

Report of the Chief Executive

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.

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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/2024/0198](#)

Valid date: 07/02/2024

Applicant: Trenport Investments Limited **Agent:** WSP

Proposal: **Outline planning application for a foodstore, commercial space for Small to Medium Enterprises, a drive-thru coffee shop, and community spaces with associated parking, servicing, drainage, landscaping and habitat areas as well as highway works (all matters reserved except for access) at Land North of Derby Road , Hilton, DE65 5JS**

Ward: Hilton

Reason for committee determination

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

Update report

Responses to consultations and publicity

Natural England - No objection - 23/05/2024

Following consultation received on 15th May, in relation to the wording of the Biodiversity CEMP condition, Natural England stated that based upon the plans submitted they consider the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. Further generic advice is appended to the response.

Planning assessment

The application was deferred to enable the application to be heard at a subsequent committee at which the adjacent application, for a foodstore could also be heard. In addition, additional concerns were raised by the Parish Council to members following the publication of the previous committee report; Officers have been made aware that the concerns raised related to:

- The consideration of applications adjacent to each other at the same committee.
- The potential for both sites to take access from the proposed fourth arm of the roundabout to be developed should this application be approved.
- The findings of a Parish Council commissioned traffic survey that shows 2024 traffic levels to be higher than the base level assessed in the applicant's supporting Information.
- The proposed location of the relocated eastbound bus stop.
- Queries as to whether wetland habitats are suitable for foraging protected species that occupy habits around the site
- Concerns that the FRA is outdated and should be recompleted with recommendations for mitigation
- Redaction of the Severn Trent response
- Concerns regarding the height and potential use of SME units in B2 and B8 uses.

The consideration of applications adjacent to each other at the same committee
The application was deferred by members on 28/05/2024 to allow for this.

The potential for both sites to take access from the proposed fourth arm of the roundabout to be developed should this application be approved

Officers have discussed this matter with the Applicant and their agent, the applicant confirms they have tried to liaise with Aldi on this matter but without success. The application provides for pedestrian access to the adjacent site via a footpath link within the limits of this application site and therefore within the limits of the applicant's control. This is indicated in the hatched yellow area on the plan below, which is an indicative masterplan for the proposed scheme. As this application is made in outline, with matters in relation to the final layout reserved for subsequent detailed application in which the location of such a linkage could be amended. A condition is included that requires:

'Before the development hereby approved is commenced, within any relevant phase of development (as approved by condition 3), a timetable for the provision / improvement of on-site linkages to footpaths, footways and cycleways adjacent to that phase, shall be submitted to and approved in writing by the Local Planning Authority. The development of the phase there of shall be carried out in accordance with the approved timetable. recommendation further'

There is scope within this condition to include within such a plan linkages within the application site to the adjacent site should these be required. The proposed scheme does offer improved pedestrian linkages to the surrounding footway network on Derby Road as part of the wider off-site improvements. Given the close proximity of the two sites officers consider that customers wishing to visit both stores would be unlikely to drive between the sites.



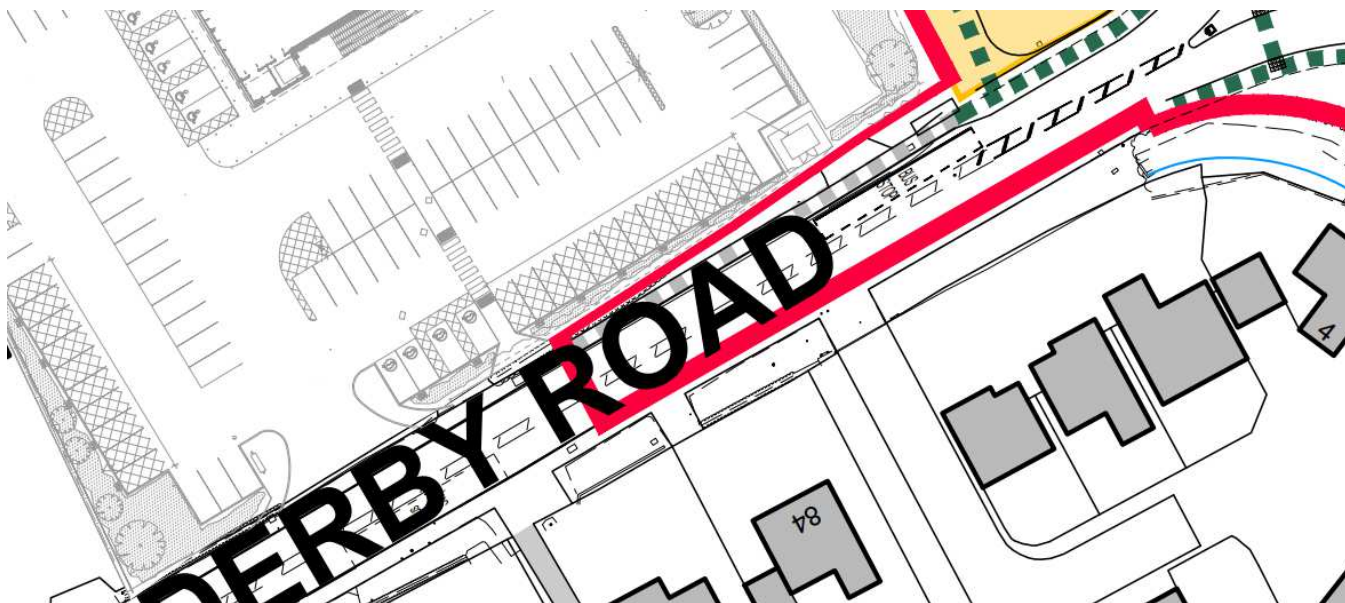
The findings of a Parish Council commissioned traffic survey that shows 2024 traffic levels to be higher than the base level assessed in the applicant's supporting information

This information is currently under review by the applicant's specialists and further information will be submitted to DDC as the Local Highway Authority (LHA) for consideration. Officers of the LPA have liaised with the LHA and the applicant's team and are assured that an update on this matter will be available prior to the upcoming committee on 18 June.

The proposed location of the relocated eastbound bus stop

Officers have reviewed the plans submitted and confirm that the east bound bus stop is proposed to be located not into the area of the Aldi proposed entrance / exit but into the area where it is proposed to provide an entrance / exit to the substation required. The pedestrian and vehicular access points are located to the west of proposed bus stop location. It should further be noted that the off-site highway works, and final location of the bus stop, will be assessed by DCC Highways, under the section 278 process and by the bus operator. As such, Officers consider that the final location of the eastbound bus

stop will be determined by other authorities and the granting of planning permission does not represent the granting of permission for this relocation. Notwithstanding this, the location proposed has been assessed by DCC Highways and no highway safety concerns have been raised in this regard.



Queries as to whether wetland habitats are suitable for foraging protected species that occupy habits around the site

The application is made in outline with detailed matters reserved. Full details of habitats to be provided as part of the net gain to biodiversity are required to be submitted via the provisions of condition 10. Requirement of condition 10 a. sets out that the Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall include a '*Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric.*' The provisions of this will require the final details of habitats to be retained, or created to be submitted to the LPA, consultation with DWT will be undertaken on such a submission. The provisions of the LBEMP will need to provide a balance between the requirements of different species and Officers will work with DWT, in their specialist consultee role, to establish the most suitable habitat or habitats.

Concerns that the FRA is outdated and should be recompleted with recommendations for mitigation

The Flood Risk Assessment has been reviewed by the Lead Local Flood Authority (LLFA) who have provided a conditional acceptance of the proposed development. The supporting information further details that the proposed sustainable drainage systems include a network of attenuation including cellular storage and an attenuation basin. The system will reduce the discharge rate to the existing drainage ditch to 7 l/s which is stated within the supporting information to be below current levels. This is accepted by virtue of the conditional response from the LLFA and therefore Officers consider the proposed drainage systems to be acceptable.

Redaction of the Severn Trent response

Officers have reviewed the response, and it appears that the redactions relate to information defined as sensitive under the provisions of the GDPR. No information relating to the substance of the response has been redacted.

Concerns regarding the height and potential use of SME units in B2 and B8 uses

Officers have assessed the height of the proposed SME units in relation to their location and impact upon the surrounding area in design terms. The Council's Design Officer has been consulted throughout the pre-application and application stages and offers no objection in this regard. The units are located to the rear of the site in proximity to the A50 embankment. The Design and Access statement sets out the evolution of the indicative masterplan to locate these units in this location which has been undertaken to enable the access road to provide a potential future access. It should also be noted that the maximum height of the units would be 9m.

In respect of the uses of the units, Officers understand that the applicant has met with the Parish Council and discussed these concerns, which are understood to relate to preventing the use of the units as large storage and distribution warehouses. Following the meeting the applicant has contacted officers and proposed the inclusion of a condition to ensure that no units over 1,000m square are developed. Officers have drafted the following new condition:

- *Individual units within the proposed SME units shall not exceed 1000m square in floorspace and, following completion of the development of the SME units, there shall be no merging of units that results in a gross floorspace of more than 1000m square.*

This is considered to address these concerns and secure the units for the use of small and medium sized enterprises whilst retaining flexibility for such SME businesses that operate within B2 and B8 uses, which given some of the support received from such businesses, is considered important.

Further representations on behalf of Aldi

Further representations from the Planning Agent acting on behalf of Aldi were received by the Council shortly before the last Planning Committee (24th May). The representation sustained the objection of Aldi focussing on 2 key points:

- Conflict with Policy E7 (a) and the lack of a 'Sound Business Case'
- Risk of delivery of the SME Units and Community Use

The comments received identify 10 points on which it is considered that the application fails to demonstrate compliance with E7 i).

