings, w/c, and marquee within the southern part of the application site.

The Proposed Site Layout - Ref: 50494-2020-LB-05D plan presents the proposed 30 marked out car parking spaces within the northern part of the application site. This plan also presents the proposed laundry, tractor shed and apartments building, as well as the proposed function space and apartments building within the southern part of the application site.

The Local Planning Authority have requested and on 16 January 2024 have received further input from the County Highways team at Derbyshire County Council. The County Highways team have advised that the scheme would be acceptable relying on the proposed 30 marked out car parking spaces within the northern part of the application site. It is hereby worth noting that there is existing vehicular access

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



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into the site and to the individual lodges within the wider complex. When reviewing the wider context of the site parking appeared to be available within the complex adjacent to each of the individual lodges. It has been recommended by the County Highways team that the proposed apartments do require their own allocated parking space and if this was to be conditioned there would no objections raised.

It is therefore recommended that Condition 5 is updated, with the underlined extract added, to read as follows:

5. Prior to the first occupation of the buildings hereby permitted, the parking areas shall be laid out in accordance with the approved plans, with one car parking space allocated for each of the x10 proposed holiday apartments, 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.

As part of the submitted amended plans the applicant has updated the existing number of lodges, presented outside of the Red Line but within the ownership of the applicant, to present the current situation on the wider holiday lodges complex.

Since the publication of the initial committee report for the planning committee on 09 January 2024, one additional neighbour comment of representation was received. This was reported to the planning committee verbally by way of a late item update. This comment, received on 08 January 2024, presented a range of concerns and objections which are summarised below...

- Principle of development - this village is not a tourist attraction, it is simply a small village with agricultural land, and now already spoilt by the existing holiday site. There is no shortage of accommodation for people who want to visit the "National Forest". There are already plenty of nearby Lodges, flats, cottages, public and private houses etc. offering accommodation, including Conkers, and plenty more places to stay nearer the larger recommended attractions.
- Unaware that the Council could return the application to be modified.
- Little has changed from initial submission.
- Trees and landscaping concerns.
- Impacts of habitats and wildlife
- Noise concerns.
- Access and Highways safety concerns. Do not agree with the conclusions of the County Council Highways Dept.
- Access to the lane is a key issue, which has already been impacted on enough.
- Parking concerns for current residents
- Visibility concerns regarding the bend in the road and turning.
- General safety concerns.
- Design, character and appearance related concerns.
- Heights, scale and massing of the buildings – concerns.
- Out of keeping with surroundings.
- Affect physical and mental well-being.

Conclusion

As per the recommendation in the previous committee report, 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.

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.

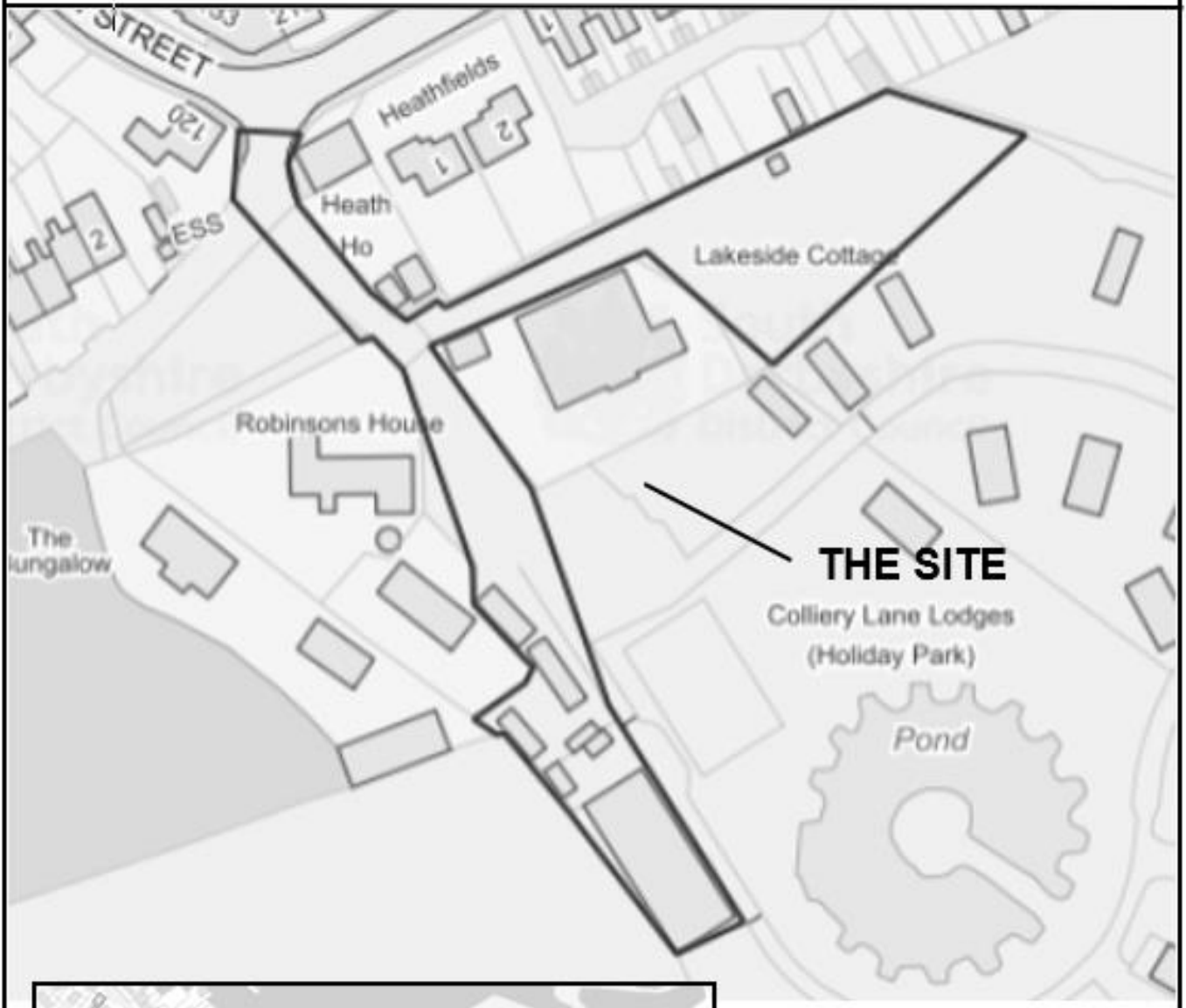
The Proposal

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 therefore complies 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 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.

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 by the Local Planning Authority to be acceptable.

The Local Planning Authority in this instance have no concerns with regards to national forest planting requirements.

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. 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: -

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:
 - 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.
3. 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.
4. 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.
5. 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.

6. 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.
7. 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.
8. 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.
9. 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.
10. 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.
11. 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. 1.5

Ref. No. [DMPA/2023/1259](#)

Valid date: 04/10/2023

Applicant: Care of Ian Earl

Agent: Phillip Tuckwell

Proposal: The demolition existing building and the erection of five new dwellings with associated amenity space and car parking at Melbourne Community Centre, Church Street, Melbourne, Derby, DE73 8EJ

Ward: Melbourne

Reason for committee determination

This item is presented to the Committee as the case has been called in by Councillor Carroll. The application comprises a resubmission (amended plans) of applications DMPA/2023/0673 and DMPA/2023/0676 that were refused by the August 2023 Committee.

Update Report on Amended Proposal

The application was presented to the December 2023 Planning Committee when the decision was deferred to allow design improvements. Amended plans have been submitted by the applicant and are presented for consideration by the Planning Committee.

It is also noted that planning application DMPA/2023/1229 was submitted in effort to overcome the reasons for refusal in the cases DMPA/2023/0673 and 2023/0676, and there is an appeal running concurrently on the previously refused plans.

Context

Following deferral of the case in December 2023, Officers requested amendments to the detail of design of Plots 1-4 (the terrace row) and supported the agent's proposed suggestion of decreasing the scale and massing of the block, with overall floorspace to be compensated by the incorporation of single storey projections. Detailing to the front elevations was also requested.

The Council's Conservation Officer met with the applicant's agent on 10 January 2024 to review possible options for the detailing of the terrace row. Following this meeting, the agent informally submitted two options of draft revised plans to the Local Planning Authority (LPA) on 30 January 2024. This included a contemporary option and traditional option in terms of fenestration and a forward facing, white rendered gable on Plot 2. The options were reviewed by Officers from the LPA (including Design, Conservation, Case Officer and Head of Service). The Head of Service visited the site with the Planning Delivery Team Leader on 31 January 2024, and following discussions with the officer team at SDDC raised concern about the forward facing gable and asked for alternative means of breaking up the mass of the elevation and for the elevations to incorporate additional detailing. Subsequently, a formal set of plans was submitted on 2 February 2024, which were the subject of the 14 day reconsultation (to 16 February 2024).

A meeting was also held between Officers of the Council and Melbourne Civic Society on 5 February 2024 in which initial feedback was sought on the revised plans. The comments from the Civic Society during the meeting included the following:

SITE LAYOUT

1. Plots 2 and 3 – More pronounced step forward for these plots relative to plots 1 and 4.

DMPA/2023/1259 – Melbourne Community Centre, Church Street, Melbourne, Derby, DE73 8EJ



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South Derbyshire District Council. LA 100019461.2020

2. Use the land levels to create a step in the ridgeline as the buildings run down the site, rather than all on the same finished floor level.
3. Hand plot 4 so that the single storey element sits adjacent to plot 3 (would need further reconsultation).
4. The hedge on the rear boundary should be set along its whole length so that it is on the car parking and turning area side with a good quality timber fence behind the hedge.

ELEVATIONS

1. Plots 1-4: headers should be more appropriate for Melbourne, i.e. brick arch for those set within the rubble sandstone, and traditional stone with central keystone detail for the others.
2. Plots 2 and 3: The doors should omit the side panels and have just a flat roof canopy.
3. Plots 2 and 3: The dormers on the rear elevation should be omitted and replaced by conservation rooflights. If they are retained they should be narrower, two pane openings, not 3.
4. Plot 5: the side parapets should be topped with bricks to match the house.
5. Plot 5: The porch should be omitted as it is too fussy.
6. Plot 5: the side parapets should be topped with bricks to match the house.

GENERAL POINTS

1. Planning condition to be imposed to remove PD rights, and to require a plan to show what land is conveyed to each plot, and what land would be joint responsibility or Management Company. NB – preference for the Castle Street frontage wall and the land behind it to be in joint control/ManCo to prevent individuals adding new boundaries and other features, and so it looked after as one area.
2. Chimneys to all plots should be taller and more ornate.

ADDITIONAL MINOR POINTS RAISED BY THE COUNCIL

1. The new fence which links the boundary to 21 Castle Street and the northern corner of the single storey part of plot 1 should have hedge planted in front of it to soften its appearance.
2. The new fence which links the boundary to 65 Church Street and the south-eastern corner of the single storey part of plot 4 should have hedge planted in front of it to soften its appearance.
3. Rainwater goods to be black metal on rise and fall brackets mounted directly to the brickwork.
4. All verges to be wet bedded mortar, not plastic cloaking tiles.

A subsequent meeting was held on 9 February 2024 with Officers from the Council, the Civic Society and the applicant's agent to convey the above comments. The plans were amended again following the meeting and issued formally on 13 February. As the changes were minor and related to improvements in detail of the design, there was no further re-consultation at this point.

Amended Drawings

The final plans as submitted for this application were received on 13 February 2024 and incorporate:

- Location, Site and Access Plan 2402-MHSCC-A-P01;
- Proposed Block Plan 2402-MHSCC-A-BP01
- Re-design Plots 1-4 Floor Plans 2401-MHSCC-A-P02
- Re-design Plots 1-4 Elevations 2401-MHSCC-A-P01

- Plot 5 Floor Plans and Elevations 2402-MHSCC-A-P03
- Plot 5 Elevations 2209-MHSCC-A-P03a
- Plot 5 Street Scene 2402-MHSCC-A-P04

Responses to consultations and publicity on Amended Scheme

Melbourne Parish Council

Further to your below email, I would advise the parish council has no further comments to make over and above the previous responses that have been sent to you already. (12/02/2024)

County Highways Authority

No further comments to those previously issued. (16/02/2024)

Environmental Services

I can confirm that our previous comments still apply. (06/02/2024)

SDDC Conservation Officer

Consultation and redesign

I am aware of some of the local views on this site, and I am aware of some of the comments made regarding the application. This is a prominent site, and any change to it is understandably one that will generate comment, concern and opinion. There are alternative solutions to design concepts, materiality, placement of buildings, scale, car parking and access, some of which have been considered during the application progression. This has been a difficult process to find a potential solution that can meet the requirements of all interested stakeholders and those consulted. The conservation and heritage component, whilst weighted highly due to the Conservation Area designation and surrounding Listed assets, is only one aspect for consideration. This is not a reinstatement of the previous houses that were on the site pre WWII. It is new build within a Conservation Area. As such, the existing setting, character and appearance has been considered, including the existing views from Castle Street to Church Square.

There are many factors that have been considered in the application process, including:

- position of the dwellings
- scale and massing
- contemporary/traditional design
- material choice
- architectural detailing
- alignment, architectural rhythm
- vernacular styling
- parking
- bin stores
- sub division of amenity land
- landscaping

Melbourne Civic Society has been involved in ongoing discussions with the SDDC Planning Officers. A meeting has been held with the agent and the Civic Society, with the intention to find a design solution that could be supported. In all planning cases, there are alternative solutions for the redevelopment of a site. It is my assessment that, whilst there will be different views on the design, layout, scheme; what is now submitted as a proposal for assessment and decision is one that has attempted to address the concerns that have been previously made in application consultation responses and at Planning Committee.

It is the fundamental requirement that the local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area, as per the Planning (Listed Buildings and Conservation Areas) Act 1990, Section 72.

Conclusion

I have assessed the application before me considering the impact of the proposal on the existing character and appearance of the site. It is my assessment that the proposal preserves the existing setting of the designated heritage assets and the appearance of the Conservation Area, and enhances the existing condition and built form/townscape of the character of the Conservation Area. The impact of the proposal to the Conservation Area and neighbouring designated heritage assets is less than substantial harm (low). No objection.

Melbourne Civic Society

Melbourne Civic Society had previously made far reaching criticisms of the housing layout and design and in the last round of formal consultation prior to the December Planning Committee, submitted 12 ways in which the design could be improved.

The Society has drawn attention to the fact that all the national and local design guidance including the NPPF says that community groups should be involved at the start of a project like this and throughout the development of plans. Rather late in the day considering the two year period of applications on this site and despite further delay following the December Planning Committee, the Society's representatives were involved in two cooperative meetings with the planning officers, one of which was attended by the applicant's agent. As a result some improvements were made to the scheme for the four conjoined houses to try to remove the monotony of the scheme that last went to Planning Committee.

The aim was to get rid of the boring symmetry in the proposed elevations and to introduce much needed diversity of design. Some improvements were achieved by agreement such as different door and window styles, different building materials and single storey elements. Also two of the houses were moved forward towards Castle Street but only by three bricks' length! Some new drawings were issued on 13th February which incorporated some further minor improvements but informal discussions were curtailed due to an imposed deadline of 16 February. The Society then submitted written comments at two levels – at a continuing fundamental level saying that the 'big block', as the houses still appeared, needed further breaking up with different roof heights, more protrusions and recesses. Just two of the ways proposed were for the floor levels and hence the roof levels to follow the downhill slope of Castle Street and for catslide integral brick sheds to be added to the rear of the houses. This would have the added value of helping solve the problem of a lack of any outside storage and a fear of a subsequent proliferation of garden sheds on the site.

At the second level. Because the present footprint of 'the block' is too constrained The Society submitted three alternative sketch arrangements for the footprint of the four houses which could still incorporate all the detailed design proposals made at the first level. These would require working up by the applicant as a part of a continuing cooperative approach. This approach has slowed down for now while Committee reporting takes place but could continue and conclude in a relatively short time compared with the history of the scheme.