It remains the opinion of officers, that although the submission relies upon evidence base documents showing need for these type of units within the District, the need for these has been confirmed to Officers in discussions internally with the Economic Development and the Planning Policy teams. The need is therefore considered to be identified by the supporting information and Officers have confirmed the validity of this need. The flexibility within the use classes and the outline status of the development mean that permission can be sought for up to the maximum footprint as part of the reserved matters application, similarly the assessment of matters such as transport and drainage are required to have a maximum floorspace in order to ensure the development is acceptable in these terms. The Officer report has assessed both the commercial space and the retail and drive thru space, and the various proposed uses of the site are considered to be policy compliant.

Having regard for comments in relation to phasing and securing the delivery of the phasing, conditions have been amended to secure the sequential, or concurrent, submission of the reserved matters applications and to secure the delivery of SME units in a timely manner. Additional conditions have been agreed with the applicant that require the reserved matters application for phase 2 to include full details of the area for the community use and the drive-thru coffee shop, and a further condition that secures the community area be completed and opened prior to the opening of the drive-thru. The condition in relation to the delivery of the SME units has also been updated, maintaining the provision of 50% of the units agreed by way of the reserved matters prior to opening of the foodstore and to require within 6 months of the opening of the foodstore that the units are open and available to businesses in the agreed uses.

The recommended conditions require the submission of reserved matters in accordance with the phasing and floorspace parameter plans. Should reserved matters applications be made that the LPA considers do not fully address the requirements of these, or deliver the benefits of the scheme, it will be reasonable to seek amendments to the proposed reserved matters schemes to ensure the development is acceptable, or refuse permission if such amendments are not forthcoming.

Retail Impact

In consideration of the application, and having regard for the adjacent application for a foodstore (DMPA/2023/1062), Officers engaged an independent retail planning consultant to review the two

applications and provide advice to Officers as to the policy implications and the retail impact implications of the two applications and the potential impact should the existing Aldi be retained in use as a foodstore. The report considered 3 scenarios, Option 1 - 3 foodstores, Option 2 - 2 foodstores and a comparison retailer in the existing Aldi, and Option 3 - Two foodstores and a leisure / food and beverage use in the existing Aldi.

The report concludes that the approval of this and the adjacent application, should that scenario arise, would not be expected to raise additional retail impact concerns regardless of which end use the existing Aldi arrives at including another food retailer. They consider there may be impact upon the proposed retail development sought by way of Policy L3 and H1A of the Hilton, Marston on Dove and Hoon Neighbourhood Plan, however they also set out that if the intention of this plan was to offer improved retail choice to Hilton residents, then the scenario would provide this albeit at a different location. They consider the current ongoing use of the commercial site of development outlined in this policy relevant as this will impact whether or not the site comes forward. Notwithstanding this, they do not consider this presents a reason for the refusal of either application.

Conclusion

The conditions and submission have been reviewed in light of the comments received from the Parish Council and objectors. Amendments have been made which Officers consider secure the benefits of the scheme more robustly. Officers therefore recommend that the Committee resolve to grant permission in accordance with the updated recommendations contained within this report.

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

Recommendation

- A. Grant delegated authority to the Head of Planning and Strategic Housing to conclude negotiations on and complete an agreement under section 106 of the Town and Country Planning Act 1990 so to secure the planning obligations outlined in this report; and
- B. Subject to A, **Approve** the application subject to the following conditions:

1. The development hereby approved shall be commenced either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last reserved matters to be approved, whichever is later. Applications for the approval of reserved matters shall be made to the Local Planning Authority no later than the expiration of 3 years from the date of this permission.

Reason: In order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended.

2. Applications for reserved matters shall be submitted in accordance with the layout shown within the approved Land Use and Floor Space Parameter Plan (23028-HCD-ZZ-00-DR-A-09-003, dated 02/02/2024) and the Building Heights Parameter Plan (23028-HCD-ZZ-00-DR-A-09-004, Rev P01, dated 02/02/2024), the Open and Green Space Parameter Plan (23028-HCD-ZZ-00-DR-A-09006, Rev P01, dated 02/02/2024) and the Access Parameter Plan, (23028-HCD-ZZ-00-DR-A-09-005, Rev P01, dated 02/02/2024).

The reserved matters applications shall be supported by a statement that demonstrates the submitted details accord with the illustrative master plan and height parameter plan in respect of, but not limited to layout, access, parking and building heights.

Reason: To ensure the satisfactory layout and appearance of the development in accordance with the requirements of Policy S6, Policy BNE1, Policy E2 and Policy E7 of the South Derbyshire Local Plan Part 1, Policy BNE5 of the Local Plan Part 2 and the National Planning Policy Framework.

3. The development shall be undertaken in accordance with the approved Phasing Parameter Plan, ref: 23028-HCD-ZZ-00-DR-a-09-002, specifically applications for reserved matters shall either follow the sequence of the phasing plan, or be submitted concurrently, phase 1b shall be submitted either at the same time as phase 1a or within 6 months of the submission of phase 1a and reserved matters applications for phase 2 shall not be submitted prior to the submission of reserved matters applications for phase 1b.

Reason: For the avoidance of doubt and in accordance with the applicant's stated intentions in order to ensure the timely delivery of the commercial units and community space and the associated social and economic benefits in accordance with the requirements of Policy E2 and E7 of the South Derbyshire Local Plan.

4. Before the development hereby approved is commenced in any phase confirmation that the detailed design for the site access works required have been submitted to and approved in writing by the Local Highway Authority shall be submitted to and approved by the Local Planning Authority.

The access shall thereafter be constructed in complete accordance with the approved details prior to the occupation of any building.

Reason: For the avoidance of doubt and in order to ensure safe access to the development, which does not result in an adverse impact upon highway safety or capacity in accordance with the requirements of Policy S6 and Policy INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

5. Before the development hereby approved commences in any phase details of a Construction Management Plan (CMP) for that phase shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include but not be restricted to:

- a. Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction); Advisory routes for construction traffic;
- b. Any temporary access to the site;
- c. Locations for loading/unloading and storage of plant, waste and construction materials;
- d. Method of preventing mud and dust being carried onto the highway;
- e. Arrangements for turning vehicles;
- f. Arrangements to receive abnormal loads or unusually large vehicles;
- g. Highway Condition survey;
- h. Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

The development in that phase shall thereafter be undertaken in complete accordance with the approved details.

Reason: In the interests of safe operation of the adopted highway during the construction phases of the development in accordance with the requirements of Policy INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

6. Before the development hereby approved commences within any phase a construction surface water management plan (CSWMP) for that phase shall be submitted to and approved in writing by the LPA in consultation with the LLFA. The CSWMP shall include details of how additional surface water run-off from the site will be avoided during the construction of that phase. The applicant may be required to provide collection, balancing and, or, settlement systems for these flows. The development shall thereafter be undertaken in accordance with the approved details prior to the commencement of any and all works that may lead to increased surface water run off.

Reason: To ensure the development is adequately served by a suitable surface water drainage system during the construction period in order to minimise the likelihood of flooding incidents and damage to the environment, property or life in accordance with the requirements of Policy SD3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

7. Before the commencement of the development hereby approved in any phase:
 - a. A Phase I contaminated land assessment (desk-study) shall be undertaken and approved in writing by the local planning authority.
 - b. The contaminated land assessment shall include a desk-study with details of the history of the site use including:
 - i. the likely presence of potentially hazardous materials and substances,
 - ii. their likely nature, extent and scale,
 - iii. whether or not they originated from the site,
 - iv. a conceptual model of pollutant-receptor linkages,
 - v. an assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments,
 - vi. details of a site investigation strategy (if potential contamination is identified) to effectively characterise the site based on the relevant information discovered by the desk study and justification for the use or not of appropriate guidance. The site investigation strategy shall, where necessary, include relevant soil, ground gas, surface and groundwater sampling/monitoring as identified by the desk-study strategy

The site investigation shall be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation shall be submitted to the local planning authority for approval.

Reason: To protect the health of the public and the environment from hazards arising from previous uses of the site and/or adjacent land which might be brought to light by development of it, recognising that failure to address such matters prior to development commencing could lead to unacceptable impacts even at the initial stages of works on site. in accordance with the requirements of Policy S2, policy SD1 and Policy SD4 of the Local Plan Part 1 and the National Planning Policy Framework.

8. Before the development hereby approved is commenced within any phase (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 details.
 - a. Measures to prevent impacts to the SSSI via dust mobilisation
 - b. Measures to prevent impacts from pollution of watercourses running to the SSSI should be provided in detail
 - c. Avoidance of any heavy construction activities within the bird breeding season unless a suitable scheme of construction mitigation measures to mitigate disturbance from noise, light and vibration to nesting birds is first submitted to and agreed in writing with the Local Planning Authority
 - d. Measures to prevent direct habitat loss or damage
 - e. Risk assessment of potentially damaging construction activities.
 - f. Identification of 'biodiversity protection zones'.
 - g. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on species, habitats and trees during construction.
 - h. The location and timing of sensitive works to avoid harm to biodiversity features
 - i. The times during construction when specialist ecologists need to be present on site to oversee works.
 - j. Responsible persons and lines of communication.

- k. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- l. 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: To safeguard species and habitats and the adjacent SSSI in accordance with the requirements of BNE3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

- 9. No works of any kind, including preparatory site clearance, shall begin until a scheme of badger mitigation and enhancement measures has been submitted and approved in writing by the Local Planning Authority. This shall include the results of a recent survey of the site and adjacent off-site habitats if access is permitted, whether a development licence will be required and the location of any protective fencing around habitats and commuting routes. All works shall proceed in accordance with the approved scheme of mitigation.