So the Society's conclusion is that the design of the scheme has improved but is still not good enough for this outstanding Conservation Area. More co-operative work is needed. We feel that approval of this application in its current iteration, without further modelling, would not do any service to Melbourne's Conservation Area. If consensus can be reached in a co-operative effort, deep regret over decades to come over a poor scheme and a wasted opportunity could be avoided. (19/02/2024)

Neighbour Responses

16 no. objections were received from members of the local community (some of whom commented more than once) with the key points presented below.

Design

- a) Amended plans are a marginal improvement but still not good enough.
- b) Little has changed since the version put forward in December except for surface tweakings of the large terrace, which fall far short of what is needed to address the fundamental concerns of footprint, massing and volumes.
- c) What is being proposed is a dreary development lacking any inspiration or reflection of the local vernacular. There is dismay in Melbourne, not against the development of the site which will be warmly welcomed but at the appallingly poor design being put forward.
- d) Erecting structures on the Church Street boundary would erase the sense of openness, disrupting the visual rhythm of this segment of the street and clashing aesthetically with the neighbouring properties. This development would appear incongruous and have an adverse impact on the Conservation Area's character and appearance. The size, scale, and excessive height of the development would make it highly conspicuous.
- e) Fails the test of new developments in the Conservation Area and does not enhance visual/historic character of the area. The proposal should include buildings that in future are capable of being listed.
- f) The dwelling on Church Street is objected due to it copying outdated architectural styles. This site calls for a new development fit for the present century, not a hark back to something built 200 years ago.
- g) Although at Planning Committee the applicant was asked to engage with local residents, the closest neighbours have not been contacted at all. The proposal should be rejected until proper local consultation takes place.
- h) The open views of the Parish Church from Castle Square will be lost.
- i) Expressed to the proposed use of UPVC windows and doors for all properties. These should be made from traditional timber to match other properties in the conservation area.
- j) No dormers of the style proposed within the Conservation Area. Dormers should be on the front not the rear of the dwellings.
- k) The four proposed units on Castle Street form a very strange collection with odd single storey extensions at either end. The attempt to balance the row with symmetry is both naïve and unsettling. The ground level here is relatively flat so there is no need for staggered levels. Too many elements are being crammed into 4 modest houses and the result is overkill.
- l) This design has expanded the footprint of the terrace of houses, which is not acceptable, and raised the roof level of the middle two houses, again not acceptable - it threatens to become overbearing to the street. The two single story extensions at either end of the terrace look very odd.
- m) The designs submitted still include poorly designed and cheaply made houses, using materials that do not match the area and frankly, the development will stand out like a sore thumb. This corner of land opposite Melbourne Hall is one of the most walked by in the whole of Melbourne, and it cannot be overstated how important it is to develop the land with great care and consideration. The plans submitted, despite numerous amendments, still fall well below the standards and design that should be accepted by the council. I hope the council see these minor amendments for exactly what they are, and reject this development outright.
- n) The proposed houses are tawdry in design and totally out of keeping with the many listed buildings around them. The view to the church will be ruined on the approach from Castle Street.
- o) The site is being overdeveloped.
- p) The terrace element of the submission, although revisited, still has an extremely wide gable which has had lead to a consequential increase to the height of the building. The inclusion of the terrace, is out of scale, overbearing and not in character with its surroundings.
- q) There is a lack of garaging which means there is no provision for outside storage, garden equipment etc. which will result in a plethora of sheds on what are small amenity spaces.
- r) Little has changed since the version put forward in December except for surface tweakings of the large terrace, which fall far short of what is needed to address the fundamental concerns of footprint, massing and volumes. If this was the first iteration of a proposal for this site, it would not be deemed good enough, and that remains the case still. Undeserving schemes should not succeed simply through a process of attrition. This scheme does not represent good design, and is a squandered opportunity to provide an exemplar of good development.

Landscaping

- s) The tree planting on the western boundary has been reduced compared to previous plans. The trees afforded privacy. Individual trees cannot be shown on the plan. The total has reduced from 21 to 19.

Amenity

- t) Will remove natural light from neighbouring dwellings and private amenity space.
- u) Dormer windows will overlook properties to the rear.
- v) The scheme will result on an overlooking, overbearing impact on neighbouring dwellings.

Transport

- w) Genuine concern as to the safety of the vehicular access from the proposed development into Church Street. Not possible to maintain the required visibility splays.
- x) Previous advice from the Highway Authority is noted from other planning applications for the site in 2021.
- y) The proposed vehicle parking allocation appears to be extremely tight. This may lead to a lack of use of the parking and result in more on-street parking. Such parking is already at capacity at busy times.
- z) Traffic is already chaotic and more houses will add to the problem.

Consultation Process

- aa) Questions as to why the new plans were not submitted as a new application providing adequate time for the public to consider them.
- bb) Question the legality of having a consultation closure date before the date of amendments.

Other

- cc) Concerns regarding construction disturbance and noise.
- dd) The site would be more suited to community based projects such as a craft or artist studios.
- ee) The creation of the parking area and parking spaces will have an unacceptable impact on protected Copper Beech trees. While this latest proposal seeks to retain large Copper Beech tree there are concerns that the creation of the parking area and spaces within the root protection area will undermine the integrity of the root systems of this tree.
- ff) The proposal will result in the loss of an important community facility.
- gg) Affordable homes should be built closer to Derby where people actually work.
- hh) It seems little care has been given to the design, even with spelling mistakes.

Relevant policy, guidance and/or legislation

The policy framework is set out in full in the December 2023 Committee Report. In relation to the consideration of design and related impact on designated heritage assets this includes: Policy BNE1, BNE2, BNE10 and Neighbourhood Plan Policies DP2 and HC1. The Design Guide SPD supplements this policy with specific guidance on detailing of design.

Planning Assessment of Amended Proposal

Design and Impact on Designated Heritage Assets

The full discussion of design and impact on heritage assets is presented in the December 2023 Committee Report. The changes to the scheme which have centred on alterations to the terrace row (Plots 1-4) and thus the supplementary assessment focuses on this aspect of the proposal.

Throughout the course of applications for the site, many factors have been considered in the application process, including the position of the dwellings, scale and massing, contemporary/traditional design, material choice, architectural detailing, alignment, architectural rhythm, vernacular styling, layout (parking, bin stores, subdivision of amenity land) and landscaping. The applicant has worked proactively with the Council's Conservation Officer to find a potential solution for the site, and the Council's Design Officer has also been involved. Following deferral of the case in

December 2023, comments from the Civic Society as presented in the meeting on 5 February 2024 have also informed the latest plan revisions.

A comparison between the front elevation as presented in the December 2023 Planning Committee and now proposed is included below.

Plot 1-4 Elevations as presented in December 2023



Interim Version that was Consulted Upon (2 February 2024)



Final/Current Plot 1-4 Elevations (13 February 2024)



As is evident in the elevations there has been a shift in scale and massing, with the previously homogeneous row broken into distinctive dwellings through use of levels, detailing and materials. The comments provided in the meeting on 9 February 2024 have largely been taken on board with responses provided by the applicant's agent as follows:

Site Layout:

1. Plots 2 and 3 have been moved forward by 225mm which would increase the ridge height.
2. A step in levels has been incorporated between plots 2 and 3 of 300mm.
3. It was not possible to rearrange the single and two storey components of plot 4 without compromising neighbouring amenity.
4. Boundary treatments would be managed by planning condition.

Elevations:

1. It was agreed that there would be brick arches to the ground floor windows.
2. The timber side panels to the doors would be retained, as it was noted that this is a feature on properties in Melbourne.
3. It was agreed that the rear dormers would be retained and noted that they are present on historic properties within Melbourne, and that these are smaller in scale and massing than conventional dormers.
4. It was agreed that the parapets on plot 5 would comprise brick.
5. It was asserted that the porch detailing on plot 5 would be retained as it matches the dormer windows in the design.

General:

1. It was agreed that there could be a standard condition removing permitted development rights.
2. The detailing of chimneys would be secured by condition.

Further Points:

1. Fence linking to no. 21 Castle Street agreed to be shown on site plan.
2. Similar for the boundary to no. 65 Church Street.
3. Rainwater goods proposed to be secured by planning condition.
4. Verges proposed to be secured by planning condition.

The design of the scheme continues to ignite debate and conflicting views amongst the local community. It is acknowledged that the Civic Society has requested on-going dialogue with further revisions to the detailed design and provided alternative concept sketches. Since the application was deferred in December 2023, the applicant has worked proactively in the interim and 3no. sets of plans have subsequently been submitted for the terrace row (1no. informally and 2no. formally). Whilst the request for further design alterations and input is recognised, it is now incumbent for the Planning Committee to move this application forward to determination.

The Council's Conservation Officer has been consulted and raised no objection to the proposed amendments. It is noted that the scheme would continue to be acceptable from the perspective of impact on neighbouring residential amenity.

Overall, the scheme would represent a betterment compared to the existing community centre building. It would also overcome the reasons for refusal set out in DMPA/2023/0673 (i.e. the row of terraces has been brought forward to Castle Street's frontage, and the copper beech tree would be retained), and the alterations to Plots 1-4 now presented are considered positive and would appear to address the concerns raised in the December 2023 Planning Committee. The Committee is asked to resolve that planning permission be granted in accordance with the recommendations in the previous report, with minor adjustment to the wording of some conditions, for example to allow further consideration of detailing of the fenestration, chimneys, rainwater goods, boundary treatments etc. It is recommended that permitted development rights be removed, as was recommended in the December 2023 and previous applications for the site.

Other Matters

The alterations to the scheme are centred on Plots 1-4 and there has been no material change to the other matters assessed. Matters of transport, construction disturbance, provision of parking, impact on

the copper beech tree, loss of the community facility and other matters were address in the December 2023 Committee Report.

With respect to the consultation process, it is noted that there is no statutory requirement to re-consult on amendments to an application and that any further consultation is discretionary. In this case, as the design was materially different from the previously consulted upon version, however the number and broad location of dwellings has remained the same. A 14-day re-consultation period was held on the plans. During this period, the LPA met with the Civic Society and some minor design revisions were made as represented on the plans dated 13 February 2024. It was not considered necessary to extend the period of consultation further due to the minor alterations, however any further comments received up to the point of determination in the 5 March 2024 Planning Committee will be reported verbally at the meeting.

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 following approved plans/details:

- **Location, Site and Access Plan 2402-MHSCC-A-P01**
- **Proposed Block Plan 2402-MHSCC-A-BP01**
- **Re-design Plots 1-4 Floor Plans 2401-MHSCC-A-P02**
- **Re-design Plots 1-4 Elevations 2401-MHSCC-A-P01**
- **Plot 5 Floor Plans and Elevations 2402-MHSCC-A-P03**
- **Plot 5 Elevations 2209-MHSCC-A-P03a**
- **Plot 5 Street Scene 2402-MHSCC-A-P04**

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. No development shall start until a Highway Construction Management Statement /Plan has been submitted to and approved in writing by the Local Planning Authority. The statement / plan shall be adhered to throughout the demolition/construction period and shall include details relating but not limited to:
 - 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: To ensure safe and suitable access for all users, in the interests of highway safety, recognising that initial preparatory works could bring about unacceptable impacts / inconvenience for existing highway users / nearby residents and in accordance with Policy INF2 of the Local Plan.

4. No development, including preparatory works, shall commence until protective fences have been erected around the mature trees to be retained within the site. Such fencing shall conform to best practice as set out in British Standard 5837:2012 (or equivalent document which may update or supersede that Standard) and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The fences shall be retained in situ during the course of ground and construction works, with the protected areas kept clear of any building materials, plant, debris and trenching, and with existing ground levels maintained; and there shall be no entry to those areas except for approved arboricultural or landscape works.

Reason: In the interests of safeguarding protected trees and in accordance with Policy BNE7 of the Local Plan.

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

b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a).

Reason: Reason: In the interests of the cultural heritage of the District and in accordance with Policies BNE2 and BNE10 of the Local Plan.

6. (a) No development (including demolition or vegetation clearance) shall commence until a Ground Level Tree Assessment (GLTA) has been undertaken to identify potential roosting features within the trees to be felled. The survey shall be undertaken in accordance with the Bat Surveys for Professional Ecologist - Good Practice Guidelines (Collins, 2016).
- b) Following a, and if required, further emergence surveys should be undertaken in accordance with the aforementioned guidelines, and in the event that roosting bats are evidenced, a scheme of appropriate mitigation that meets Natural England's mitigation licensing requirements shall be submitted to and agreed in writing with the Local Planning Authority. Such approved mitigation shall be implemented in full and retained as such for the lifetime of the development.

Reason: In order to safeguard protected and/or priority species from undue disturbance and impacts in accordance with Policy BNE3, noting that initial preparatory works could have unacceptable impacts.

7. No development shall take place until a written scheme providing full details of controls for noise mitigation on the proposed development has been agreed in writing with the Local Planning Authority.

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

8. No development, including demolition, shall take place until a scheme of dust mitigation measures has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented throughout the demolition period.

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

9. Except in an emergency, no demolition, site clearance, construction, site works or fitting out shall take place other than between 08:00 hours and 18:00 hours Mondays to Fridays, and between 08:00 hours and 13:00 hours on Saturdays. There shall be no such activities whatsoever on Sundays, public holidays and bank holidays.

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

10. The Development hereby approved shall not be occupied until the access, parking and turning facilities have been provided as shown on the **Location, Site and Access Plan 2402-MHSCC-A-P01**.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety, and in accordance with Policy INF2.

11. The development hereby approved shall not be occupied until visibility splays are provided from a point 0.6m above carriageway level at the centre of the access to the application site and 2.4m back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 43m in each direction measured along the nearside edge of the adjoining carriageway and offset a distance of 0.6m from the edge of the carriageway. These splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above carriageway level.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety, and in accordance with Policy INF2.

12. The Development hereby approved shall not be occupied until pedestrian visibility splays of 2m x 2m measured perpendicularly back from the back of footway shall be provided on both sides of the access. These splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above the adjoining ground level.

Reason: To ensure motorists have clear and unrestricted views of approaching pedestrians when pulling out onto the adopted highway, in the interest of highway safety and in accordance with Policy INF2.

13. The vehicular access hereby permitted shall not be brought into use until the existing vehicular access to the site has been permanently closed in accordance with details to be submitted to and agreed in writing beforehand by the Local Planning Authority.

Reason: In the interests of highway safety and in accordance with Policy INF2.

14. The development shall not be occupied until the site investigation and post investigation reporting has been completed in accordance with the programme set out in the archaeological Written

Scheme of Investigation approved under condition 5 and the provision to be made for publication and dissemination of results and archive deposition has been secured.

Reason: In the interests of the cultural heritage of the District and in accordance with Policies BNE2 and BNE10 of the Local Plan.

- 14A Prior to the first occupation of any dwelling hereby permitted, a plan detailing all areas of the site which will form either part of the gardens to each property, shared, communal or other management areas, or public highway, shall be submitted to and approved in writing by the local planning authority. The plan shall include details of a mechanism by which the communal or other management areas will be managed throughout the lifetime of the development. Any works pertaining to the provisions of Parts 1 and 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order) shall relate only to the areas which form part of the gardens to the properties as identified on the plan approved by this condition.

Reason: In accordance with policies BNE1, BNE2, and BNE10 of the Local Plan and in the interests of the visual amenity and local distinctiveness.

15. Notwithstanding the submitted details, prior to incorporation within the development, a detailed scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. **The scheme shall incorporate a close boarded fence on the northern side of the hedgerow identified as P5 on the Location, Site and Access Plan (2402-MHSCC-A-P01).** It should evidence the proposed locations of each tree species, the size of each type of tree (standard, select standard, or heavy standard with girth dimensions), the mix of any proposed grass areas, and the proposed locations and sizes of any ornamental shrubs (in litre pots). The works shall be undertaken in accordance with the agreed details prior to occupation of the development. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the date of this decision; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

Reason: In accordance with policies BNE1, BNE2, BNE7, BNE10 of the Local Plan and for the avoidance of doubt and in the visual interest of the development.

- 15A. 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 is/are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: In accordance with policies BNE1, BNE2 and BNE10 of the Local Plan and for the avoidance of doubt and in the visual interest of the development.

16. Any external lighting within the site shall be low level, low wattage down lights (on PIR sensors), positioned away from trees, hedgerows or any bat/bird boxes. No uplighting shall be provided during construction or for the lifetime of the development. The external lighting scheme shall comply with the requirements of Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018).

Reason: In order to protect biodiversity and habitat on or adjacent to the site in accordance with Policy BNE3 of the Local Plan.

17. 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 order to protect biodiversity and habitat on or adjacent to the site in accordance with Policy BNE3 of the Local Plan.

18. Prior to construction above foundation level, a detailed biodiversity enhancement scheme shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include as a minimum: 5no. integrated universal bird bricks; no. integrated bat bricks; and 130mm x 130mm hedgehog gaps within fencing. It should be underpinned by a quantitative assessment of the site's biodiversity value (both present and post development) utilising the DEFRA Metric Calculator Tool and should aim to deliver no net loss in habitat and to secure an appropriate biodiversity net gain. The development shall be implemented in accordance with the approved details.

Reason: In order to ensure a biodiversity enhancement in accordance with Policy BNE3 of the Local Plan.

19. Notwithstanding the submitted details, prior to incorporation within the development, samples and detailed specifications of all external facing and hard landscaping materials, **together with the detailed specification of windows (including recess, headers and cills) and chimneys**, to be used shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be undertaken in accordance with the agreed materials.

Reason: In accordance with policies BNE1, BNE2 and BNE10 of the Local Plan and for the avoidance of doubt and in the visual interest of the building.

- 19A All verges shall be finished in a mortar finish. There shall be no use of dry verge (cloaking tile) systems. 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, there shall be no later installation of a dry verge system.

Reason: In accordance with policies BNE1, BNE2, and BNE10 of the Local Plan and in the interests of the visual amenity and local distinctiveness.

- 19B Gutters and downpipes shall be in cast iron and finished in black and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

Reason: In accordance with policies BNE1, BNE2, and BNE10 of the Local Plan and in the interests of the visual amenity and local distinctiveness.

20. The side facing, first floor windows on the northern elevation of plot 1 and southern elevation of plot 4 shall be top hung and obscurely glazed to Pilkington level 4 or 5 (or such equivalent glazing which shall first have been approved in writing by the local planning authority). The windows shall be retained as such for the lifetime of the development.

Reason: In order to protect the amenity of neighbouring properties and future occupants of the development in accordance with Policy BNE1 of the Local Plan and the Design Guide SPD.

21. Each dwelling shall be constructed and fitted out so that the estimated consumption of wholesome water by persons occupying each dwelling does 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.

22. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or

replacing that Order, the dwellings hereby permitted shall not be enlarged, extended or altered, no satellite dishes shall be affixed thereto, and no buildings, gates, walls, fences or other means of enclosure (except as authorised by this permission or allowed by any condition attached thereto) shall be erected on the site without the prior grant of planning permission pursuant to an application made to the local planning authority in that regard.

Reason: To maintain control in the interests of the visual amenity of the site and the historic interests of the Melbourne Conservation Area in accordance with policies BNE1, BNE2 and BNE10 of the Local Plan and Melbourne Neighbourhood Plan.

Informatives:

- b. 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.
- c. Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- d. Planning permission does not give you approval to work on the public highway. To carry out works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email highways.hub@derbyshire.gov.uk or telephone 01629 533190.

Item No. 1.6

Ref. No. [DMPA/2022/0008](#)

Valid date: 06/01/2022

Applicant: Croake **Agent:** Lathams

Proposal: **Conversion and extension of a Grade II listed barn in the grounds of Castle Farm to a 3 bed dwelling at Castle Farm, Castle Street, Melbourne, Derby , DE73 8DY**

Ward: Melbourne

Reason for committee determination

Cllr Martin Fitzpatrick, Ward Member for Melbourne, has requested that the application is determined by the Planning Committee due to local concerns which need to be considered. The application was deferred from the meeting on 6 February 2024 for a site visit.

Site Description

The application relates to a Grade II Listed former Threshing Barn within the site of Castle Farm in Melbourne.

The barn was originally constructed in the 16th century and is part of a larger site classed as the Scheduled Ancient Monument of Melbourne Castle fortified manor, the remains of which are still visible and lie to the south of the application building.

The barn is a single storey, three bay rectangular building. It is set back from the road, to the rear of Castle Farmhouse, which is also a Grade II Listed Building. The application site also lies within the Melbourne Conservation Area.

The proposal

Planning permission is sought for the conversion of the Listed barn to a three bedroom residential dwelling. To facilitate the conversion an extension is proposed to the eastern elevation, which will extend back along the northern boundary wall of the site. The scheme will include a courtyard garden and new areas of hard landscaping. An existing cart shed, which currently forms one of the outbuildings attached to the rear of Castle Farmhouse, is to be incorporated into the curtilage of the new dwelling and will be used for parking and refuse storage.

Applicant's supporting information

The application is supported with the following plans and documents :

Design and Access Statement
Heritage Statement by Phillip E Heath
Structural Appraisal by GCA (UK) Ltd
Archaeological Desk Based Assessment by Trent & Peak Archaeology
Preliminary Ecological Appraisal by Astute Ecology Ecological Consultants
Bat Survey by Astute Ecology Ecological Consultants
Topographical Survey
Underground Utility Survey
Site Location Plan
Proposed Site Plan

DMPA/2022/0008– Castle Farm, Castle Street, Melbourne, Derby, DE73 8DY



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South Derbyshire District Council. LA 100019461.2020

Existing Floor Plans and Elevation drawings
Proposed Floor Plans and Elevation drawings
Proposed Cart Shed drawings
Proposed Sections

Relevant planning history

DMPA/2021/1680 & DMPA/2022/0129 – Erection of a garden room. Approved September 2022.

9/2006/1263 – The raising of the boundary wall along Castle Street frontage. Approved 8 March 2007

9/2003/1512 – The replacement of the existing timber fence with a brick wall and gateway. Approved 10 February 2004

9/2003/1513 – The bricking up of two windows and the replacement of the existing timber fence with a brick wall and gateway and retention of gate. Approved 10 February 2004

This application relates to the following application:

DMPA/2022/0111 : Listed Building Consent for conversion and extension of a Grade II listed barn in the grounds of Castle Farm to a 3 bed dwelling.

Concurrent application to this application for Listed Building Consent, under consideration.

Responses to consultations and publicity

Cllr Martin Fitzpatrick, Ward Member for Melbourne – Concerns are raised in relation to potential loss of light to a neighbouring property. Concerns are raised that the proposal will be overbearing, and it is believed that a more sympathetic design could have seen the extension placed at the other end of the existing structure or even running of the centre of the existing structure to form a T shaped property. Either of these alternatives would still provide the same living floor space but not have such a dramatic effect on the neighbouring property.

Melbourne Parish Council – No objections.

Melbourne Civic Society - The present semi-rural feel of the building will be missed but no objections to the application.

County Highways Authority – No objection. The site access, parking and servicing arrangements to the site are considered to be acceptable. The proposed gates must be located a minimum of 5m back from the footway in the interest of highway and pedestrian safety.

Historic England - Given the sensitivities of the site and its immediate environs, if the local authority is minded to granted consent, we recommend that this should be subject to agreement with the Council's Conservation Officer regarding the materials, finishes and landscaping so that the historic character of the area is respected.

Scheduled Monument Consent will need to be obtained before any works commence.

County Council Archaeologist –

Before the applications are determined the applicant should commission a suitably qualified and experienced archaeological contractor to undertake and archaeological assessment including an evaluation of the areas of proposed development groundworks.

Derbyshire Wildlife Trust – No objection, subject to conditions. The trust advise that bats should not present a constraint to development. The proposed development does provide opportunities to achieve a net gain in biodiversity and thus a condition is proposed seeking a biodiversity enhancement scheme.

Environmental Health - No environmental concerns about these applications and therefore no comments or conditions.

Responses to publicity

1 public representation has been received. In summary the following points are made.

- Concerns are raised in relation to the proposed extension and the impact on the amenity of Orchard House, to the north of the application site. Concerns are raised in relation to the impact of the proposed extension on the light to the living room of this property. It is considered that the extent of this projection, coupled with the close proximity of the proposed extension to Orchard House, would significantly reduce daylight to both the living room window on the east elevation and the two smaller windows on the south elevation. It is considered that this is contrary to Council guidance set out in Appendix 4 of the design guide, which specifies a minimum distance of 12 metres between a living room window and the blank elevation of a neighbouring extension.
- It is also considered that the proposed extension would also have an overbearing effect and significantly diminish any feeling of openness within the living room and create an oppressive environment.
- A previous application which sought a similar addition to the barn to create a swimming pool was amended during its course to omit the extension (LPA reference 9/2006/1263). It is clear from the pre-application advice set out in Section 5.3 of the Design and Access Statement that concerns had been raised regarding the impact of the proposals on Orchard House.

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), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity) and INF2 (Sustainable Transport).

(2017) Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), and BNE10 (Heritage).

(2022) Melbourne Neighbourhood Development Plan : DP1 (New development within the defined settlement boundaries), DP3 (Development within settlement boundaries), HC1 (Preservation of the historical and cultural heritage assets and existing Conservation Areas).

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant Legislation is:

Sections 66 & 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

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
- Heritage impact
- Archaeological impact
- Design and amenity
- Highways and access

Planning assessment

Principle of development

The application seeks approval for the conversion and extension of the Grade II listed Barn at Castle Farm to a 3-bed dwelling at Castle Farm, Castle Street, Melbourne, Derby, DE73 8DY.

The site is located within the settlement boundary of the Key Service Village of Melbourne where residential development is considered appropriate under Policy H1 of the Local Plan Part 1 and Policy SDT1 of the Local Plan Part 2. The site is located in an area that has a mix of residential and commercial uses and is within close proximity to the range of services and facilities contained within the local centre of Melbourne.

Additionally, new development in the settlement boundary of Melbourne is also supported by the Melbourne Neighbourhood Plan under Policy DP1. In particular, Policy DP3 of the Melbourne Neighbourhood Plan supports new development of four bedrooms or fewer in order to encourage the development of smaller dwellings.

The principle of development is, therefore, considered to be acceptable and in accordance with Policy H1 and H20 of the Local Plan Part 1 and Policy SDT1 of the Local Plan Part 2. The development is also in accordance with Policy DP1 and DP3 of the Melbourne Neighbourhood Plan.

Heritage Impact

The existing barn that is proposed for residential conversion is Grade II listed (ref: 1096407). The site is also located within the Melbourne Conservation Area. The site is also within the scheduling of the 'Melbourne Castle fortified manor and earlier medieval manorial remains' Scheduled Ancient Monument. The site, therefore, has a sensitive historic context that must be fully considered in the determination of this application.

The Design and Access Statement submitted in support of the application sets out the detailed analysis and assessment of the historical context that has been undertaken as part of the evolution of the proposals. This includes an analysis of the opportunities and constraints to the site, as well as a Statement of the Significance of the building and the potential for change and adaptation. This confirms that there is the potential for the conversion of the building to provide residential development whilst being sensitive to the surrounding context.

An outbuilding has previously been sited in the location of the proposed extension adjacent to the barn, which is evidenced by historic imagery of the site from between 1840's up until the 1980's. The proposed development has been designed to match the footprint of the previous built form in this part of the site, as closely as possible. The proposed development would, therefore, result in the reintroduction of built form adjacent to the listed barn.

In addition to the above, it is noted that the extension is located in a part of the site that is more private and informal in character, and as such, is less sensitive and capable of accommodating the proposed development without result in a harmful impact on the historical context including the Melbourne Conservation Area and Scheduled Ancient Monument.

The existing barn is visible from the streetscene via the vehicular entrance to the site. However, this will be retained and improved as part of the proposed development. There will be limited visibility of the proposed extension from the streetscene, and as such, it is considered that there will be no impact on the character and appearance of the Conservation Area in that regard.

The scheme proposals have also evolved and responded to pre-application advice undertaken with the Council, the Council's Conservation Officer and with Historic England. Concerns were originally raised regarding the original proposal for a two-storey extension, which was considered to result in an

overbearing impact on the historic building in terms of both its scale and understanding of its historic function. The proposals have subsequently been redesigned to a reduced scale such that they are much more sensitive to the historical context and are more subservient to the barn.

It is noted that as part of the pre-application Historic England objected to the proposed development. However, do not raise any objection to the revised scheme proposals. They do, however, advise that given the sensitivities of the historic environment of the site and its immediate environs that details of the materials, finishes and landscaping should be secured via condition so that the historic character of the area is respected.

Overall, it is recognised that the Grade II listed barn is redundant, in a poor condition and at risk of falling into further disrepair if an alternative use is not established. The proposed development would put the building into a positive use the benefit of which is considered to outweigh the harm that would result from the introduction of a contemporary extension. Moreover, it is not considered that the proposed development will result in a harmful impact on the character and appearance of the Conservation Area.

The proposed development is, therefore considered to be acceptable and in accordance with Policy BNE2 and BNE10 of the Local Plan and Policy HC1 of the Melbourne Neighbourhood Development Plan.

Archaeological Impact

The NPPF states that where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require development to submit an appropriate desk-based assessment and, where necessary, a field evaluation (Paragraph 200).

An Archaeological Desk-based Assessment prepared by Trent and Peak Archaeology was submitted as part of the application that concluded that there was a high potential for medieval remains of national significance to be present within the application site. The Archaeological Officer, therefore, advised that further archaeological evaluation of the site been undertaken prior to the determination of the application to ascertain the nature, date and extent of any subsurface archaeological remains.

An Archaeological Trial Trenching Evaluation was undertaken of the application site. The trial trenching concluded that there is no indication of medieval or early post-medieval remains pertaining to the castle or initial construction of the Grade II listed barn being present in this part of the site.

On the basis of the evidence submitted it is considered that there is low potential for the site to contain medieval remains of national significance.

The proposed development is, therefore, considered to be acceptable and in accordance with Policies BN2 and BNE10 of the Local Plan and Policy HC1 of the Melbourne Neighbourhood Development Plan.

Design and amenity

Policy BNE1 of the Local Plan Part 1 states all new development will be expected to be well designed and should not have any undue adverse effect on the privacy and amenity of nearby occupiers.

The proposed extension is located along the northern boundary of the site in close proximity to the adjacent property, Orchard House. It is noted that there is an objection to the application from the owners of the neighbouring property. This raise concerns with regard to the impact of the proposed development on neighbouring amenity with particular reference to loss of natural light, overbearing impact and enclosure of private amenity space.

As part of the pre-application consultation concerns were raised regarding the impact of the proposed extension on the neighbouring Orchard House. However, that was on the basis a development of two-storey. It was, therefore, advised that the height and size of the extension be reduced to address this

issue.

In respect of the above, the proposed development comprises of a single-storey extension the eaves of which sit lower than the existing boundary wall that currently separates the site from the neighbouring property. Whilst the roof of the extension would be visible from the neighbouring property, it is not considered that this would result in an overbearing impact or loss of light that would be significant enough to warrant refusal of the planning application.

In design terms the proposed extension to the barns present a contemporary addition to the property that is considered to be appropriate in the context. This includes the provision of a glazed link that will connect the existing and new, and the use of timber cladding to the walls that will respect the historic farmhouse setting of the barn.

The proposed development is, therefore, considered to be acceptable and in accordance with Policy BNE1 of the Local Plan Part 1.

Highways and access

Policy INF2 states planning permission will be granted for development appropriate provision is made for safe and convenient access to and within the development and that would not result in an undue detrimental impact on the efficiency of the highway network.

The proposed development will be accessed via the existing vehicular entrance from Castle Street. The proposed development includes the addition of gates at the existing entrance that will be set back 5m from the highway to avoid the requirement for cars accessing the site to wait on the highway. A gravel courtyard is provided to the front of the proposed development that provides sufficient space for car parking to serve the development.

The Highway Authority have reviewed the proposed development and confirm that the site access, parking and servicing arrange are acceptable, as such, there is no objection in principle.

The proposed development is, therefore, considered to be in accordance with Policy INF2 of the Local Plan Part 1.

Ecology

Policy BNE3 of the Local Plan Part 1 states planning proposals that could have a direct or indirect effect on sites with potential or actual ecological importance including priority habitats and species will need to be supported by appropriate surveys or assessments sufficient to allow the authority to fully understand the likely impacts of the scheme and the mitigation proposed.