Reason: In order to safeguard the wellbeing of and prevent any harm to protected and priority species in accordance with the requirements of Policy BNE3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

- 10. Before the commencement of the development hereby approved in any phase a Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA. The aim of the LBEMP is to provide details for the creation, enhancement and management of habitats and species on the site to deliver a minimum of 10% net gain to biodiversity post development, in accordance with the proposals set out in the Biodiversity Net Gain Assessment and the Statutory Metric (Bioscan 2024). Revisions to these assessments to be agreed with the LPA. The LBEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following:-

- a. Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric.
- b. Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
- c. Appropriate management methods and practices to achieve aims and objectives.
- d. Prescriptions for management actions.
- e. Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
- f. Details of the body or organization responsible for implementation of the plan.
- g. A monitoring schedule to assess the success of the habitat creation and enhancement measures at years 1, 2, 3, 4, 5, 10, 15, 20, 25 and 30.
- h. Monitoring reports to be sent to the Council at each of the intervals above
- i. A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- j. Details of offset gullies and drop kerbs in the road network to safeguard amphibians.
- k. Detailed specifications for open water habitats to provide biodiversity benefits.
- l. Requirement for a statement of compliance upon completion of planting and enhancement works.
- m. Details of water quality sampling at pre-commencement and at years 10, 20 and 30 thereafter to include dissolved oxygen, pH, Total phosphorus (TP), Nitrogen, Chlorophyll a and potential for other pollutants

The LBEMP shall also include details of the legal and funding mechanism by which the long-term implementation of the plan will be secured by the developer with the management body or bodies responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

Reason: In order to secure a net gain to biodiversity and to ensure the satisfactory appearance of the development in accordance with the requirements of Policy BNE1 and Policy BNE3 of the South Derbyshire Local Plan Part 1 and Policy BNE4 of the Local Plan Part 2 and the National Planning Policy Framework.

11. Before the commencement of the development hereby approved: Where the site investigation identifies unacceptable levels of contamination, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall have regard to relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The developer shall give at least 14 days notice to the Local Planning Authority (Environmental Health Division) prior to commencing works in connection with the remediation scheme.

Reason: To protect the health of the public and the environment from hazards arising from previous uses of the site and/or adjacent land which might be brought to light by development of it, recognising that failure to address such matters prior to development commencing could lead to unacceptable impacts even at the initial stages of works on site. in accordance with the requirements of Policy S2, policy SD1 and Policy SD4 of the Local Plan Part 1 and the National Planning Policy Framework.

12. No buildings shall be occupied until:
 - a. The approved remediation works required by 11 above have been carried out in full in compliance with the approved methodology and best practice.
 - b. If during the construction works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in 11 to 12 above and satisfy 12a above.
 - c. Upon completion of the remediation works required by 11 and 12a above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

Reason: To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water in accordance with the requirements of policy S2, SD1 and SD4 of the Local Plan Part 1 and the National Planning Policy Framework.

13. Before the development hereby approved is commenced a detailed design and associated management and maintenance plan of the surface water drainage for the site shall be submitted to and approved in writing by the Local Planning Authority. The details shall be in accordance with the principles outlined within:

- RSK LDE Ltd. (January 2024). Land north of Derby Road, Hilton - Flood Risk Assessment. Ref: 680964-R1(03)-FRA "including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team" And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015)

Reason: To ensure the development is adequately served by a suitable surface water drainage system in order to minimise the likelihood of flooding incidents and damage to the environment, property or life in accordance with the requirements of Policy SD3 of the Local Plan and the National Planning Policy Framework.

14. Before the development hereby approved is commenced a detailed assessment to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 56 Reference ID: 7-056-20220825 of the planning practice guidance shall be submitted to and approved in writing by the Local Planning Authority. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- into the ground (infiltration);
- to a surface water body;
- to a surface water sewer, highway drain, or another drainage system;
- to a combined sewer.

Reason: In order to ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options in accordance with the requirements of Policy SD3 of the South Derbyshire Local Plan, Policy F1 of the Hilton Marston on Dove and Hoon Neighbourhood Plan and the National Planning Policy Framework.

15. Before the development hereby approved, in any phase, is commenced including any site clearance, tree removal or any equipment, machinery or materials is brought onto site, the tree protection measures detailed within the Arboricultural Method Statement (Arboricultural Method Statement to BS 5837:2012 at: Land North of Derby Road, Hilton, DE65 5FP, dated January 2024 and prepared by AWA Tree Consultants) shall be implemented in accordance with the details submitted.

The development shall be undertaken in complete accordance with all the tree protection measures and all methods of working detailed within the Arboricultural Method Statement for the duration of construction including any site clearance works. No fires, excavation, change in levels, storage of materials, vehicles or plant, cement or cement mixing, discharge of liquids, site facilities or passage of vehicles, plant or pedestrians, shall occur within the protected areas.

The approved scheme shall be kept in place until all parts of the development have been completed, and all equipment; machinery and surplus materials have been removed.

Reason: For the avoidance of doubt and in accordance with the applicants stated intentions, to ensure the satisfactory protection of trees and hedgerows within and adjacent the site in accordance with the requirements of Policy BNE3 and BNE4 of the South Derbyshire Local Plan and the National Planning Policy Framework.

16. The application for reserved matters in phase 1a (as approved by the phasing parameter plan) shall restrict the net retail sales area within the foodstore to a maximum of 1,331sqm, a maximum of 1,065 sqm retail floorspace to be devoted to convenience sales, and a maximum of 266sqm for comparison sales.

Reason: In accordance with the requirements of Policy S7 of the South Derbyshire Local Plan Part 1, Policy RTL1 of the South Derbyshire Local Plan Part 2 and the National Planning Policy Framework.

17. Prior to the submission of reserved matters applications in Phase 1b or Phase 2 a report detailing further assessment of Tree 19 to include the management and maintenance of the tree, as set out in the Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to ensure the protection, retention and appropriate management of the veteran tree in accordance with the recommendations within the Arboriculture Report and the requirements of Policy BNE3 and BE4 of the South Derbyshire Local Plan and the National Planning Policy Framework.

18. Before the development hereby approved is commenced, within any relevant phase of development (as approved by condition 3), a timetable for the provision/improvement of on-site linkages to footpaths, footways and cycleways adjacent to that phase, shall be submitted to and approved in writing by the Local Planning Authority. The development of the phase there of shall be carried out in accordance with the approved timetable.

Reason: In accordance with the requirements of Policy BNE1 of the South Derbyshire Local Plan Part 1 and the National Planning Policy Framework.

19. Before the foodstore is first open for trade a minimum of 50% of the shell and core of the proposed SME units shall be built and details confirming the progress of constructions shall be sent to the Local Planning Authority, and acknowledged in writing, prior to the opening of the foodstore. Within 6 months of the opening of the foodstore the proposed SME units will be complete, in accordance with the details approved by way of reserved matters application for that phase of the development, and made available to businesses for the agreed uses.

Reason: For the avoidance of doubt and in accordance with the applicants stated intentions in order to ensure the timely delivery of the proposed commercial units in accordance with the requirements of Policy E7 of the Local Plan and the National Planning Policy Framework

20. Before the foodstore hereby approved is brought into use a Local Labour Strategy (LLS) shall be submitted to and approved in writing by the Local Planning Authority. The LLS shall set out details of local labour initiatives which the applicant / owner will implement to maximise the access oof the local labour market within South Derbyshire and the surrounding area to employment opportunities at the foodstore. The LLS shall include, but not be limited to:
 - a. Employment and Training Plan
 - b. Range of opportunities to be offered including traineeships, apprenticeships and work experience opportunities
 - c. Specific local advertising scheme
 - d. Targeting of long-term unemployed residents facing additional barriers (to include pre-employment training, guarantee of interviews)
 - e. The number of jobs to be created in various roles (traineeships, apprenticeships and work experience) and for those entering or re-entering the labour market as a proportion of the total number of jobs within 6, 12 and 18 months of opening
 - f. Monitoring reports to be sent to the LPA within 1 month of the 6, 12 and 18 month target dates above.

Reason: In order to ensure the proposed development provides local employment opportunities in accordance with the requirements of Policy S1 and Policy E7 of the Local Plan and the National Planning Policy Framework

21. Before the drive-thru coffee shop hereby approved is brought into use a Local Labour Strategy (LLS) shall be submitted to and approved in writing by the Local Planning Authority. The LLS shall set out details of local labour initiatives which the applicant / owner will implement to

maximise the access of the local labour market within South Derbyshire and the surrounding area to employment opportunities at the foodstore. The LLS shall include, but not be limited to:

- g. Employment and Training Plan
- h. Range of opportunities to be offered including traineeships, apprenticeships and work experience opportunities
- i. Specific local advertising scheme
- j. Targeting of long-term unemployed residents facing additional barriers (to include pre-employment training, guarantee of interviews)
- k. The number of jobs to be created in various roles (traineeships, apprenticeships and work experience) and for those entering or re-entering the labour market as a proportion of the total number of jobs within 6, 12 and 18 months of opening
- l. Monitoring reports to be sent to the LPA within 1 month of the 6, 12 and 18 month target dates above.

Reason: In order to ensure the proposed development provides local employment opportunities in accordance with the requirements of Policy S1 and Policy E7 of the Local Plan and the National Planning Policy Framework.

22. Before any phase of the development hereby approved is commenced above slab level a Species Enhancement Plan for the relevant phase or phases shall be submitted to and approved in writing by the Local Planning Authority. Approved measures shall be implemented in full and maintained thereafter. The Plan shall clearly show positions, specifications and numbers of features, which shall include (but are not limited to) the following:
- internal and/or external bird nest boxes x 4
 - integrated bat boxes x 2

Reason: In order to provide species enhancements in accordance with the requirements of Policy BNE3 and the National Planning Policy Framework.