The application is supported by a Preliminary Ecological Appraisal (PEA) that confirms that the site will not impact upon any sites of designated ecological appraisal due to the significant proximity of the site away from designated sites and that it is a relatively small-scale development. The PEA also highlights the potential risk to roosting bats associated with the proposed development, and therefore, recommends that further surveys are undertaken.

A series of dusk emergence and dawn re-entry surveys were undertaken of the existing buildings at Castle Farm to confirm the likely presence of roosting bats within features of the building. No active bat roost were recorded during the surveys and as such the surveys concluded that it is unlikely that roosting bats would be impact by the proposed development. As such, a Natural England bat development licence is not required for the development to proceed, and no further surveys or mitigation is required.

The Derbyshire Wildlife Trust have reviewed the proposals and have no objection to the proposed development. The Trust advise that bats should not present a constraint to development but highlight that the proposed development does provide opportunities to achieve a net gain in biodiversity and thus a condition is proposed seeking a biodiversity enhancement scheme.

The proposed development is, therefore, considered to be in accordance with Policy BNE3 of the Local Plan Part 1.

Conclusion

The proposal to convert the Grade II Listed Barn to residential use is acceptable in principle, given the conservation benefits of securing a viable long term use for buildings of historic and architectural significance. The design of the conversion and extension is sympathetic to the historic fabric and character and there are no undue concerns regarding the wider Conservation Area. The scheme is also considered acceptable in terms of the impact on the residential amenity of the neighbouring property. The proposal therefore complies with the relevant planning policies and is recommended for approval.

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

Recommendation

Approve, 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:
 - Proposed Site Plan – ref: 7478-LAT-XX-RL-DP-A-1100-S3-P05
 - Proposed Ground Floor Plan – ref: 7478-LAT-XX-GF-DP-A-2100-S3-P07
 - Proposed First Floor Plan – ref: 7478-LAT-XX-1F-DP-A-2101-S3-P07
 - Proposed Elevations – ref: 7478-LAT-XX-XX-DE-A-3201-S3-P04

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

Reason: In the visual interest of the building(s) and local distinctiveness (including historic context).

4. Prior to their incorporation in to the building hereby approved, details of the door, window frame and fascia colours shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be set out on a drawing/plan where multiple dwellings are proposed. The door, window frame and fascia colours shall be installed in accordance with the approved details.

Reason: In the visual interest of the building(s) and local distinctiveness (including historic context).

5. Prior to their incorporation in to the building hereby approved, details of the rooflights shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflights shall be installed.

Reason: In the visual interest of the building and local distinctiveness (including historic context).

6. Any entrance gates erected in the private driveway shall be hung to open away from the highway and set back by a minimum distance of 5 metres as measured from the nearside edge of the carriageway.

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

7. The dwelling shall be constructed and fitted out so that the estimated consumption of wholesome water by persons occupying the dwelling will not exceed 110 litres per person per day, consistent with the Optional Standard as set out in G2 of Part G of the Building Regulations (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.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no hard surfaces or gates, walls, fences or other means of enclosure (except as authorised by this permission or allowed by any condition attached thereto) shall be created on the site without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

Reason: To maintain control in the interest of the character and amenity of the Conservation Area and the setting of the Listed Building.

9. Prior to any construction above foundations level, a scheme of biodiversity enhancement based on the recommendations in the Bat Emergence & Re-entry surveys report prepared by Astute Ecology dated September 2021 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include, as a minimum, the incorporation of an integrated (inbuilt) feature within the development for roosting bats. The enhancement scheme shall be implemented in accordance with the agreed details as construction proceeds and completed prior to the first occupation of the development.

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

Item No. 1.7

Ref. No. [DMPA/2022/0111](#)

Valid date: 06/01/2022

Applicant: Croake **Agent:** Lathams

Proposal: **Listed Building Consent for conversion and extension of a Grade II listed barn in the grounds of Castle Farm to a 3 bed dwelling at Castle Farm, Castle Street, Melbourne, Derby, DE73 8DY**

Ward: Melbourne

Reason for committee determination

Cllr Martin Fitzpatrick, Ward Member for Melbourne, has requested that the application is determined by the Planning Committee due to local concerns which need to be considered. The application was deferred from the meeting on 6 February 2024 for a site visit.

Site Description

The planning application seeks listed building consent for the conversion and extension of the Grade II listed barn in the grounds of Castle Farm, Castle Street, Melbourne, Derby, DE73 8DY. The Official List Entry describes the barn, as follows:

“C16 and C18 with later additions and alterations. Square panel timber framing with corner braces to upper panels, on stone plinth and with brick nogging, plus later red brick, and pantile roof. Single storey and three bays. West elevation has two panels of timber framing with diamond patterned-breathers in the nogging, to either side of a full height central opening with plank doors. Beyond to either side there are later brick bays with timber framing painted on. East facade is C19 with a central full height opening. Interior has the original king post roof trusses with staggered single purlins and wind braces below from the supporting posts. Included for group value only.”

The significance of the listed building is understood to relate to its historical association with the wider Castle Farm context. It is a recognisable example of a threshing barn and forms a remaining part of the evolution of the castle site since the castle disappeared in the 17th Century.

The proposal

Listed building consent is sought for works to the Listed barn to allow the conversion of the structure to a three bedroom residential dwelling. To facilitate the conversion an extension is proposed to the eastern elevation, which will extend back along the northern boundary wall of the site. The scheme will include a courtyard garden and new areas of hard landscaping. An existing cart shed, which currently forms one of the outbuildings attached to the rear of Castle Farmhouse, is to be incorporated into the curtilage of the new dwelling and will be used for parking and refuse storage.

Applicant's supporting information

The application is supported with the following plans and documents :

Design and Access Statement

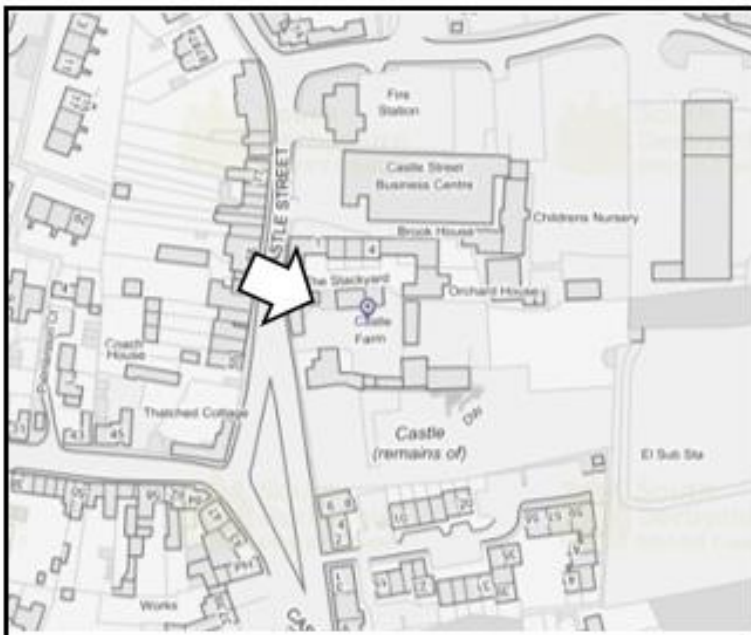
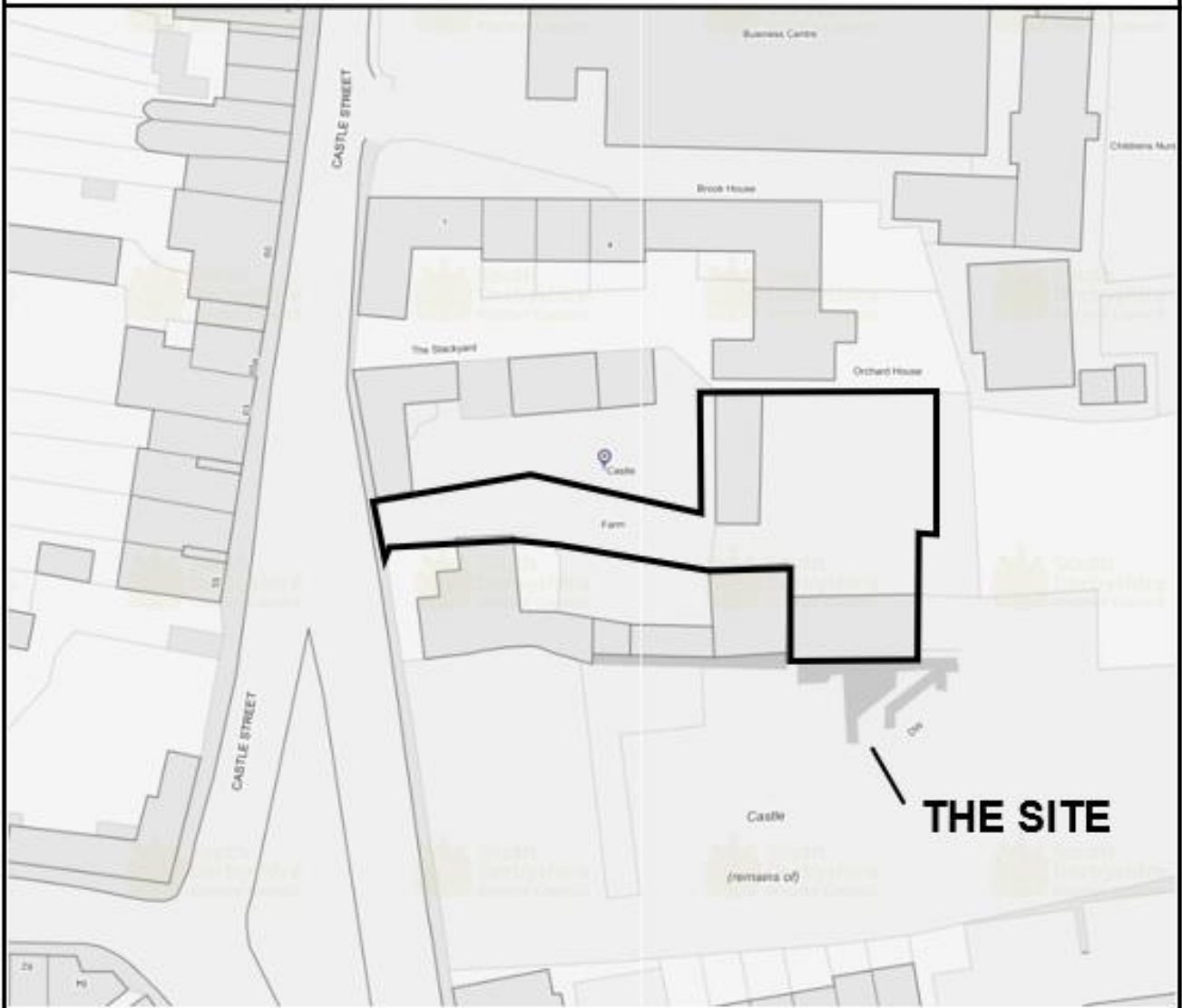
Heritage Statement by Phillip E Heath

Structural Appraisal by GCA (UK) Ltd

Archaeological Desk Based Assessment by Trent & Peak Archaeology

Preliminary Ecological Appraisal by Astute Ecology Ecological Consultants

DMPA/2022/0111– Castle Farm, Castle Street, Melbourne, Derby, DE73 8DY



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South Derbyshire District Council, LA 100019461.2020

Bat Survey by Astute Ecology Ecological Consultants
Topographical Survey
Underground Utility Survey
Site Location Plan
Proposed Site Plan
Existing Floor Plans and Elevation drawings
Proposed Floor Plans and Elevation drawings
Proposed Cart Shed drawings
Proposed Sections

Relevant planning history

DMPA/2021/1680 & DMPA/2022/0129 – Erection of a garden room. Approved September 2022.

9/2006/1263 – The raising of the boundary wall along Castle Street frontage. Approved 8 March 2007

9/2003/1512 – The replacement of the existing timber fence with a brick wall and gateway. Approved 10 February 2004

9/2003/1513 – The bricking up of two windows and the replacement of the existing timber fence with a brick wall and gateway and retention of gate. Approved 10 February 2004

This application relates to the following application:

DMPA/2022/0008 – Conversion and extension of a Grade II listed barn in the grounds of Castle Farm to a 3-bed dwelling at Castle Farm, Castle Street, Melbourne, Derby, DE73 8DY – Pending consideration.

Responses to consultations and publicity

Historic England – Given the sensitivities of the site and its immediate environs, if the local authority is minded to grant consent we recommend that this should be subject to agreement with the Council's Conservation Officer regarding the materials, finishes and landscaping so that the historic character of the area is respected.

Relevant policy, guidance and/or legislation

Legislation

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that:

"In considering whether to grant planning permission for General duty as development which affects a listed building or its setting, the local respects listed planning authority or, as the case may be, the Secretary of State shall have buildings in special regard to the desirability of preserving the building or its setting or exercise of any features of special architectural or historic interest which it possesses."

The decision maker is required to give considerable importance and weight to the desirability of preserving listed buildings and their settings, and where there is conflict with the statutory objective in section 66(1), the question for the decision maker is whether the presumption is overridden by other considerations of public interest.

Policy

The relevant Development Plan policies are:

(2016) Local Plan Part 1 (LP1): BNE2 (Heritage Assets).

(2017) Local Plan Part 2 (LP2): BNE10 (Heritage).

Melbourne Neighbourhood Development Plan: HC1 (Heritage Assets).

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); and
Historic England Guidance

The relevant legislation is:
Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Planning considerations

The 1990 Planning (Listed Buildings and Conservation Areas) Act places a duty on local planning authorities to preserve or enhance listed buildings and their settings. This is underpinned by Paragraph 205 of the NPPF which states that great weight should be given to the conservation of heritage assets.

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

- Whether the proposal preserves or enhances the special architectural or historic interest of the listed building.

Planning assessment

A Heritage Impact Assessment has been submitted in support of the application, which highlights that the internal alterations required to provide residential accommodation will lead to a change that will amount of 'less than substantial harm'. This includes the subdivision of the space and the concealment of historical elements such as the timber frame and trusses. It is, however, acknowledged that much of the internal historic fabric is in poor condition and would need to be repaired as part of the proposed development. These repairs are considered necessary to secure the long-term future of the barn and will contribute to the preservation of the heritage asset.

The proposed development includes an extension to the east of the barn. It is noted, however, that this is located within an area of the site that previously accommodated built form and is within the secondary yard of the wider farmstead. This area is more private and informal in character than the main yard and thus is more capable of accommodating the scale of development proposed.

Whilst contemporary in appearance, the extension has been designed to be sensitive to the barn building including the proposed use of materials that ensure the agricultural character is retained. Further details of the materials and appearance can be sought through condition to further control the impact of the character and appearance of the extension on the listed building.

The application proposals have evolved through pre-application consultation with the Council, the Conservation Officer and Historic England. Initial concerns regarding the scale of development have been resolved through the submission of a reduced scale of development that is considered to be more in keeping within the historical context of the site, and additionally, it is considered that these ensure the extensions appear more subservient to the barn than originally proposed.

Para 208 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

It is recognised that there would be less than substantial harm to the listed building and that this harm carries great weight against the proposal. However, it is considered that this harm is necessary in order to secure a long-term use for the barn that will in turn preserve the listed asset. The public benefit of securing the optimum viable use of the building by putting the barn back into a positive use is considered to outweigh the harm that would be caused by the proposed development.

Conclusion and the planning balance

In accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 special regard has been given to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. It is considered that the proposals would preserve the heritage asset and due consideration has been given in accordance with Section 66(1).

The proposal is considered to be in accordance with Policy BNE2, BNE10 of the Local Plan and Policy HC1 of the Melbourne Neighbourhood Development Plan in that it will be sympathetic to the heritage asset. It is, therefore, considered that listed building consent be granted for the proposed conversion and extension of the Grade II Listed barn.

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 18 of the Planning (Listed Buildings and Conservation Areas) 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:
 - Proposed Site Plan – ref: 7478-LAT-XX-RL-DP-A-1100-S3-P05
 - Proposed Ground Floor Plan – ref: 7478-LAT-XX-GF-DP-A-2100-S3-P07
 - Proposed First Floor Plan – ref: 7478-LAT-XX-1F-DP-A-2101-S3-P07
 - Proposed Elevations – ref: 7478-LAT-XX-XX-DE-A-3201-S3-P04

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

Reason: In the visual interest of the building and local distinctiveness including historic context.