23. The foodstore development shall be restricted to use Ea of The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

Reason: In accordance with the applicants stated intentions and to ensure the benefits of the scheme in accordance with the requirements of Policy E7 of the South Derbyshire Local Plan and the National Planning policy Framework.

24. The use of the commercial units hereby approved shall be restricted to uses falling within Use Class B2, B8, E c) and E g) of The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

Reason: In accordance with the requirements of Policy E2 of the Local Plan and the National Planning Policy Framework.

25. Notwithstanding the provisions of Town and Country Planning Act, General Permitted Development Order the commercial units within phase 1b of the development shall not be subdivided.

Reason: To ensure the buildings are retained in their intended use in accordance with the requirements of Policy E2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

26. Before the installation of lighting fixtures a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features.

Guidelines can be found in Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023). Such approved measures will be implemented in full.

Reason: To safeguard species and habitats in accordance with the requirements of Policy BNE3 of the Local Plan and the National Planning Policy Framework.

27. Any tree lost within 10 years of planting and any shrub or hedge lost within 5 years of planting shall be replaced by a like for like species of a similar size unless otherwise agreed in writing by the local planning authority.

Reason: In order to ensure good design and the retention of trees within the site in accordance with the requirements of Policy BNE1, Policy BNE4 and Policy INF8 of the Local Plan Strategy and the National Planning Policy Framework.

28. The development hereby approved shall be implemented and monitored in accordance with the regime contained within the approved Travel Plan (Workplace Framework Travel Plan, Land North of Derby Road, Hilton, Reference:237295, Revision: Final, dated 31st January 2021). In the event of failing to meet the targets within the Plan a revised Plan shall be submitted to and approved in writing by the Local Planning Authority to address any shortfalls, and where necessary make provision for and promote improved sustainable forms of travel to and from the site. The submitted details shall use Modeshift STARS Business to carry out this process and include mechanisms for monitoring and review over the life of the development and timescales for implementation. The approved Travel Plan shall be implemented, monitored and reviewed in accordance with the approved details.

Reason: For the avoidance of doubt and to reduce vehicle movements and promote sustainable travel in accordance with the requirements of Policy S6 and Policy INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

29. Prior to completion of the 50% of the Shell and Core of the SME units a first call for local lettings interest will be undertaken and a local lettings plan shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In accordance with the applicant's stated intentions to ensure the proposed development provides opportunities for local SME's in accordance with the requirements of Policy E2 and Policy E7 of the Local Plan and the National Planning Policy Framework.

30. The foodstore hereby approved shall be restricted to hours of operation from 07:00hrs to 23:00hrs.

Reason: In order to safeguard residential amenity in accordance with the requirements of Policy SD1 of the Local Plan Part 1 and the National Planning Policy Framework.

31. The drive-thru coffee shop hereby approved shall be restricted to hours of operation from 07:00 to 23:00.

Reason: In order to safeguard residential amenity in accordance with the requirements of Policy SD1 of the Local Plan Part 1 and the National Planning Policy Framework.

32. All industrial, workshop and manufacturing processes shall be carried out within the approved SME buildings and no such works shall be carried out in the open areas of the development.

Reason: In order to adequately protect the amenity of residents in accordance with the requirements of Policy SD1 of the Local Plan Part 1 and the National Planning Policy Framework.

33. The reserved matters application for phase 1b of the development shall include full details for the development of the SME units, car parking and servicing.

Reason: In order to ensure the timely delivery of the proposed units and to secure the benefits of the development in accordance with the requirements of Policy E2 and Policy E7 of the South Derbyshire Local Plan and the National Planning Policy Framework.

34. The reserved matters application for phase 2 of the development shall include within the submission full details of the area for community use and the drive-thru coffee shop.

Reason: In order to ensure the timely delivery of the community space in accordance with the requirements of Policy BNE1 and the National Planning Policy Framework.

35. Before the drive-thru coffee shop is first opened for trade, the area for community use shall be completed. The area shall be opened for community use before or on the same date that the drive-thru coffee shop is first opened for trade.

Reason: In order to ensure the timely delivery of the community space and ensure the benefits of the scheme in accordance with the requirements of Policy BNE1 of the Local Plan and the National Planning Policy Framework.

36. Individual units within the proposed SME units shall not exceed 1000m square in floorspace and following development of the SME units there shall be no merging of units that results in a gross floorspace of more than 1000m square.

Reason: In order to ensure the units are reserved for the use of small and medium sized enterprises in accordance with the requirements of Policy E2 and BNE1 of the Local Plan and the National Planning Policy Framework.

Informatives:

- a. The applicants attention is drawn to the comments of the Derbyshire County Council Lead Local Flood Authority in their response dated 22nd March 2024 and advised to contact them directly should further clarification be required.
- b. The applicant is advised to review the content of Natural England's consultation response dated 7th March 2024 in respect of the proposed development and necessary mitigation measures.
- c. The applicant should note the contents of paragraph 59 of DfT Circular 01/2022, which sets out that no water run-off that may arise due to any change of use will be accepted into the highway drainage systems, and there shall be no new connections into those systems from third party development and drainage systems. Any change of use to the existing connections to the Highways drainage will be classed as a new connection and therefore will be refused in the first instance as stated within the aforementioned Circular.
- d. The developer is advised they should contact the Business Compliance Team on all matters relating to food hygiene. Environmental.Health@southderbyshire.gov.uk Food businesses must register with the local authority at least 28 days prior to opening for business.

Item No. 1.4

Ref. No. [DMPA/2024/0198](#)

Valid date: 07/02/2024

Applicant: Trenport Investments Limited **Agent:** WSP

Proposal: **Outline planning application for a foodstore, commercial space for Small to Medium Enterprises, a drive-thru coffee shop, and community spaces with associated parking, servicing, drainage, landscaping and habitat areas as well as highway works (all matters reserved except for access) at Land North of Derby Road , Hilton, DE65 5JS**

Ward: Hilton

Reason for committee determination

The application is reported to committee as more than 4 objections from members of the public have been received.

Executive Summary

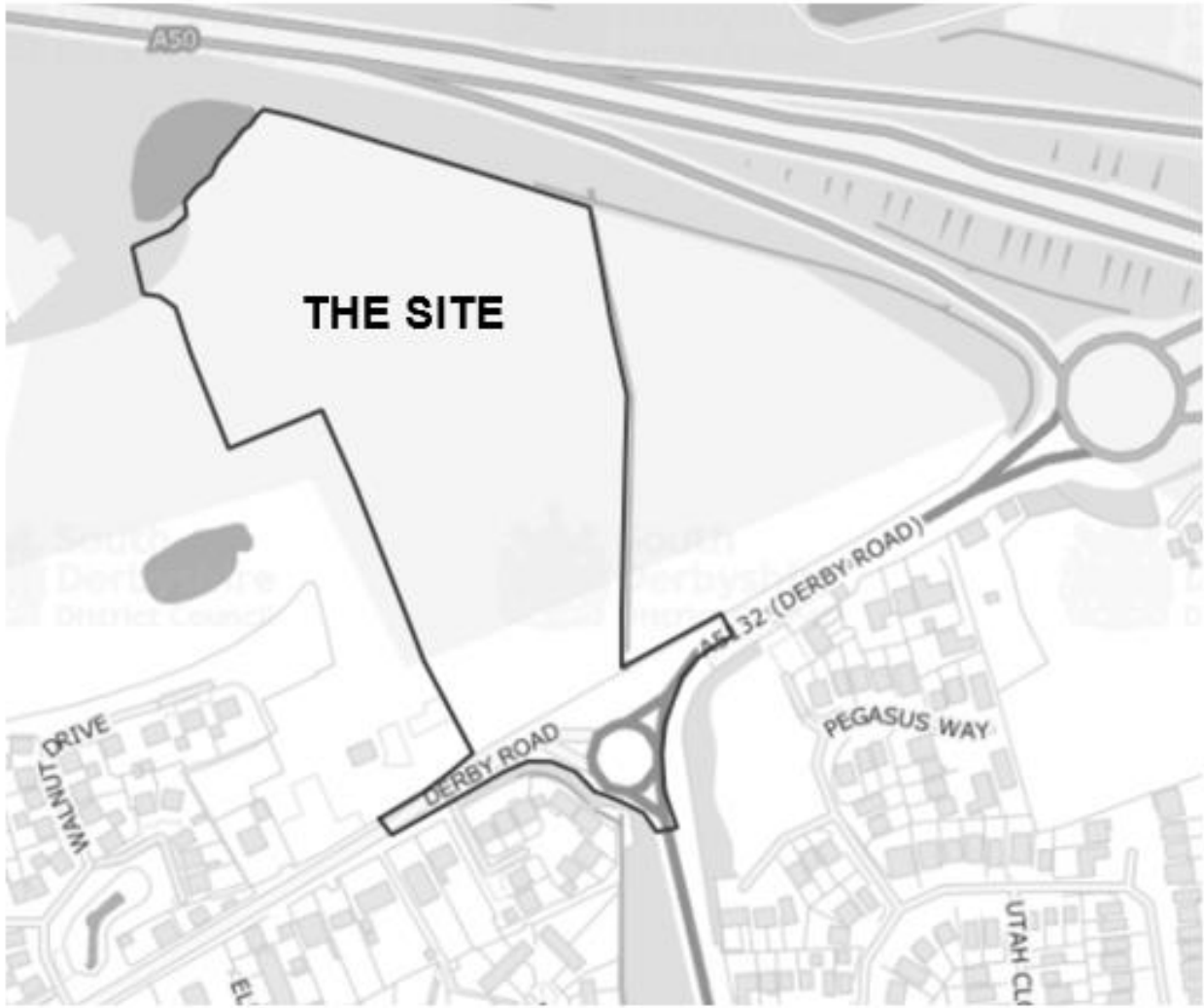
The application comprises main town centre uses outside of a defined town centre. The application has been reviewed by independent retail consultants who conclude that the requirements of the sequential test have been met and the proposed development would not have significant adverse impacts on defined town centre uses within the catchment area. The application has been submitted with a number of supporting plans including various parameter plans controlling phasing and scale amongst other matters. Subject to compliance with these plans the development will be undertaken in a coordinated way and will not comprise buildings of an excessive scale between the existing settlement of Hilton and the A50. The technical details of the application have been assessed by relevant statutory consultees, and subject to reserved matters details, recommended conditions and S106 agreement which are included in the recommendation, there will be no undue impact on design or landscape character and quality, biodiversity, best and most versatile agricultural land, trees, flood risk, contaminated land, heritage assets, noise and residential amenity, and traffic and transport. The application results in some benefits in relation to job creation, community space and biodiversity net gain which are also secured via condition and/ or the recommended agreement under S106 which the applicant will need to enter into.