4. Prior to their incorporation into the building, details of the door, window frame and fascia colours shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be set out on a drawing/plan where multiple dwellings are proposed. The door, window frame and fascia colours shall be installed in accordance with the approved details.

Reason: In the visual interest of the building and local distinctiveness including historic context.

5. Prior to their incorporation into the building, details of the rooflights shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflights shall be installed.

Reason: In the visual interest of the building and local distinctiveness including historic context.

Item No. 1.8

Ref. No. [DMPA/2023/1420](#)

Valid date: 03/01/2024

Applicant: Christopher Worman

Agent:

Proposal: **The variation and removal of conditions 2, 3, 4, 5 and 6 relating to planning permission ref. DMPA/2022/0860 for change a mounded grass area into a small Miners Memorial Park, to include some hard surfacing, 2 no. seats, 2 no. pergolas, 2 no. sculptures, the planting of 18 no. trees, a wild flower meadow area, and bulb planting within the proposed trees, and one signage board at Eureka Park, Midland Road, John Street, Swadlincote**

Ward: Swadlincote

Reason for committee determination

The applicant is South Derbyshire District Council's Parks and Green Spaces Team and the land in question is Council owned land, therefore this application is required to go to planning committee.

Site Description

The application site lies within the western corner of Eureka Park, Swadlincote, and comprises a mounded grass area. Along the southern edge of the site there are a number of large mature trees which run along the wide footpath which is just outside of the application site boundary. This footpath is one of the main routes in and out of the park, from Midland Road.

The site is a separate parcel of land from the park and provides an area of green space that has amenity value but more limited leisure/recreation use when compared to the rest of Eureka Park.

The proposal

As stated within the host planning permission DMPA/2022/0860, the proposals is to create a Miners Memorial Park in this under utilised corner of the park, to promote local history from Swadlincote and the wider area.

The scheme initially comprised of two main seating areas, as approved under DMPA/2022/0860. This has now been amended and brought forward as one main seating area with a winding path through the centre of the land in question. Sections of seating areas along the path are now proposed, with a main seating area further north.

The pathway through the amenity space goes from adjacent to entrance of eureka park at Midland road, to a footpath adjacent to John Street.

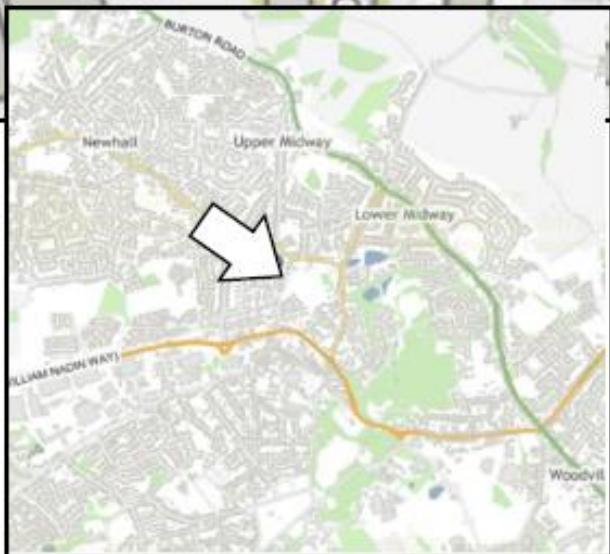
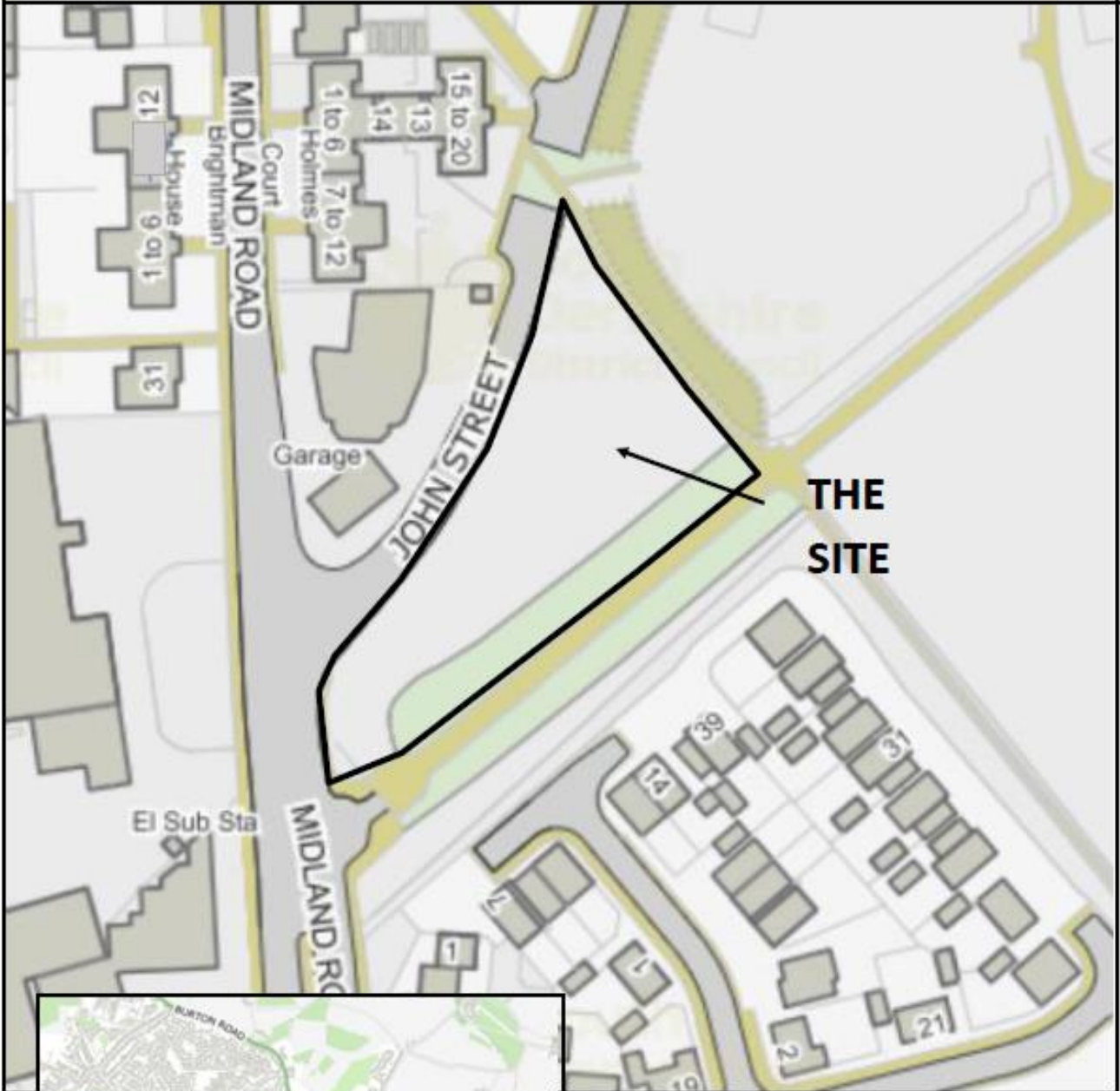
Applicant's supporting information

The application is supported by a Landscaping Plan, Planting Plan, Landscaping Specification, Material Samples, Illustrative Landscaping Masterplan and a Miners Memorial Garden Landscape Ecological Management Plan.

Relevant planning history

DMPA/2022/0860 - To change a mounded grass area into a small Miners Memorial Park, to include some hard surfacing, 2 no. seats, 2 no. pergolas, 2 no. sculptures, the planting of 18 no. trees, a wild flower meadow area, and bulb planting within the proposed trees, and one signage board - Planning permission approved subject to conditions on 23/09/2022.

DMOT/2023/1420 - Eureka Park, Midland Road, John Street, Swadlincote



South Derbyshire District Council

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Responses to consultations and publicity

There have been no responses to consultations and publicity.

Relevant policy, guidance and/or legislation

The relevant policies are:

2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF8 (The National Forest) and INF9 (Open Space, Sport and Recreation).

2017 Local Plan Part 2: BNE7 (Trees, Woodland and Hedgerows).

National Guidance

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

Local Guidance

Design Guide Supplementary Planning Document (SPD)

Planning considerations

The main considerations are:

- Principle of the development
- Whether the changes in landscaping are considered acceptable
- Whether the conditions are met as per the host planning permission DMPA/2022/0860

Planning assessment

Principle of the development

It is considered that the creation of a formalised area of public space in the form of a memorial park is in accordance with the policies set out above, as per the host planning permission DMPA/2022/0860.

The principle of the development has been established within the host planning permission and the main considerations here are if the revised scheme and details submitted for approval are acceptable.

The proposals brought forward for this application can be summarised below:

New Landscaping Plan (Variation of Condition 2 of DMPA/2022/0860)

A revised landscaping plan of the approved detail under the host permission is proposed. This revised plan includes a revised landscape levels landscape design plan.

The design of the scheme will now include one main circular seating area which will now include the addition of three trees to be planted within that space and as well as some ornamental planting and hedge planting around the perimeter of the seating area. A self binding gravel surface for the hard landscaping will be within the main seating area with four entry points into the seating area comprising of a contrasting material of four sections of granite sett block pavings.

Around the perimeter of this main seating area will be a pathway comprised of a self binding gravel surface with now the addition of an access point which will connect to an existing footpath to the north (adjacent to John Street).

Some site levels have changed very marginally along different points of the site.

The timber statues shall be retained as per the submitted revised plan, but the positioning of the pergola is to be changed as per the revised plan. Climbing plants are proposed to be planted where the pergolas are and the for the plans to climb over the structure of the pergolas. The removal of another main seating area, as per the approved plan, will now be replaced with the addition of trees and seating areas dotted around the site.

Approval of details for condition 3 of DMPA/2022/0860

Prior to their incorporation in to the development approved under the host permission, details/and or samples of the brick materials to be used to site the structures was required to be approved in writing by the LPA.

A photograph of some sample bricks to be used to site the sculptures has been submitted and are considered to be in keeping with the design of the amenity space and therefore are considered acceptable.

Approval of details for condition 4 of DMPA/2022/0860

Prior to their incorporation in to the development approved under the host permission, details of the wild flower meadow mix was required to be approved in writing by the LPA.

Details have been submitted within the planting plan and are considered acceptable.

Approval of details for condition 5 of DMPA/2022/0860

Prior to their incorporation in to the development approved under the host permission, a landscape ecological management plan was required to be submitted and approved in writing by the LPA.

A landscape ecological management plan has been submitted and is considered acceptable.

Conclusion

It is considered that the proposal is in accordance with the policies of the adopted Local Plan and conditions 3, 4 and 5 relating to DMPA/2022/0860 are acceptable and therefore do not need to be carried forward through this 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

It is recommended planning permission be granted 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. Detailed Planting Plan 'PLANT169-ZZ-XX-DR-L-005 P01', Landscaping Plan 'PLANT169-ZZ-XX-DR-L-004 P01' Illustrative Landscape Masterplan 'PLANT169-ZZ-XX-DR-L-002' revision P01, Landscaping Specifications 'PLANT169-ZZ-XX-DR-L-003' revision P01, 'Landscape Ecological Management Plan For the Miners Memorial and Bevan Boys Garden' revision 01.11.23 and material samples received and shown on the submitted photographs dated 13.11.23, 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 interest of achieving sustainable development.

Item No: 1.9

Ref. No: [DMPA/2023/1368](#)

Valid date: 27/10/2023

Applicant: First Fence Holding Ltd. **Agent:** T Beavin

Proposal: **Proposed extension to existing workshop and provision of additional office space, together with a change of use of existing land and turning head resulting from the development of the Kiln Way Link Road for the creation 47no. car parking spaces, including 24no. electric vehicle charging points, erection of 10no. cycle spaces, staff seating area and landscaping for First Fence Ltd. (3 parking spaces to be allocated for Sharpe's Brothers and Co Ltd). (resubmission of DMPA/2023/0177) at First Fence Ltd, Kiln Way, Woodville, Swadlincote, DE11 8EA.**

Ward: Woodville Ward

Reason for committee determination

This planning submission is being reported to Planning Committee at the request of the Head of Planning and Strategic Housing given the previous committee decisions in relation to this site.

In terms of the level of objection, one public comment of objection was received. No comments were received from Ward or Parish Council. No objections have been received from technical consultees subject to planning conditions.

Update Report

The application was previously considered at the planning committee meeting held on 06 February 2024 but at the request of committee members was deferred.

The reasoning for this deferral was to give greater clarity in relation to previous decisions and applications at the site.

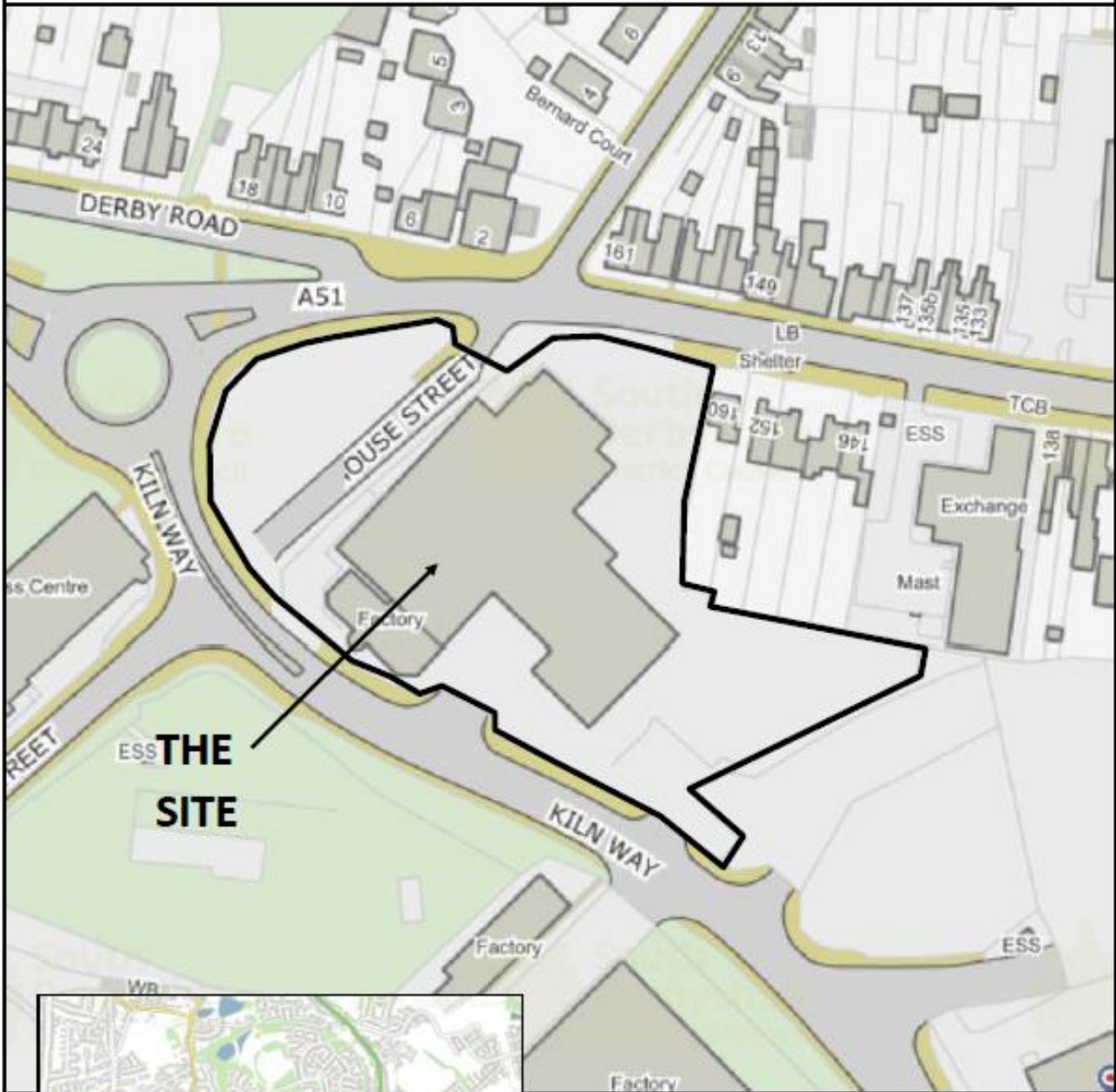
The following extract presents a summary of the proposals in relation to previous decisions and applications at the site.

Updated Details/ Clarifications

Proposed two-storey extension:

The proposed two-storey extension to the south-east facing side of the existing building with a workshop expansion at ground floor and new office space above remains as submitted under the planning reference of DMPA/2023/0177. This application which included a parking area to the landscaped area to the north-west of the site, was refused at planning committee in September 2023 contrary to officer recommendation for the reason given below.

The proposed development will introduce a built form of development into a visually prominent, open, naturally landscaped area, and would erode this visually significant landscaped gateway site. This would result in an undue adverse impact on the character, appearance and visual amenity of the area. As such, the proposal fails to accord with Local



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Plan Part 1 policies BNE1 and BNE4. This adverse impact is not considered to be outweighed by the increase in parking provision and additional planting proposed as part of this application.

This proposed extension therefore did not form part of the reason for refusal of this application. Proposed Site Plan - Ref: 222-48-02c was part of the application refused at Planning Committee under the planning reference of DMPA/2023/0177. Please note below...



Proposed Site Plan - Ref: 222-48-02a is currently under consideration under the planning reference of DMPA/2023/1368. This proposal incorporates, the change of use of the existing land and turning head as already approved at appeal, and also the two-storey extension to the south-east facing side of the existing building which formed part of the proposal referenced DMPA/2023/0177 where this extension element did not form part of the reason for refusal of this application. This extension elements remains the same as previously submitted for consideration. Proposed Site Plan - Ref: 222-48-02a is currently under consideration under the planning reference of DMPA/2023/1368. Please note below...



Proposed change of use of the existing land and turning head:

The change of use of the existing land and turning head is proposed to facilitate x47 car parking spaces as permitted under the recent Planning Appeal decision (appeal reference APP/F1040/W/23/3317999) which relates to the planning application reference of DMPA/2022/0360 which was refused at planning committee in September 2022 contrary to officer recommendation.

The main issues, cited by the Planning Inspector, are regarding the effect of the proposed development on the character and appearance of the surrounding area. The Planning Inspector has noted in the appeal decision letter that:

Although the appeal site has a relatively open appearance, it does not make a significant contribution to the localised urban character of its surroundings. It is considered that the existing landscaping is fairly minimalistic and the site displays no notable features or characteristics to suggest that it plays any important gateway role. A considerable part of the open aspect in the vicinity of the roundabout would be retained with a large portion of the proposed car parking areas being partially screened by hedgerow planting. The planning inspectorate concluded that the proposal would not have a significant detrimental effect on the character and appearance of the surrounding area and would provide an opportunity to encourage more sustainable forms of transport in the longer term.

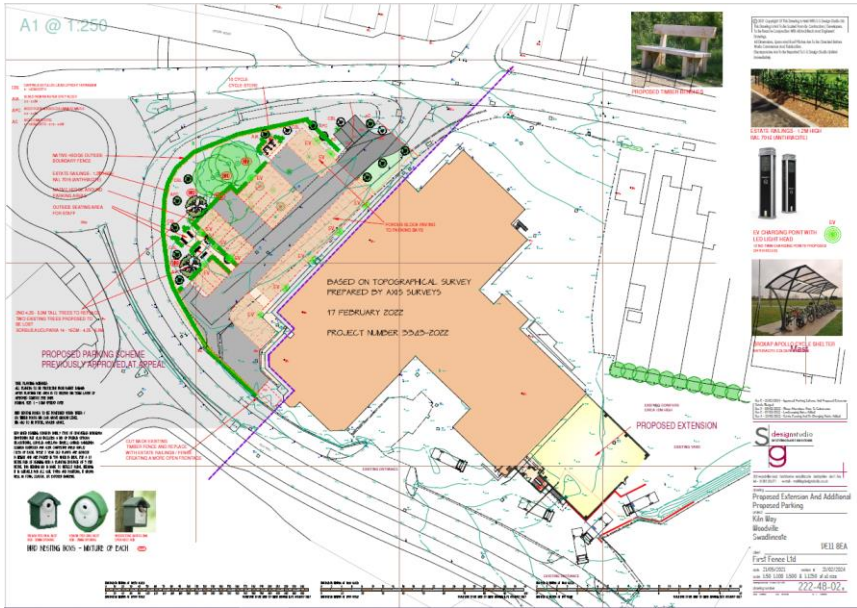
Proposed Site Plan - Ref: 222-30-12d was part of the application refused at Planning Committee under the planning reference of DMPA/2022/0360 and was subsequently approved at appeal on 28 September 2023 under the appeal reference of APP/F1040/W/23/3317999. Please note below...



Proposed Site Plan - Ref: 222-48-02a is currently under consideration under the planning reference of DMPA/2023/1368. This proposal incorporates, the change of use of the existing land and turning head as already approved at appeal, and also the two-storey extension to the south-east facing side of the existing building which formed part of the proposal referenced DMPA/2023/0177 where the extension element did not form part of the reason for refusal of this application. Please note below...



Since the planning committee meeting held on 06 February 2024 officers have requested and received confirmation that the change of use of the existing land and turning head remains as previously approved at planning appeal. The further provided Proposed Site Plan - Ref: 222-48-02e presents evidence that this element of the development proposal is identical to the scheme approved at appeal. This plan is to be included into the list of submitted and approved documentation. Please note below...



Other Notes

As outlined within the submitted planning application form the proposal under consideration incorporates an increase from 38 full-time employees to 58 full-time employees.

In the interests of clarity, although the proposed scheme of development would follow the hours attached to the existing use of the site a planning condition in this regard it to be added regarding the extension to the premises. This condition shall read as follows:

Condition: The extension to the premises hereby approved shall not be open other than between 06:00 hours and 19:00 hours Mondays to Fridays, and between 07:00 hours and 14:00 hours on Saturdays. The premises shall not be open on Sundays, public holidays and bank holidays.
Reason: To safeguard the amenities of nearby occupiers.

Conclusion

The proposed scheme of development at the site under the address of First Fence Ltd, Kiln Way, Woodville, Swadlincote, DE11 8EA is considered to be acceptable, and is considered to be in accordance with the relevant local and national level planning policy.

In relation to the specific points of clarification, the parking and landscaping proposed as part of this current application at the north-western frontage of the site is identical to that allowed at appeal. The extension to the south-east of the building on site proposed as part of this application is identical to the extension refused as part of the earlier application referenced above, with the extension forming no part of the reason for refusal.

Item No. 1.10
Ref. No. DMPA/2023/1368
Valid date: 27/10/2023
Applicant: First Fence Holding Ltd. **Agent:** T Beavin
Proposal: Proposed extension to existing workshop and provision of additional office space, together with a change of use of existing land and turning head resulting from the development of the Kiln Way Link Road for the creation 47no. car parking spaces, including 24no. electric vehicle charging points, erection of 10no. cycle spaces, staff seating area and landscaping for First Fence Ltd. (3 parking spaces to be allocated for Sharpe's Brothers and Co Ltd). (resubmission of DMPA/2023/0177) at First Fence Ltd, Kiln Way, Woodville, Swadlincote, DE11 8EA.
Ward: Woodville Ward

Reason for committee determination

This planning submission is being reported to Planning Committee at the request of the Head of Planning and Strategic Housing given the previous committee decisions in relation to this site.

Site Description

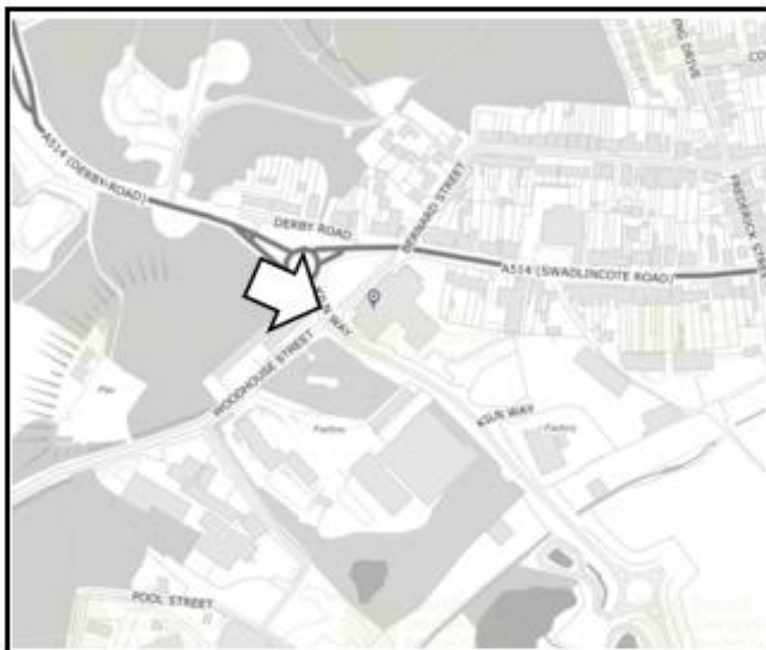
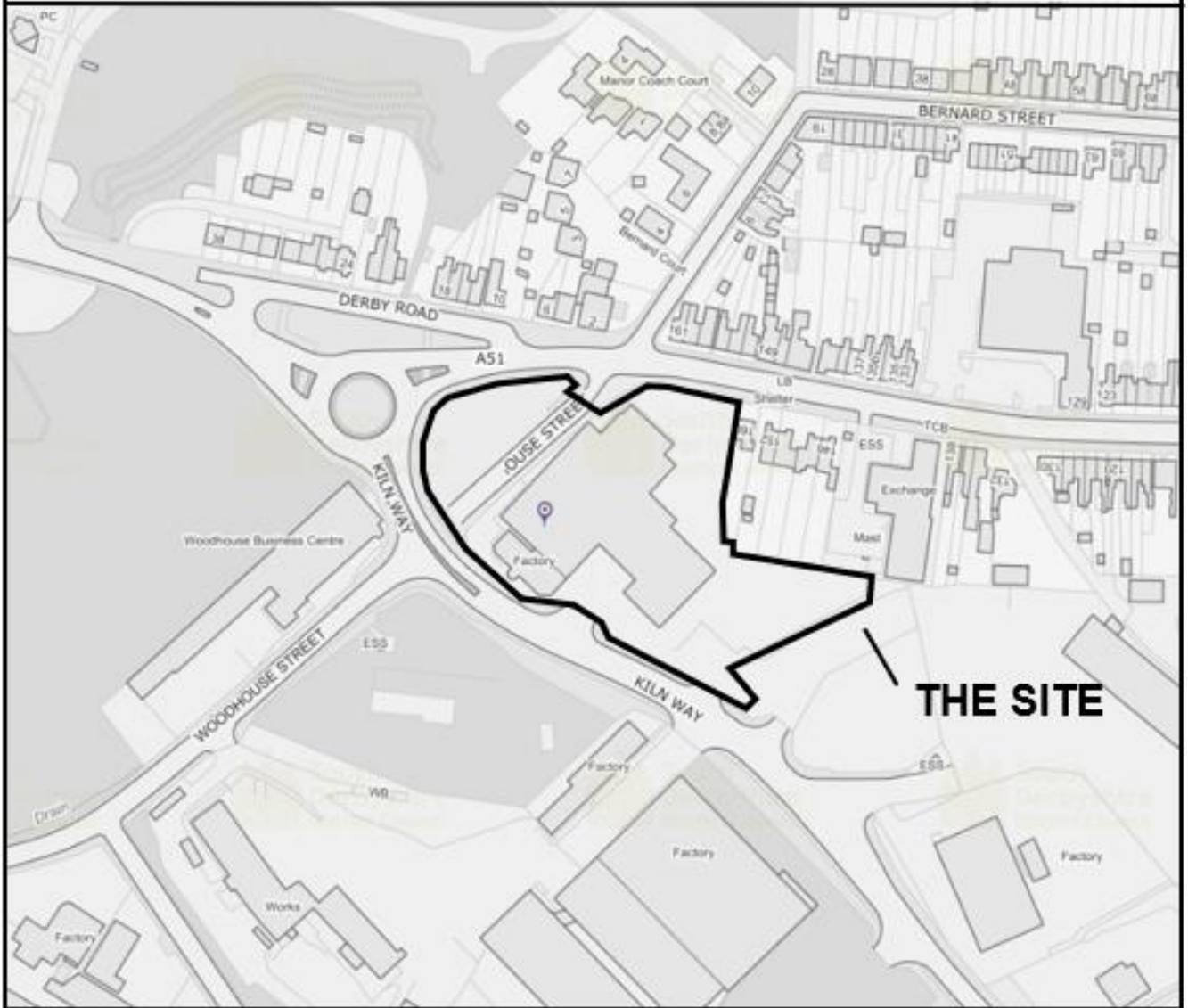
The application site is addressed as First Fence Ltd, Kiln Way, Woodville, Swadlincote, DE11 8EA.

The existing use of the First Fence Ltd. premises is considered to comprise of both B2 Industrial and B8 Storage uses. The site under consideration incorporates an existing yard space and land located immediately adjacent to the built form of First Fence Ltd. This is to the north-west of the site and east of the connecting roundabout from Kiln Way. This roundabout and the Link Road have recently been constructed. The site area for this application comprises of 9,905 square metres of land.

The application site is located within Woodville within the Swadlincote settlement boundary. Swadlincote is defined as an 'Urban Area' in the Local Plan Settlement Hierarchy. The application is within Woodville Parish. The site is surrounded to the north, west and south by the remodelled Swadlincote Road, roundabout, and Kiln Way, with Kiln Way being a Regeneration Route. To the east are neighbouring industrial premises. Surrounding development to the south is predominantly industrial units occupied by a range of businesses. Neighbouring residential ribbon development is focussed along Swadlincote Road, in predominantly modest terraced two storey style, however there are also several commercial premises along Swadlincote Road. To the west, on the opposite side of Kiln Way and south of Swadlincote Road, there is Gresley Common comprising of an expanse of woodland and established trees.

The site comprises of open landscaping and a turning head created from Woodhouse Street which was stopped up at this location during the highway works to create the Regeneration Route which remodelled the surrounding roads. The open landscaping was undertaken as part of the landscaping to the junction. There are established trees onsite planted as part of

DMPA/2023/1368– First Fence Ltd, Kiln Way, Woodville, Swadlincote, DE11 8EA



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the landscaping. Given the sites orientation and existing access to the turning head, this element of the site would be accessed south from Swadlincote Road.

The site hereby under consideration is not situated within a Conservation Area, does not fall within proximity of Heritage Assets, and does not fall within the River Mease Catchment. The site under consideration does not comprise of any Tree Preservation Orders but is however situated within the National Forest. The site lies wholly within Flood Zone 1 which has the lowest probability of flooding. The site is noted as being within an area subject to Low Risk of Surface Water flooding. The site is within a Coal Authority 'High Risk Coalfield Area'.

A site visit has been undertaken on Thursday 16 November 2023.

The Proposal

The applicant is seeking planning permission for the proposed extension to existing workshop and provision of additional office space, together with a change of use of existing land and turning head resulting from the development of the Kiln Way Link Road for the creation 47no. car parking spaces, including 24no. electric vehicle charging points, erection of 10no. cycle spaces, staff seating area and landscaping for First Fence Ltd. (3 parking spaces to be allocated for Sharpe's Brothers and Co Ltd). (resubmission of DMPA/2023/0177) at First Fence Ltd, Kiln Way, Woodville, Swadlincote, DE11 8EA.

It has been outlined by the applicant that the company's success and continued growth requires an extension to the existing workshop and a need for more dedicated office space, to enable production to meet with the company's growing orders. The application will see an extension to the south-east facing side of the existing building at ground level with new office space above. This will provide for approximately 1,040 square metres of floorspace split between the two levels. External materials and finishes have been proposed to match that of the existing building. The elevations can be seen on the supporting proposed plans.