Site Description

The application site lies to the northwest of the roundabout which connects the Derby Road and the A5132 in a southwest northeast trajectory, the site is at the northern periphery of the key service village of Hilton. The site lies outside the settlement boundary and within the rural area, currently the site is agricultural land that is bound to the west by an horticultural nursery, to the north by the Hilton Gravel Pits Site of Specific Scientific Interest, to the east by further agricultural land and to the south by the afore mentioned road infrastructure. Within the wider area of the site are the residential areas of Hilton, the A50 strategic road network and the Hilton Industrial Estate.

The site lies wholly within flood zone 1 where the risk of flooding from fluvial sources is minimal, some areas of the site, adjacent Derby Road are shown to be at risk from surface water flooding. The site is currently crossed by a public right of way, Hilton FP11, which extends from the A5132 to the east of the site through the site culminating in the field to the west of the site. There are no listed buildings or conservation areas within or immediately adjacent the site area. The site lies in both green and amber zones on the Great Crested Newt (GCN) heatmap. The site lies wholly within the Parish and Ward of Hilton which lie in the northwest of the district.

DMPA/2024/0198 – Land North of Derby Road, Hilton, DE65 5JS



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South Derbyshire District Council. LA 100019461.2020

The proposal

The application seeks approval of outline planning permission with all matters reserved except access for the erection of a foodstore, commercial units, community space and a drive through coffee shop with associated parking and necessary works. The different elements as proposed at this stage are described individually below, noting that descriptions are brief due to the outline nature of the proposals:

Access

The proposed access off the existing Derby Road and A5132 roundabout would introduce a fourth entry / exit point to the roundabout for vehicles. The proposed access also includes landscape and highway alterations to facilitate pedestrian and cycle access adjacent the vehicular access and further pedestrian access to the southwest of the site from Derby Road. The footpath connects to a toucan crossing and from there to the existing pedestrian and cycle ways on the A5132 as it travels into the centre of Hilton.

Commercial Units

The proposed commercial units described as for small and medium sized enterprises (SMEs) are sited to the north east of the site adjacent in closest proximity to the A50 the building height here would be a maximum of 9m. The commercial units would deliver a gross internal area of 2909 sqm and be served by 47 parking spaces.

Drive-thru coffee shop

This is proposed to be located at the eastern side of the site, to the north of the point where the existing PROW enters the site. It will have a gross internal area of 155 sqm and a maximum height of 7m.

Community Open Space

400 sqm is reserved for community space in the eastern side of the site. The illustrative master plan shows this connects to paths leading to the public right of way crossing the site, the coffee shop and foodstore.

Landscaping and Ecological Works

Landscape enhancements are proposed across the site with additional landscaping around the highway works adjacent the A5132 and Derby Road. An ecological buffer zone of 6768 sqm is proposed to the north of the site between the SME units and the Hilton Gravel Pitts SSSI.

Applicant's supporting information

Planning and Retail Statement (PRS)

The PRS sets out the planning and retail context of the development outlining the result of household surveys and the planning considerations and benefits of the proposed development. It concludes that the development will comply with local plan policies (as specified) and provide for the needs of the growing population in Hilton, both through offering a greater choice locally and through the creation of jobs and workspaces.

Agricultural Quality of Land off Derby Road, Hilton, Report 2256/1, dated 27th November 2023, received 07/02/2024

The findings of the report state that quality of the land is primarily determined by draughtiness and wetness / workability, other factors assessed are set out not to affect the land grade. The quality of the land is summarised as being 1.1ha (27%) grade 3a and 3.0ha (73%) grade 3b

Air Quality Assessment, reference 7502r2, dated 02/02/2024, received 07/02/2024

The Air Quality Assessment (AQA) identifies possible activities during the construction and operation periods that might impact air quality and the receptors which might be affected by changes to air quality. Mitigation measures are identified within the document which concludes that the proposed development has the potential to cause air quality impacts at sensitive locations during the construction and operational phases, noting that if good practice dust control measures are implemented during construction that the potential air quality impacts could not be significant. They also assess the

operational impacts on air quality and conclude that the changes as a result of the development do not result in policy conflict.

Design and Access Statement, received 07/02/2024

The design and access statement sets out the context of the development, the opportunities and constraints and the evolution of the design. It lists the key opportunities as the provision of SME units, the ability of the foodstore to address the needs of the local population without requiring travel outside the area, the provision of a food and drink concession and area for community use the retention of landscape features and provision of Biodiversity Net Gain the use of the existing topography within the site to inform the drainage design using sustainable urban drainage systems, retention and improved access within the site to the PROW.

The conclusions of the DAS set out that the scheme has been designed sensitively to the context of the site and surroundings as well as to meet the needs of future operator without resulting in an undue impact upon the character of the surrounding area.

Economic Statement, Land North of Derby Road, Hilton, Project no: 70109234, dated January 2024, received 07/02/2024.

The Economic Statement identifies the conclusions of the South Derbyshire Economic Development and Growth Strategy 2023 – 2027 which identifies a limited supply and unmet demand for small and medium sized workspace within the district. It identifies economic benefits of £6.9m GVA generated per annum for South Derbyshire and that the proposed development will create 95 additional FTE jobs in South Derbyshire and 130 FTE net jobs in the East Midlands, generating £795000 in income tax and NI contributions. The phasing of development is timetabled within the economic statement setting out that the foodstore would be built with commencement and completion of 50% of the SME units to be at the point of the foodstore opening and the following 50% within 1 year. Phase 2 containing the community and drive-thru would be commenced 6 months after the proposed foodstore opens.

Landscape Visual Impact Assessment, Land North of Derby Road, dated January 2024, received 07/02/2024.

The conclusions of the Landscape Visual Impact Assessment state that the effects of the development have the highest impact to visual receptors within the site boundary, with the effect on the PROW being the highest and assessed as moderate adverse effects. The impact upon the character of the area is assessed as declining over time as the proposed landscaping matures from moderate adverse effects in the minimal adverse permanent impacts.

Ecological Impact Assessment (EclA), report No. E2181-R3, prepared by Bioscan, dated February 2024, received 07/02/2024.

The report sets out the relevant policy context and the methodology which includes both desk-based work and survey work undertaken on 3 separate occasions. The report confirmed a number of specially protected species and species groups to be present within or adjacent the site. It progresses to set out the potential effects of the development on ecological receptors and assesses both the effects in the absence of mitigation or compensation and the residual effects taking into account mitigation and compensation set out in the report. The conclusions of the report are that subject to mitigation proposed, in particular the introduction of a buffer zone comprising semi-natural grassland, wetland and scrub a positive effect upon the SSSI is likely to arise. The bolstering of existing hedgerows within the site is expected to achieve positive gains in the site, the above mitigation measures are considered to provide habitat enhancement for species observed as present.

Flood Risk Assessment, Trenport Investment Limited, Land north of Derby Road, Hilton, 680964-R1(03)-FRA, dated January 2024, received 07/02/2024.

The FRA submitted in support of the application sets out that flood risk from all sources has been considered in the proposed development and sets out that the site, located in Flood Zone 1 is outlined to have a less than 1 in a 1,000, or less than 0.1%, chance of flooding in any year from fluvial or other sources. The FRA states that discharge rates from the site will be limited to 7l/s which is a reduction in the rate required by local policy and has been achieved in response to comments from the Parish Council to provide a betterment to offsite drainage. It states that this will decrease the amount of surface water leaving the site and offer a reduction in downstream flood risk. The FRA further concludes that of the multiple sources of flooding considered no mitigation was required except for

groundwater, this was assessed as a low to medium level of risk and monitoring was recommended to mitigate effects.

Foul Water Statement, Land North of Derby Road, Hilton, South Derbyshire, ref: 680964, dated 2nd February 2024, received 07/02/2024

The Foul Water Statement is supported by a response from Severn Trent confirming the capacity available within the existing foul water sewer and the requirements for connection to this.

Arboriculture Report & Impact Assessment at: Land North of Derby Road, Hilton, DE65 5FP, Reference: AWA5789 dated January 2024, received 07/02/2024

The report sets out the findings of assessment of the trees on site in respect of the health and classification of the trees and the detail of trees and groups of trees, and hedgerow that will be required to be removed in order to facilitate the development. It makes recommendation for tree protection and further assessment of T19.

Noise Assessment for Planning, AEC Report: P5122/R1/WJK, dated 26 January 2024, received 07/02/2024

The noise assessment sets out the methodology used and the baseline noise information gathered as well as putting forward assumptions on the expected noise levels from various activities associated with the proposed uses. The receptors for which assessment has been undertaken are Walnut Drive, Willowfields and Derby Road. Background noise levels note traffic noise as the main form of background noise at the receptors assessed during the study period. The conclusions of the report set out that the assessment outcome demonstrates low impact in terms of noise from the development during both the day and night at the sensitive receptors.

Noise Assessment for Planning, AEC Report: P5122/R1a/WJK: dated 19 April 2024, received 22/04/2024.

The updated report acknowledges the comments of the EHO in respect of LMAX noise and the potential impact this would have on the identified receptors. They state that the recommended maximum noise would be achieved in respect of increased movements. In respect of noise emissions from increased movement on the existing highway they state these would be negligible as a result of the development.

Preliminary Risk Assessment, Land off derby road, Hilton, ref: 323206-R01 (02) dated 19th January 2024, received 07/02/2024

The Preliminary Risk Assessment acknowledges the proposed use of the site and confirms the work undertaken was to identify any land contamination and, or, geotechnical constraints and to identify the need for any further investigation or remediation required to demonstrate the site is suitable for the proposed use. The information set out within the document comprises desk based work and a site reconnaissance. The recommendations of the report set out that an intrusive ground investigation study should be undertaken prior to commencement of development.

Transport Assessment, Land North of Derby Road, Hilton, Reference:237295, Rev: Final dated 6th February 2024, received 07/02/2024

The Transport Assessment concludes that the site is accessible and benefits from a range of sustainable transport opportunities including access to public transport and active travel within the vicinity. They note the local highway does not have a poor safety record and that subject to improvements to the roundabout safe access from the A5132 can be achieved. They summarise the development trip analysis and junction modelling, concluding that the assessed junctions are expected to operate within capacity, with minimal offsite delays at off-site junctions considered as negligible. They conclude that this demonstrates the development will be sustainable in traffic and transport terms and comply with relevant policy.

Transport Assessment Addendum, Land North of Derby Road, Hilton, Reference:237295, Rev: 2, Dated 16th April 2024, received 16/04/2024

Following initial comments from the LHA an addendum to the transport assessment was provided. The addendum sets out that it addresses comments of the LHA in relation to baseline traffic flows, Saturday pass-by factors, assessment scenarios, committed development, geometries of modelled junctions,

operational assessment and comments of Hilton Parish Council in respect of the survey flow discrepancy. It concludes that all concerns of DCC LHA have been addressed and it has been shown that the range in survey data, collected on two separate days as identified by the Parish Council that the base data provides an appropriate basis for assessment of the impact of the proposed development.

Workplace Framework Travel Plan, Land North of Derby Road, Hilton, Reference:237295, Revision: Final, dated 31st January 2021, received 07/02/2024

The document sets out methods by which sustainable transport modes will be promoted, monitored, reported and reviewed. It details responsibility and timings for different initiatives contained within the plan.

Relevant planning history

None

Responses to consultations and publicity

Environment Agency (EA) - No comments 19/02/2024

The EA confirm in their response that the development falls within flood zone 1 and they have no fluvial flood risk concerns with the site. They further confirm there are no other environmental constraints associated with the site.

National Highways (NH) - No objection 06/03/2024

The response from NH considers the location of the site in relation to the Strategic Road Network (SRN), the closest SRN is the A50 and associated slip roads to the north east of the site. They consider geo-technic effects on the SRN unlikely due to the distance between the site and the SRN. In respect of drainage they consider that surface water drains run away from the SRN and the proposed attenuation basin and storage will collect surface water when required. They advise that any water run off that may arise due to the change of use will be accepted into the highway drainage system and no new connections will be facilitated for third party development or drainage. Glint and glare concerns are considered to be negated by the existing wooded boundary and presence of existing street lighting. In respect of traffic impacts they agree with the findings of the assessment on the dumbbell roundabouts that the SRN junction continues to operate within capacity in the post development scenario and set out that they do not consider the impacts to be significant. They offer further standing advice.

Natural England – No objection subject to appropriate mitigation being secured 07/03/2024

The response from Natural England (NE) sets out that they consider that, without appropriate mitigation the proposed development would damage or destroy the interest features for which Hilton Gravel Pits Site of Specific Scientific Interest (SSSI) has been notified. The set out the following measures without which they consider the development would be unacceptable.

- Create a buffer between the development and SSSI
- Ensure surface water drainage is managed for impacts to the SSSI
- Ensure impacts to air pollution, water pollution, habitat loss and breeding birds are managed through a Construction Environment Management Plan (CEMP)

Derbyshire County Council – Local Highway Authority – No objection

Final comments – Updated information in relation to the traffic flows used to assess impact in the TAA are acceptable. The details set out within the Transport Assessment Addendum TAA and the proposed junction modelling work will ensure a robust assessment of the Saturday peak hour and is considered acceptable. Comments accept the proposed use of 2029 as the future year for modelling and retention of 2023 rather than 2024. Reinstatement of trip generation from existing Aldi store is welcomed and confirmed to provide a robust approach.

Review of previously requested geometric parameter plans confirm the data used within the operational assessment models is acceptable.

In assessing the operational assessments for the junctions requested the LHA Officer confirms that the site access junction is modelled at a worst case scenario and that the proposed access roundabout can

accommodate traffic generated by the proposals. In respect of the A50 western dumbbell junction the comments confirm this would continue to operate within capacity with the additional traffic and that queue time at peak hour is forecast to increase by 10 seconds but will not result in queues extending beyond the off-slip or blocking the main line. The Eastern Dumbbell on the A50 will not be materially impacted. The comments refer also to the response of National Highways who confirm no concerns regarding the development. In respect of the other junctions assessed and in conclusion the LHA Officer states that there will not be a material impact upon the local road network particularly when taking account of the robust assessment undertaken.

Overall the Local Highway Authority has no objections subject to conditions being imposed securing:

1. No commencement of development before the site access works approved under Section 278 by the Local Highway Authority
2. Implementation and monitoring of the approved travel plan.
3. Prior commencement requirement for a Construction Management Plan

The inclusion of informative notes is also requested.

Initial comments (15/03/2024) – Accessibility – The Highway Officer noted the content of the TA in relation to accessibility and note that the site is located close to 2 bus stops with connection to Derby and Burton upon Trent and cycle and walking routes providing opportunities for active travel. They note the commitments of the TA in respect of provision of a toucan crossing linking the site with pedestrian and cycle infrastructure; upgrades to the PROW within the site; provision of secure and surveilled cycle spaces, provision of shared surfaces enabling off road travel within the parcels of the development and a Framework Workplace Travel plan to encourage future staff to use more sustainable modes of transport. They note the application is in outline and that the internal site measures will be considered as part of any future reserved matters application.

The comments requested additional information for the base traffic flows requesting survey dates be provided and the submission of the raw data for the ATC and turning count surveys.

The comments set out the personal injury collision data and accept the conclusions of the Transport Assessment in this regard.

Comments note the proposed works to the existing roundabout to facilitate the vehicular access, they state that amendments to the design of the roundabout will be required but this can be conditioned and form part of the section 278 works.

In respect of the internal road layout this is considered acceptable in principle with detailed comments to be supplied as part of the consideration of reserved matters. This approach is reflected in comments related to the parking strategy.

In respect of servicing and delivery the comments set out that access strategy will not cause disruption to the free flow of traffic or lead to an adverse effect on safety. The upgraded roundabout is considered able to accommodate HGV movements but that internal servicing will be considered as part of future reserved matters.

The comments considered that trip generation methodologies submitted were acceptable as was the resultant trip distribution onto the highway. It was requested that the assessment scenarios and operational assessments be updated to 2024 and 2029. In respect of committed development the comments request that trip generation from the existing Aldi store within Hilton should not be removed.

Further information on operational assessments of the modeled junctions be provided at which stage further comments will be issued.

Derbyshire County Council – Lead Local Flood Authority (LLFA) – No objection subject to conditions 22/03/2024

The LLFA issued a conditions response to the proposed application, in their site specific comments they note that it should be demonstrated that the watercourses have sufficient capacity and are in good condition for surface water discharge. The conditions requested are summarised as:

- Prior to commencement condition for detailed design and associated management and maintenance plan off the surface water drainage, in accordance with the submitted details.
- Prior to commencement condition for the submission of a detailed assessment of the proposed destination for surface water which accords with the drainage hierarchy within the Planning Practice Guidance.
- Prior to commencement condition for a construction surface water management plan

Derbyshire County Council – Public Rights of Way Officer – No objection 18/03/2024

Final comments – the applicant responded to the comments below in respect of the perceived potential crossover between the potential future access road and the public right of way. The applicant confirmed that the area in question was proposed as a pedestrian access. The PROW Officer confirmed that this addressed their concerns.

Initial Comments confirmed the presence of Hilton Public Footpath No. 11 running through the proposed development site. They stated there was no objection in principle to the proposal to divert the footpath and make it useable within the site and advised an application to SDDC would be required for the diversion. They observe the apparent route would run along what is intended to become an access road to the adjacent site, if one is needed in the future. They set out the importance of ensuring the path is kept separate from the access road, so that they may run parallel but not along the same line.

They set out that during the planning process additional regarding the width and surfacing of the path, and details of boundary crossings will be required. They note the footpath 11 is a cul de sac path, in that it does not link to the network at one end and has not been prioritised or used for some time, noting that public rights still exist they set out the footpath should be treated accordingly in respect of any required temporary closure during works and advice these will be permitted on application to DCC only where the path(s) remain unaffected on completion of the development or, where a diversion is required under the provisions of the Town and Country Planning Act 1990, that the Order has been Confirmed. They set out a confirmed Diversion Order will therefore be needed before a temporary closure could be granted. And note that construction works could be delayed if the Order is not confirmed in good time. The applicant should be advised that an application can be submitted for the diversion of the public footpath in advance of planning permission being granted.