The applicant has stated that the provision of more dedicated parking is much needed by First Fence, with employees' cars currently parked wherever they can find space. A small section of the site was lost to make way for the Regeneration Route road, but even before this construction, staff have been double parking on site and park on nearby roads as the site currently has insufficient parking. The proposal is to change the use of the turning head to vehicular and cycle parking, whilst retaining the landscaping in support of First Fence Ltd. Such parking is identified as being needed to support the business and does not include HGV parking.

The perimeter adjacent to the roundabout will be landscaped with the introduction of approximately 157 metres of hedging, as well as relocated and new tree planting, which will both help screen the premises and add to the ecology and biodiversity of the site. The proposal will also result in a gain in the permeable area of the site, which will help reduce the potential of flooding in the area.

The scheme of development under consideration includes a change of use of existing land and turning head for the creation of 47no. car parking spaces, including 24no. electric vehicle charging points, erection of 10no. cycle spaces, staff seating area and landscaping. This element of the proposal is largely as permitted under the Planning Appeal reference of APP/F1040/W/23/3317999 which relates to the planning reference of DMPA/2022/0360.

The proposed two-storey extension to the south-east facing side of the existing building with a workshop expansion at ground floor and new office space above remains as submitted under the planning reference of DMPA/2023/0177. This application was refused at planning committee against officer recommendation, with reference drawn only to the land between the existing building and the roundabout. The reasoning for this refusal was as follows:

The proposed development will introduce a built form of development into a visually prominent, open, naturally landscaped area, and would erode this visually significant landscaped gateway site. This would result in an undue adverse impact on the character, appearance and visual amenity of the area.

As such, the proposal fails to accord with Local Plan Part 1 policies BNE1 and BNE4. This adverse impact is not considered to be outweighed by the increase in parking provision and additional planting proposed as part of this application.

Applicant's supporting information

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

- Location Plan - Ref: LP-222-48-11 - Received by the LPA: 27 Oct 2023
- Survey of Existing - Ref: 222-48-01a - Received by the LPA: 27 Oct 2023
- Proposed Site Plan - Ref: 222-48-02a - Received by the LPA: 27 Oct 2023
- Existing Elevations - Ref: 221-20.01 - Received by the LPA: 27 Oct 2023
- Proposed Ground Floor Plan - Ref: 222-48-04a - Received by the LPA: 27 Oct 2023
- Proposed First Floor Plan - Ref: 222-48-05a - Received by the LPA: 27 Oct 2023
- Proposed North East Elevation - Ref: 222-48-06a - Received by the LPA: 27 Oct 2023
- Proposed South East Elevation - Ref: 222-48-07a - Received by the LPA: 27 Oct 2023
- Proposed South West Elevation - Ref: 222-48-08a - Received by the LPA: 27 Oct 2023
- Proposed North West Elevation - Ref: 222-48-09a - Received by the LPA: 27 Oct 2023
- Proposed Section - Ref: 222-48-10a - Received by the LPA: 27 Oct 2023
- Comparison of Solid Surface Areas - Ref: 222-48-12D - Received by the LPA: 27 Oct 2023
- Bike Shelter Details - Ref: BXMWAP_Apollo2018 - Received by the LPA: 27 Oct 2023
- Coal Mining Risk Assessment - Ref: EAL.245.22 - Received by the LPA: 27 Oct 2023
- Overview Sheet Charger Info - Ref: EVQRO-V06-R5 Quantum EV Range - Received by the LPA: 27 Oct 2023
- Transport Statement - Ref: LP-222-48-11ADC3029-RP-A-v2 - Received by the LPA: 27 Oct 2023
- Noise Assessment - Ref: P4458/R1/WJK - Received by the LPA: 27 Oct 2023
- Planning Design and Access Statement January 2023 - Received by the LPA: 27 Oct 2023

Relevant planning history

The planning history available for the site is as follows:

DMPA/2023/0177 - Proposed extension to existing workshop and provision of additional office space, together with a change of use of existing land and turning head resulting from the development of the Kiln Way Link Road for the creation 45no. car parking spaces, including 24no. electric vehicle charging points, erection of 10 no. cycle spaces, staff seating area and landscaping for First Fence Ltd. (3 parking spaces to be allocated for Sharpe's Brothers and Co Ltd) - Refused: 22-Sept-2023.

The reason for this refusal was as follows: *The proposed development will introduce a built form of development into a visually prominent, open, naturally landscaped area, and would erode this visually significant landscaped gateway site. This would result in an undue adverse impact on the character, appearance and visual amenity of the area. As such, the proposal fails to accord with Local Plan Part 1 policies BNE1 and BNE4. This adverse impact is not considered to be outweighed by the increase in parking provision and additional planting proposed as part of this application.*

This reason relates only to the existing land and turning head area of the application site resulting from the development of the Kiln Way Link Road, and not the principle of the proposed extension to the existing workshop and provision of additional office space which also formed part of the proposed scheme of development. It is understood that the applicant may submit an appeal pending the outcome of the application currently under consideration referenced DMPA/2023/1368.

DMPA/2022/0360 - Proposed change of use to existing land and turning head resulting from the development of the Kiln Way Link Road for the creation 47no. car parking spaces, inc. 24no. electric vehicle charging points, erection of 10no. cycle spaces, staff seating area and landscaping - Refused: 09-Sept-2022 - Appeal Allowed: 24-Oct-2023. (Appeal Reference: APP/F1040/W/23/3317999)

9/2017/1401 - Continued use of the site in connection with b2 (industrial) and b8 (storage) use along with retention of perimeter palisade fencing and re-painting of it, retaining wall, hardstanding and installation of dropped kerb to Swadlincote Road - Approved: 06-June-2018.

9/2017/1222 - Construction of a single carriageway road with verges, cycleways and footways along with three new roundabouts and associated infrastructure and the partial demolition of woodhouse business centre (woodville regeneration route phase 2) affecting Derby Road, Swadlincote Road, Woodhouse Street and Kiln Way and across land at the former Dyson site occupation lane Woodville Swadlincote Derbyshire - Approved: 11-Apr-2018.

9/2016/0147 - Use of site in connection with b2/b8 use retention of perimeter pallisade fencing installation of dropped kerb, retention of hardstanding and retention of retaining wall - Refused: 07-Sept-2017.

9/2016/0784 - Display of 4 no internally illuminated fascia signs - Approved 19-Oct-2016.

The relevant Derbyshire County Council planning permissions are as follows:

CD9/0520/8 - Section 73 Application for the variation of conditions 3 (Form of Development), 4 (Highways) and 24 (Construction Hours) of planning permission CD9/0519/20 for construction of an all purpose single carriageway complete with verges, cycleways and footpaths (including three roundabout junctions), connecting between the existing roundabout spur at Occupation Lane, Woodville and the A514 Derby Road, Swadlincote. Approved 30/07/20.

CD9/0519/20 - Construction of an all-purpose single carriageway complete with verges, cycleways and footways (including three new roundabout junctions), connecting between the existing roundabout spur at Occupation Lane, Woodville, and the A514 Derby Road, Swadlincote. Approved 23/09/19.

A Landscape Masterplan was subsequently submitted in respect of Condition 14 of planning permission ref. CD9/0520/8 which showed the retention of woodland and hedgerow as required by National Forest. Condition 15 of planning permission CD9/0520/8 requires the retention of planting as agreed for five years and this conflicts with the proposals currently under consideration as part of this application.

Responses to consultations and publicity

Summary of consultation responses ...

Woodville Ward & Parish, Cllr Taylor - No comments received.

Environmental Health -

- No objections, subject to recommended planning conditions. Conditions recommended with regards to demolition and construction hours, and the submission and approval of a Construction Environmental Management Plan (CEMP). (16 November 2023).
- The planning conditions initially recommended under DMPA/2023/0177 have been reviewed. It has since been advised that a balanced approach would be to include a condition which requires the developer to take appropriate measures if issues of concern arise during the construction phase. (18 January 2024)

County Highways Authority -

- No objections subject to recommended planning conditions:
 1. No works shall commence on site until such time as a Stopping Up Order to remove all highway rights subsisting on the section of Woodhouse Street enclosed within the red outline of the application site has been granted and all highway rights have been successfully removed. For the avoidance of doubt, this must take place prior to commencement to comply with statutory requirements.
 2. Prior to being taken into use, the parking and manoeuvring space within the site shall be laid out in accordance with the approved drawing 222-48-02 rev A and maintained throughout the lifetime of the development free from any impediment to its designated use.

3. The use of the proposed parking and manoeuvring space within the application site shall be restricted to use by all vehicles with the exception of articulated vehicles due to insufficient space within the site for large vehicles to turn.
 4. The existing access to Swadlincote Road should be restricted to cars only and all HGVs should use Kiln Way accesses.
 5. Any gates shall be set back at least 5m into the site from the highway boundary and open inwards only.
- (29 November 2023).

The Coal Authority -

- No objections subject to recommended planning conditions with regards to a scheme of intrusive investigations, a scheme of remediations works and/ or mitigation measures, and safety and stability conformation. The incorporation of an informative note has also been requested. (04 December 2023).

Natural England -

- The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the proposals are not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not the proposals are consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of sites and the impacts of development proposals to assist the decision making process. We advise local planning authorities to obtain specialist ecological or other environmental advice when determining the environmental impacts of development. We recommend that local planning authorities use Natural England's Site of Special Scientific Interest Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. (08 December 2023).

Public Rights of Way -

- Swadlincote Public Footpath No. 18 runs east of the proposed development site. The Rights of Way Section has no objection to the proposals as it appears that the route will be ultimately unaffected by the proposed works. The incorporation of an informative note has been requested. (12 December 2023).

Economic Development -

- No comments. (13 December 2023).

Derbyshire Wildlife Trust -

- It is noted that this is a resubmission of DMPA/2023/0177. In our response to the former application, we made recommendations for conditions. These conditions are still applicable to this resubmission. - Construction Environmental Management Plan (CEMP: Biodiversity), Landscape and Ecological Management Plan (LEMP), and Lighting. (19 December 2023).

Responses to publicity ...

Following the formal consultation, which included neighbour notification letters dated 14 November 2023, a site notice displayed on 16 November 2023, and a press notice publicised on 24 November 2023 a total of x1 formal comment of neighbour representation has been received in response to such. These comments provide a stance of objection with a summary of the key points of concern arisen being as follow:

- *Green areas not required for the new road should be retained, enhanced, and landscaped.*
- *Lower section of Woodhouse Street should incorporate a public highway and public footpath.*
- *Plans should plant additional native trees and wildflowers.*
- *Encroaching onto residential area (area previously public footpaths and highway).*
- *Dangers for residents crossing busy roads.*
- *Concerns regarding commercial vehicles and HGV's turning and parking on Woodhouse Street.*

- *Evidence for additional parking questioned.*
- *Site notice stating 07 November 2023 as last date for submissions.*

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

For clarity the site notice displayed on 16 November 2023 stated a deadline for comments of 07 December 2023.

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), H1 (Settlement Hierarchy), E2 (Other Industrial and Business Development), E6 (Woodville Regeneration Area), 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), INF4 (Transport Infrastructure Improvement Schemes), INF7 (Green Infrastructure), and INF8 (National Forest).

South Derbyshire Local Plan Part 2 - LP2: SDT1 (Settlement Boundaries and Development), BNE7 (Trees, Woodland and Hedgerows), and BNE9 (Advertisements and Visual Pollution).

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, the documents submitted (amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- Principle of Development
- Design, Landscape, Character, and Visual Impacts
- Amenity
- Access and Highways
- Ecology and Biodiversity
- Other Matters

Planning Assessment

Principle of 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 National Planning Policy Framework (NPPF) seeks to support the growth and expansion of local businesses and places significant weight on the need to support economic growth. The site under consideration is situated within the Woodville Regeneration Area which is allocated in the South Derbyshire District Local Plan Part 1 for employment led development. The Woodville Regeneration Area is the single highest priority for regeneration for South Derbyshire District Council, supported by the link road. Policy E6 (Woodville Regeneration Area) of the Local Plan seeks that redevelopment of this area should incorporate 12 hectares of employment development defined by use classes B1, B2 and B8.

Policy S1 (Sustainable Growth Strategy) of the Local Plan seeks to promote sustainable growth to meet its objectively assessed commercial needs in the plan period 2011- 2028. Point i) of this policy presumes in favour of the re-use of previously developed land.

Policy E2 (Other Industrial and Business Development) of the Local Plan presumes in favour of the expansion of existing businesses in Part A, part ii) of this policy where there would be no undue impacts on the local landscape or natural environment.

The turning head element of the site is brownfield land which has arisen from the delivery of the Woodville – Swadlincote Regeneration Route. The turning head is currently in use as informal parking. The development proposal hereby under consideration incorporates a range of parking to support the business operations and supports a modal shift away from petrol cars. A comprehensive scheme of retaining and enhancing landscaping and planting has been proposed.

This element of the proposal is largely as permitted under the Planning Appeal reference of APP/F1040/W/23/3317999 which relates to the planning reference of DMPA/2022/0360. The main issues, cited by the Planning Inspector, are in regard to the effect of the proposed development on the character and appearance of the surrounding area. The Planning Inspector has noted in the appeal decision letter that;

'Although the appeal site has a relatively open appearance, it does not make a significant contribution to the localised urban character of its surroundings. It is considered that the existing landscaping is fairly minimalistic and the site displays no notable features or characteristics to suggest that it plays any important gateway role. A considerable part of the open aspect in the vicinity of the roundabout would be retained with a large portion of the proposed car parking areas being partially screened by hedgerow planting. The planning inspectorate concluded that the proposal would not have a significant detrimental effect on the character and appearance of the surrounding area and would provide an opportunity to encourage more sustainable forms of transport in the longer term.'

On this basis, the proposal is considered to reflect the aspirations of the Woodville Regeneration Area and will support the ongoing operations of an existing employment use in B1/ B2 use in line with Policy E6 (Woodville Regeneration Area). The site is brownfield land and therefore is considered in line with Policy S1 (Sustainable Growth Strategy). The development proposal is also supported when considered against Policy E2 (Other Industrial and Business Development).

The principle of the proposed scheme of development which relates to an established existing local business is considered to be acceptable, with the proposal supporting local economic development. Providing that material planning considerations are met the proposed scheme of development should be able to be supported.

Design, Landscape, Character, and Visual Impacts

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 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 (NPPF).

The National Planning Policy Framework (NPPF) 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.

Paragraph 180 of Chapter 15 (Conserving and Enhancing the Natural Environment) of the National Planning Policy Framework (NPPF) seeks that planning policies and decisions should contribute to and enhance the natural and local environment. Point a) of this paragraph is specifically concerned with protecting and enhancing valued landscapes.

Point e) of Policy BNE1 (Design Excellence) of the Local Plan seeks that new development should create places with a locally inspired character that responds to its context and has regard to valued landscape characteristics. Policy BNE4 (Landscape Character and Local Distinctiveness) expects developers to retain key valued landscape components unless it can be demonstrated that the loss of features would not give rise to an unacceptable impact on landscape character. The policy presumes against development that would have an unacceptable impact on landscape character, including historic character, visual amenity and sensitivity. Policy BNE7 (Trees, Woodland and Hedgerows) is relevant where this policy seeks to appropriately mitigate, compensate for or off-set for the loss of trees, woodland or hedgerows. Policy INF8 (The National Forest) seeks to support the creation of a national forest across the area and favours tree planting alongside delivery of other natural landscapes, akin to the area.

The applicant is seeking planning permission for the proposed; two-storey extension to the south-east facing side of the existing building with a workshop expansion at ground floor and new office space above; delivery of additional car parking, including EV charging, and cycle stores on an existing turning head; and the incorporation of a scheme of landscaping and planting at the site under the address of First Fence Ltd, Kiln Way, Woodville, Swadlincote, DE11 8EA. The Local Planning Authority acknowledges and has considered comments and concerns arisen from the consultation undertaken regarding potential design related implications.

The design, character and appearance implications associated with the proposed built form have been carefully considered as part of the assessment of this planning submission, together with consultation responses received in this regard. In terms of scale, bulk, massing, and proportions the proposed scheme of development comprises of an acceptable form of design. The scale and design of the two-storey extension to the south-east facing side of the existing building is considered to be consistent with that expected for an extension of a premises of this nature. The materials as proposed are considered to be appropriate. Should planning approval be recommended planning conditions shall be incorporate to ensure an acceptable level of design is retained and implemented at the build out stage.