East Staffordshire Borough Council – No objections 28/02/2024

The Comments reflect the findings detailed within the supporting information that advise no significant impact on the vitality or viability of Burton or Uttoxeter Town Centres or on any existing, committed or planned public or private investment in those locations. They further state that the evidence advises that the cumulative impact of the proposal with planning application SDDC ref DMPA/2023/1062 (ESBC ref P/2024/00136) is not considered to have a significant adverse impact upon these centres or any planned or public or private investment in these centres. They note the impact forecast upon the retail provision at Tutbury and Rolleston on Dove. The comments conclude on the basis of the information submitted and the level of convenience, comparison and commercial floorspace proposed, it is considered that Tutbury and Rolleston on Dove will retain the ability to function as Rural Centres and offer a basic level of shopping and service function for each settlement and its immediate rural hinterland, as is their role as a Tier 1 Strategic village. The comments offer no objection but request consultation in the event that the commercial and comparison floor space are proposed to be changed.

Derbyshire Wildlife Trust (DWT) – No objection subject to condition

Subsequent comments – The additional comments received note recently discovered species activity in the site surroundings. Having regard for the activity they consider it necessary to attach a further condition to the application to ensure that the species needs are fully considered during the construction of the development and as part of the biodiversity enhancement works.

Initial comments - DWT confirm review of the submitted documents and confirm the ecological assessment is considered to provide the Council with sufficient information to assess the potential impacts and review the proposed mitigation and compensation. They note the relationship between the site and Hilton Gravel Pits SSSI.

They note the type and value of habitats present at the site and the quality of the pond within the SSSI. Commentary is made upon the likelihood of different species using the site. Comments confirm the proposals within the BNG assessment and review the landscaping and habitat enhancement and creation proposed. Noting the figures referenced of a post development gain of 15.98% of habitat and 11.49% of hedgerows. They welcome this gain given the proposed development was submitted prior to BNG becoming mandatory. They consider that there will be some uncertainty in the figures, but note that with more than 10% sufficient cushioning is present to ensure a net gain.

The comments conclude that the impacts of the project have been fully considered within the ecological assessments and habitat loss is minimal. They set out that the mitigation hierarchy has been applied and it has been demonstrated that on-site net gain is achievable. They note Natural England have not objected to the proposed development and recommend the conditions put forward are secured. They note that any changes to the proposals may affect BNG and should these be proposed further

consultation with NE and DWT would be required.

They request conditions in relation to:

- Construction Environment Management Plan for Biodiversity
- Species enhancement
- LEMP
- Lighting

South Derbyshire District Council

South Derbyshire District Council – Biodiversity Officer – No objection subject to conditions and obligations – 10/05/2024

Final comments – The final comments of the Biodiversity Officer state that water quality monitoring will provide empirical evidence based assessment of water quality of the pond within the SSSI and this would be in accordance with the Council's Ecological Emergency declaration. They note that conditions will be required to secure the on site biodiversity net gain and obligations under S106 to secure the required fee to enable the LPA to monitor the BNG at the required intervals.

Previous Comments - request the Water quality within the pond located within the SSSI is tested as well as observed in order to provide evidential monitoring as well as observational monitoring.

South Derbyshire District Council – Design Officer – No objection 25/03/2024

The Design Officer confirms the illustrative masterplan is in accordance with their recommendations and they are content that the proposals reflect these and have no further comment.

South Derbyshire District Council – Economic Development Manager – No objection subject to conditions

Subsequent comments – requested further detail be added to the Local Labour strategy condition proposed wording to define the details of the condition. 10/05/2024

Initial comments – requested clarification on the delivery of the proposed SME units, querying why half of the development would be built prior to the opening of the food store. The sustainability measures proposed and the scope for inclusion of local labour initiatives to secure employment opportunities for the foodstore and drive-thru. They note the inclusion of potential to provide access through the site to other areas of Hilton. Concerns are expressed regarding the potential for SME units being a mix of customer facing business eg hairdressers, and manufacturing/logistics businesses with their distinctly different characteristics. – Request clarification 22/03/2024.

South Derbyshire District Council – Environmental Health Officer (EHO) No objection

Final comments – Confirm that sufficient further information has been provided that given this is an outline planning permission the principle of the development is acceptable. They recommend conditions should permission be granted and set out that if significant changes to the layout are proposed additional noise mitigation may be required. The offer no objection subject to conditions for

- Construction period restrictions in relation to burning of vegetation or other materials
- Limiting the hours of construction
- Conditions in relation to contaminated land investigation, any necessary remediation and validation; the occupation of units is not commenced until any remediation and verification are validated.

Subsequent comments – state that the noise levels could impact properties on Walnut Drive and request further information on the noise barrier detailed within the calculation. 01/05/2024

Initial comments – In respect of the noise assessment the Environmental Health Officer requested further consideration of the impact on Receptor D of the Noise assessment and included detail of this, it also requested the assessment consider the LMAX noise levels on the residential receptors at Walnut Close from the commercial properties. Object - 09/04/2024

South Derbyshire District Council – Tree Officer – No objection 07/03/2024

The Tree Officer notes the proposed removal of trees and hedges and states they are in poor structural and physiological condition and require removing in the interests of safety and good tree management: They note that no works are required to protected trees outside the site. They note T19 is classed as a veteran tree and it is recommended that a more detailed risk assessment is advised and any remedial works recommended should be undertaken to enable the tree to be retained within the development. They note the proposed tree protection measures and advise these are secured via condition of any forthcoming approval.

Hilton Parish Council (HPC) – Object

Comments from the Parish Council are received in objection to the proposed development. These are summarised below:

Access, Highway Capacity and Safety

- The surrounding road network would not cope with the increased traffic and the development would not satisfy the requirements of Policy E7
- The A5132 roundabout will be unable to cope with the increased traffic flows at certain times
- There are discrepancies in the traffic and transport data
- The TA does not account for the proposed Aldi store and fails to model the specific issues in relation to this that will arise on the A5132 / Derby Road roundabout due to the difference in routing to and from existing and proposed stores.
- The Parish Council request the modelling account for higher vehicle numbers and period is extended to 2035.
- Further issues will arise to the roundabout as a result of traffic turning right into the proposed Aldi store – It would be preferable for all traffic to entre both sites via the fourth arm created to access the Trenport site and then through the site or a fifth arm – The Parish Council consider these options should be modelled prior to any decision being made. The Parish Council requested dialogue between the developers.
- The comments welcome the provision of a Toucan crossing but dispute this will connect to the existing pedestrian and cycle infrastructure stating there is a gap between the existing and proposed cycle route on the A5132. They state this should be joined in order to comply with policy INF2 B(i).
- They request assurances that the effects of the Toucan crossing on traffic flows have been fully considered in the Transport Assessment queuing analysis.
- Concerns are raised regarding the impact of increased traffic on school children utilising local routes and the absence of pedestrian or crossing aids at junctions in the vicinity.
- Concerns are raised that the relocation of the bus stop will result in increased traffic congestion and request positioning is reassessed

Drainage

- The comments challenge the findings for the Flood Risk Assessment (FRA) stating it fails to recognise the reality of the site.
- The comments state that the assessment is based on conditions prior to the construction of the A50 and that water from the SSSI on the north side of the A50 is now directed via a culvert under the A50.
- They state the presence of at least two springs serve to maintain a high level of groundwater, surface water is not retained on site.
- The FRA underestimates groundwater levels and the surface water mitigation proposals will be rendered ineffective.
- Flooding is already experienced at the southern end of the site onto the bus layby on Derby Road.
- SDDC Councillors should visit and be made to understand the extent of the problems.
- THE EclA contains photos in April which show surface water present at the higher part of the site which show surface water.
- HPC believes that as submitted the proposals do not meet flood risk policy SD2 A and B.

- HPC suggest that a reappraisal of the development is undertaken to understand the balance of the benefits of the development against the flood risk. They consider this should include downstream effects of surface water runoff as a result of the connection to existing drainage systems that direct water to an area which experiences flooding in heavy rain and it the subject of a current investigation.
- The suggest reduced area of development to be managed without SUDS and reiterate the need for a thorough reappraisal of flood risk and mitigations is required.
- They query why submissions to Severn Trent are redacted in relation to the sewerage connection.
- They raise concerns regarding adding to the sewerage system and capacity. Noting that Severn Trent at times deploy tankers during heavy rain to pump out the Mill Lane pumping station.
- They state a more transparent appraisal of the sewage disposal is required for the whole system, not just the Trenport development.

Biodiversity

- The Ecological Impact Statement fails to properly identify presence of protected species in
- Comments recognise that providing the buffer zone of wetlands is a good way of achieving the biodiversity net gain, but state that it is not clear that the green corridors and connectedness that the parish council, DWT and policy BNE3 A (iii) are seeking, would be best served by this
- Whilst a 10% gain in biodiversity can be demonstrated, it is not clear that there will not be 'significant harm'.
- Request the environmental buffer is left as grazing land that would better support local species

Development outside the settlement Boundary

- They state it is unclear if the proposal complies with BNE5 (iii) as at least some of the development, if not all, is avoidable outside the settlement boundary. Comments refer to areas of Lowman Way allocated for commercial units.

Commercial units

- Query the proposed height of the commercial units for the types of businesses that are cited as being interested and suggest lesser heights. Refer to a 2018 permission (application 9/2018/0824), with maximum ridge heights of 4.2m. State this would lessen the visual impact and request the heights are reduced to less than 7.5m

Other issues and recommendations

- They consider that a smaller development, not including commercial units, and resulting in less development would be more appropriate
- Note the provision of play facilities consider that whilst these serve a purpose for users of the development they are unlikely to be a destination as there are other playgrounds away from such busy areas.
- They state it was hoped that the development could provide for much needed allotments in Hilton and this is disappointing. Though they acknowledge that groundwater conditions may not be suitable for allotments
- In order to align with Neighbourhood Plan policy H4, the Parish Council requests the maximum use of solar panels and heat pumps in all buildings.