With regards to National Forest planting requirements, the site under consideration comprises of under 1 hectare. Policy INF8 (The National Forest) of the Local Plan requires normal landscaping appropriate to the sites setting in this instance. In the instance of this planning application the site area is below the threshold requiring a set percentage of National Forest planting, and therefore formal comments from the National Forest Company are not sought.

In terms of the proposed scheme of additional car parking and landscaping and planting, these elements of the development proposal have also been given careful consideration in conjunction with the comments and concerns arisen from the consultation undertaken. The prominent location of this element of the development with such functioning as a 'gateway' has also been carefully considered. A comprehensive scheme of retaining and enhancing landscaping and planting is proposed. In terms of layout and visual amenity, the hedgerow would flank the highway and an increased provision of tree planting is proposed. This is considered to assist in helping create a green corridor along the south of Swadlincote Road linking up with the woodland further west. In effect, landscaping of a more substantial and green nature would be delivered and moved closer to the link road. Consequently, the users of Swadlincote Road will appreciate this from further along the highway, improving visual amenity, and enhancing the role of this junction as the 'gateway'. 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 the landscaping and planting scheme in the interests of the visual amenities of the locality.

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

Amenity

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

The proposed scheme of development has been carefully considered with regards to potential impacts on amenity. The Local Planning Authority acknowledges and has considered comments and concerns arisen from the consultation undertaken regarding potential amenity related implications.

The nearest neighbouring residential amenity to the application site hereby under consideration is located on the south side of Swadlincote Road. The nearest residential properties border the site of First Fencing Ltd. to the north/ north-east. The furthest rear element of the rear gardens which serve these properties are situated within relative proximity to the proposed two-storey extension to the south-east facing side of the existing building. Given the nature of the overall development proposal, the site context, and the associated distances between such, it is considered that the development proposal would not result in a harmful impact on the amenity of neighbouring properties.

Specialist input from the Environmental Health team at South Derbyshire District Council has been requested and received. The Environmental Health team have recommended that there are no objections on environmental health related grounds subject to the incorporation of relevant recommended planning conditions. Conditions have been recommended regarding protecting the amenity of the locality, especially for people living and/ or working nearby which shall be incorporated should planning approval be recommended.

Overall, given the distances of the development proposal from nearby residential properties, and the overall scale of that proposed, it is considered that significant unacceptable implications will not arise. The siting of the development proposal and the relationship with the nearest neighbouring properties ensures the proposed scheme of development is considered to not present any major issues with regards to loss of daylight, loss of sunlight, overbearing, or overlooking. The proposed scheme of development, subject to the above-mentioned planning conditions, is therefore considered to be acceptable on amenity related grounds.

Access and Highways

The County Highways team at Derbyshire County Council have been formally consulted with regards to this development proposal. A formal consultation response has since been provided with the County Highways team outlining no objections on highway related grounds. This is subject to the incorporation of relevant recommended planning conditions should planning approval be recommended. The Local Planning Authority acknowledges and has considered other comments and concerns arisen from the consultation undertaken including with regards to potential access and highways related implications.

A technical assessment of the development proposal and a consideration of the potential associated implications has been undertaken by the County Highways team at Derbyshire County Council. The applicant proposes to change the use of part of Woodhouse Street and incorporate it and adjacent land into their curtilage to provide additional on-site parking for the premises. The applicant has stated with the submitted Transport Statement that this part of Woodhouse Street has recently been stopped up as part of the Woodville – Swadlincote Regeneration Route works.

However, the National Casework Team has confirmed that, according to their records, this case is ongoing and is still at draft stage and therefore the stopping up has not been approved. The change of use will therefore need to complete the formal Stopping Up of part of Woodhouse Street under Section 247 of the Town & County Planning Act 1990 which will need to take place before any other works commence.

It is noted that there is insufficient space within the application site for articulated vehicles to turn and, as such, the proposed use of the land, the subject of the application, should be restricted to not include articulated vehicles. In addition, the premises benefits from two purpose built industrial accesses from Kiln Way and the Highway Authority would prefer to see the existing access onto Swadlincote Road permanently closed to HGV vehicles. This shall be secured via an appropriately worded planning condition should planning approval be granted.

Having reviewed the submitted Transport Statement it is considered that the additional traffic likely to be generated by the proposed development will have a minimal impact on the operation of the local road network. In addition, the proposed parking arrangements are considered acceptable and the provision of the electric vehicle charging spaces and cycle parking is welcomed.

In summary the County Highways team at Derbyshire County Council have formally advised of a stance of no objections to the application subject to relevant recommended planning conditions being imposed.

It is hereby worth noting that paragraph 115 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 the relevant recommended planning conditions, the proposed scheme of development is considered to be acceptable on access and highways related grounds.

Ecology and Biodiversity

The most applicable policies and guidance to consider with regards to the ecological and biodiversity consideration are Policy S2 (Presumption in Favour of Sustainable Development), Policy E7 (Rural Development), BNE3 (Biodiversity), Policy INF8 (The National Forest), 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.

Policy BNE3 (Biodiversity) of the Local Plan supports development which contributes towards protecting or improving local biodiversity or geodiversity and delivering net gains in biodiversity wherever possible.

The application site is considered to have a relatively low ecological value. Established trees and proposed hedgerow and planting does however form part of the proposed scheme of development hereby under consideration. A comprehensive scheme of retaining and enhancing landscaping and planting is proposed. Should the Local Planning Authority be recommending planning approval planning conditions shall be incorporated to ensure the implementation of this scheme, and to ensure the replacement of any dead, removed, damaged or diseased species in the next planting season. In addition to this bird boxes will also be provided as part of any approved scheme of development.

Technical consultation has been undertaken with the Derbyshire Wildlife Trust at Derbyshire County Council with regards to this planning submission. A formal consultation response has since been provided advising that biodiversity issues can be addressed through the implementation of the landscaping and management proposals at the site. It has therefore been advised that recommended planning conditions are incorporated. Conditions have been detailed with regards to a Construction Environmental Management Plan (CEMP: Biodiversity), a Landscape and Ecological Management Plan (LEMP), and Lighting. Subject to the incorporation of these relevant recommended planning conditions, the proposed scheme of development is considered to be acceptable on ecology and biodiversity grounds.

Overall, it is considered that subject to the incorporation of relevant recommended planning conditions, the scheme of development can be considered to be in accordance with Policy BNE3 (Biodiversity) of the Local Plan and can therefore be supported in this regard.

Other Matters

The proposal will result in a gain in the permeable area of the site, which will improve the infiltration drainage on site and help reduce the potential of flooding in the area. Details of the landscaping and materials will be conditioned so this can be controlled. The site lies wholly within Flood Zone 1 which has the lowest probability of flooding. The site is noted as being within an area subject to Low Risk of Surface Water flooding. It is not envisaged that unacceptable drainage or flood risk related implications will arise. It is considered that the proposals would accord with the relevant local and national level planning policy in this regard. As such there are no flooding/ drainage related concerns in principle.

The application form shows that Derbyshire County Council is an interested party in the site. Derbyshire County Council like any other landowner has the ability to manage their estate accordingly. There is no planning reason for the site to remain as is, beyond that of the conditions attached to the link road consent which have been addressed. Indeed, in that context it is considered that the function of the site as a 'gateway' could be improved through the additional landscaping.

Planning Balance

In support of the established local business of First Fence Ltd. the scheme of development proposes a two-storey extension to the south-east facing side of the existing building with a workshop expansion at ground floor and new office space above; delivery of additional car parking, including EV charging, and cycle stores on an existing turning head; and the incorporation of a scheme of landscaping and planting.

The principle of the proposed scheme of development which relates to an established existing local business is firstly considered to be acceptable. The change of use of the existing land and turning head resulting from the development of the Kiln Way Link Road for the creation 47no. car parking spaces, including 24no. electric vehicle charging points, erection of 10no. cycle spaces is proposed. The details of parking on the site frontage as proposed are largely as permitted under the Planning Appeal APP/F1040/W/23/3317999 which relates to the planning reference of DMPA/2022/0360. The key consideration and conclusions of the Planning Inspector are referenced above. The proposed

extension to the existing workshop and provision of additional office space which also forms part of the proposed scheme of development, remains as previously considered under planning reference DMPA/2023/0177. The refusal of this planning application did not relate to this extension element. The site is situated within a designation for regeneration to support employment use. The proposal is considered to be in line with the regeneration objectives by supporting local business and the Woodville – Swadlincote Regeneration Route and represents sustainable use of brownfield land. In line with the NPPF this is afforded significant weight.

There will be some impacts both on the living conditions of neighbours as a result of the extension and in relation to additional vehicle movements. On balance it is considered that an acceptable form of design is presented and further to this subject to relevant planning conditions the proposal is considered to not have a significant adverse impact on the residential amenity of the nearest neighbouring properties. Furthermore, the scheme of development is considered to be acceptable with the Derbyshire Wildlife Trust and the County Highways team at Derbyshire County Council subject to relevant planning conditions.

The landscaping and planting, and rearranged layout are considered to improve and enhance the visual amenity offered at this junction, reflect local character in so far as additional tree planting in an area of National Forest and result in ecology benefits. These benefits will be delivered and controlled via the imposition of 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 scheme of development at the site under the address of First Fence Ltd, Kiln Way, Woodville, Swadlincote, DE11 8EA 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 approved details:
 - Location Plan - Ref: LP-222-48-11 - Received by the LPA: 27 Oct 2023
 - Survey of Existing - Ref: 222-48-01a - Received by the LPA: 27 Oct 2023
 - Proposed Site Plan - Ref: 222-48-02a - Received by the LPA: 27 Oct 2023
 - Existing Elevations - Ref: 221-20.01 - Received by the LPA: 27 Oct 2023
 - Proposed Ground Floor Plan - Ref: 222-48-04a - Received by the LPA: 27 Oct 2023
 - Proposed First Floor Plan - Ref: 222-48-05a - Received by the LPA: 27 Oct 2023
 - Proposed North East Elevation - Ref: 222-48-06a - Received by the LPA: 27 Oct 2023
 - Proposed South East Elevation - Ref: 222-48-07a - Received by the LPA: 27 Oct 2023

- Proposed South West Elevation - Ref: 222-48-08a - Received by the LPA: 27 Oct 2023
 - Proposed North West Elevation - Ref: 222-48-09a - Received by the LPA: 27 Oct 2023
 - Proposed Section - Ref: 222-48-10a - Received by the LPA: 27 Oct 2023
 - Comparison of Solid Surface Areas - Ref: 222-48-12D - Received by the LPA: 27 Oct 2023
 - Bike Shelter Details - Ref: BXMWAP_Apollo2018 - Received by the LPA: 27 Oct 2023
 - Coal Mining Risk Assessment - Ref: EAL.245.22 - Received by the LPA: 27 Oct 2023
 - Overview Sheet Charger Info - Ref: EVQRO-V06-R5 Quantum EV Range - Received by the LPA: 27 Oct 2023
 - Transport Statement - Ref: LP-222-48-11ADC3029-RP-A-v2 - Received by the LPA: 27 Oct 2023
 - Noise Assessment - Ref: P4458/R1/WJK - Received by the LPA: 27 Oct 2023
 - Planning Design and Access Statement January 2023 - Received by the LPA: 27 Oct 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. Prior to the commencement (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) of the development hereby approved, a Construction Environmental Management Plan (CEMP), including details of how demolition and construction works are to be undertaken, shall be submitted to and approved in writing by the Local Planning Authority. The CEMP 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.

4. Prior to the commencement of the development hereby approved, a landscape and ecological management plan (LEMP) shall be submitted to and be approved in writing by the Local Planning Authority. The LEMP should combine both the ecology and landscape disciplines and include the following: a) Description and extent/location of habitats including grassland, trees, and hedgerows to be created and / or planted. b) Details of planting composition and methods of establishment. c) Aims and objectives of management. d) Appropriate management options for achieving aims and objectives. e) Prescriptions for management actions. f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period). g) Details of the body or organization responsible for implementation of the plan. h) Ongoing monitoring visits, targets and remedial measures when conservation aims and objectives of the LEMP are not being met. i) Locations of 5 bird boxes (include specifications/ installation guidance/ numbers). The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.
Reason: In the interests of protecting and enhancing ecology and biodiversity.

5. Prior to the commencement of the development hereby approved, a Stopping Up Order to remove all highway rights subsisting on the section of Woodhouse Street enclosed within the red outline of the application site shall be granted and all highway rights be successfully removed. For the avoidance of doubt, this must take place prior to commencement to comply with statutory requirements.
Reason: In the interests of highway safety.

6. Prior to the commencement of the development hereby approved, a) a scheme of intrusive site investigations, and gas monitoring has been carried out on site to establish the risks posed to the

development by past coal mining activity, and; b) any remediation works and/ or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 189 and 190 of the National Planning Policy Framework.

7. Prior to the first use of the extension hereby approved, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/ or mitigation necessary to address the risks posed by past coal mining activity.

Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 189 and 190 of the National Planning Policy Framework.

8. If during the construction phase, contamination is encountered which has not previously been identified, then the contamination shall be fully assessed, and appropriate mitigation measures taken as part of an appropriate remediation scheme which shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To protect future occupiers of the development, buildings, structures/ services, ecosystems and controlled waters, including deep and shallow ground water.

9. 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.

10. All planting, seeding and turfing, shown on the approved Proposed Site Plan - Ref: 222-48-02a - Received by the LPA: 27 Oct 2023, shall be carried out in the first planting and seeding season following the commencement of the development hereby approved, and any trees or plants which die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the approved planting schedule is implemented in a speedy and diligent way and that initial plant losses are overcome in the interests of the visual amenities of the locality.

11. Prior to the installation of external lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of lightspill to any sensitive ecological zones/ features. Guidelines can be found in Guidance Note 08/23 - 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.

12. Prior to being taken into use, the parking and manoeuvring space within the site shall be laid out in accordance with the approved drawing Proposed Site Plan - Ref: 222-48-02a - Received by the LPA: 27 Oct 2023 and maintained throughout the lifetime of the development free from any impediment to its designated use.
Reason: In the interests of highway safety.
13. The use of the proposed parking and manoeuvring space within the application site shall be restricted to use by all vehicles with the exception of articulated vehicles due to insufficient space within the site for large vehicles to turn.
Reason: In the interests of highway safety.
14. The existing access to Swadlincote Road shall be restricted to exclude HGV's. All HGV's should use Kiln Way accesses.
Reason: In the interests of highway safety.
15. Any gates shall be set back at least 5m into the site from the highway boundary and open inwards only.
Reason: In the interests of highway safety.
16. 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 neighbouring amenity.
17. All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive. If it is necessary for work to commence in the nesting season then a pre commencement inspection of the vegetation for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.
Reason: In the interests of protecting nesting birds.
18. 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

- a. Planning permission does not give you approval to work on the public highway. The proposal requires the permanent removal ("stopping up") of highway to enable the development to take place. As such, you must complete the legal processes required before commencing works. Contact the National Transport Casework Team, Tyneside House, Skinnerburn Road, Newcastle Business Park, Newcastle upon Tyne NE4 7AR.
- b. 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.
- c. Pursuant to Section 127 of the Highways Act 1980, no works may commence within the limits of the public highway to reinstate the footway and redundant vehicular access without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 127 Agreements may be obtained by contacting the County Council via email highways.hub@derbyshire.gov.uk. The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 127 Agreement.

- d. The Rights of Way Section would advise the applicant as follows: - The footpath must remain open, unobstructed and on its legal alignment. - There should be no disturbance to the path surface without prior authorisation from the Rights of Way Section. - Consideration should be given to the safety of members of the public using the path 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 path, and no fencing should be installed without consulting the Rights of Way section.
- e. Ground investigations and groundworks - Under the Coal Industry Act 1994 any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority since these activities can have serious public health and safety implications. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain permission to enter or disturb our property will result in the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property.
- f. Shallow coal seams - In areas where shallow coal seams are present caution should be taken when carrying out any on site burning or heat focused activities.