Objections on behalf of the neighbouring land owner:

Representations are received from Avison Young on behalf of Aldi Stores Limited, Avison Young act in capacity of planning agent for Aldi who are the neighbouring land owner.

The comments state they consider whether the key policy requirements in the Local Plan have been addressed by the application and conclude that these have not. They identify the site as outside the settlement boundary for Hilton as defined by the Local Plan and Neighbourhood Plan for the area. They set the policy context for Rural Development within the Local Plan identifying Policy E7 stating that

it only allows for the development of new buildings in the Rural Area where those proposals satisfy five criteria, with criterion i) being that such proposals must be supported by a sound business case; The comments state that in order to comply with the requirements of E7i) (sound business case) the applicant should submit a Financial Viability Assessment.

The comments state that submissions do not demonstrate that a “sound business case” exists, so that Policy E7 criterion i) is not satisfied, and that this is a conflict with the local development plan so that planning permission should be refused.

The comments then highlight key features of the application and case put forward in support of the proposals. These are summarised here:

- The application is submitted in outline and is supported by an Illustrative Masterplan showing a foodstore drive-thru, and Commercial space for SMEs
- In the absence of a named operator for the foodstore they consider it is not possible for the LPA, or any other party, to reach any conclusion on the intended operator.
- They consider as the operator is unnamed it cannot be assumed that interest is secured from any operator, meaning that the application is speculative in relation to the foodstore element. They state that as the Community Use is not defined it is not possible to reach any conclusions on the potential benefits that might arise from this part of the application
- Parameter Plans are provided with the application. Trenport expects that compliance with the Parameter Plans will be secured by way of planning condition having regard to WSP’s comment at para 1.1.4 of the Planning & Retail Statement (PRS) that the Parameter Plans will give [the Council] greater control over the finished development. That being so, it is reasonable to interpret the intended outcome with reference to the Parameter Plans.
- Comments set out due to the proposed phasing there is a risk that the foodstore may be built out but the commercial, drive-thru and community uses may not come forward.
- Comments describe the layout of site and commercial units and the proposed floorspaces indicated on the land use parameter plan.
- The comments state that if the LPA is to give weight to the benefits set out to be derived from the commercial units the phasing of delivery should be adjusted to prevent the foodstore opening before the commercial units are constructed and suitable for occupation.
- The comments state that in addition to demonstrating a sound business case for commercial use proposals, E7 i) must also be satisfied through the demonstration that the foodstore and drive-thru are necessary to render the commercial use viable.
- Comments state the Economic Statement is a commentary on evidence base documents, and is not robust evidence that could be characterised as a “sound business case” to satisfying the requirements of Policy E7 i). It relies upon the conclusions of conversations with agents, occupiers and the Economic Development Officer at SDDC. Minutes and meeting notes from those discussions are not provided. A sound business case must at least be one that is demonstrably capable of withstanding scrutiny.
- Considers the supporting information is anecdotal and conclusions should not be relied upon as satisfying the requirements of Policy E7 i).
- Section 5 of the Economic Statement is drafted on the basis that the foodstore (Phase 1A) and drive-thru (Phase 2) are needed to render the Commercial Units (Phase 1B) viable. This is consistent with the comments at para. 3.1.1 of the PRS. This is a fundamental part of Trenport’s case, notwithstanding the reference at 1.1.1 of the PRS to this being an application for retail-led mixed use development. It is immaterial whether the scheme is retail-led or commercial-led as Trenport have asked the LPA to treat the uses “collectively” and as a “comprehensive package” for reasons of viability. Put another way Trenport presents its proposals on the basis that its scheme is indivisible.
- The LPA should not accept an approach to phasing that would allow the foodstore to be completed first, with no guarantee that the commercial uses would follow.
- It also makes it incumbent on Trenport to provide robust evidence that its assertions in relation to viability are reasonable.
- When an applicant claims that elements of a scheme are unviable on their own, it is essential that this claim is proven by an appropriate assessment of viability. Comments state, the appropriate assessment in this case should be the preparation of a Financial Viability

Assessment (FVA) adopting the residual appraisal methodology. This is stated to be accepted methodology for assessing viability and recommended in the PPG, NPPF and RICS guidance. The comments set out what they consider the FVA should include. Summarised as testing of alternate scenarios of the proposed development components.

- Comments set out that without this type of assessment it is not demonstrated that the commercial floorspace is not viable in isolation because of the development cost and fails E7 i) on this basis for the mix of uses proposed.
- Comments consider that the sequential test should be applied not only for the site as a whole but also on a disaggregated basis in the absence of a viability assessment that sets out the need for uses to be delivered as a whole. They consider the LPA should direct the applicant to either provide evidence on viability to support its approach to the sequential test, or re-do the sequential test and search for sites and opportunities that can accommodate the drive-thru unit and foodstore separately.
- The comments refer to the Aldi PRS and the approach taken to the search for more centrally located sites, having regard to relevant judgments and appeal precedent, which is that any more centrally located sites must be suitable for the “broad type of development that is proposed” (as per the ‘Mansfield’ Judgment). The comments state that this approach is legitimate for Aldi’s submissions, given that the operational requirements of a Limited Assortment Discount foodstore provide the basis for setting the reasonable limits to the flexible approach that is required by the NPPF (para 92). They set out that in assessing other sites, this submission, which states it could be occupied by either a regular or discounted foodstore should undertake a disaggregated sequential assessment on this basis.
- The comments conclude that the application does not satisfy the criteria of E7 i) to provide a sound business case either in relation to the commercial uses or in relation to the need for the foodstore and drive-thru to render the commercial uses viable. They state for this reason the application cannot be positively determined on the basis of information submitted to date.
- They conclude there is a risk that the foodstore will be developed and open prior to construction of the commercial and community uses and that these may then not be delivered. In the absence of amended timing for delivery, which the comments infer would add weight to the benefits, the comments state that the benefits set out through the delivery of commercial units should be disregarded

The comments reiterate they consider the applicant should evidence better a sound business case for the commercial units, additional evidence demonstrating the commercial uses are not viable without the foodstore and drive through, stating a FVA is required. Finally that a disaggregated sequential assessment should be provided.

Comments of Members of the Public

Comments were received in response to the application from members of the public both in support and objection to the application. 8 of the comments object (noting one submission is received verbatim from the same member of the public) 12 comments of support and one stating no objection were received.

Comments of objection are summarised as:

- a) The roads and roundabouts in that area are already extremely busy and approval would make things far worse even with the proposed road alterations.
- b) When the A50 is closed this increases lorry traffic in this location and the proposed amendments to the roundabout would exacerbate this.
- c) The increased traffic volume will be a danger to pedestrians, school children and vehicle users. Safe use of the highway and footpaths for vehicles and pedestrians in this congested area must be guaranteed.
- d) Most residents will have to drive to this location as it is too far and too unsafe from the village to walk. Other locations should have been considered.
- e) Nothing has been done about traffic using Hilton as a rat run.
- f) More traffic calming measures are required within the village.
- g) The traffic survey is incorrect

- h) There is already a proposed Aldi store adjacent that will significantly increase traffic. Hilton does not need two supermarkets next to each other. The developers do not acknowledge the other application in their application.
- i) This is more like a services. The development will become Hilton Services.
- j) People of Hilton will experience increased noise, pollution and traffic
- k) Greedy developers target Hilton and are only interested in making large amounts of money at the expense of local people. There is no benefit to the people of Hilton who require more amenities.
- l) Green spaces should be left alone. This is a grazing field with valuable farming uses and this sort of development is not appropriate here; a brown field site would be better.
- m) The development of the site results in a loss of farmland and open countryside and livestock grazing land.
- n) The site is enjoyed by people walking in the north of Hilton.
- o) If the biodiversity of green farmland is not as high as other environments it is clearly higher than a concrete shopping centre. It is surely against the SDDC Climate Change commitments to build a car-centred, drive-thru development on working farmland green space.
- p) Wildlife and other environmental issues are not appropriately dealt with in the submission. The findings of the EclA in respect of protected and priority species on and adjacent the site.
- q) If permission for the development were to be Granted then the water table on the whole of the site must not be lowered as it may cause the SSSI lake area to drain through the gravel layers so totally destroy it, and damage the wet grazing area around the lake for the nesting birds to feed.
- r) This will set a precedent in Hilton for destruction of the countryside.
- s) Concerns regarding drainage, road flooding and the impact on Hilton Brook. Developers have not considered the impact of the loss of green land on flood risk. Flooding has increased since the Lucas Lane development.
- t) There is a risk that the development could result in offsite flooding to neighbouring land if the capacity of the proposed attenuation is exceeded due to limited discharge rates to existing drainage infrastructure.
- u) Would like to know that with the expanse of hard standing, there would be sufficient prevention of potential floodings further afield to the requested development.
- v) Speculative applications are not wanted or needed.
- w) The land has been farmed by a tenant producing milk for circa 20 years, it is fertile and productive providing silage and grazing land for dairy cattle. This seems to suit the SSSI and allow for nesting birds to use the land, low fertilizer rates avoid contamination of the SSSI.
- x) If the land is lost there would be an impact on the existing business as they would have to import grass and transport cattle to alternate grazing sites which would increase the carbon footprint of the business.
- y) Strongly recommend a visit to the site by the Planning Committee before making a decision, in order to see for themselves the SSSI and surrounding area to see the full devastation and impact this proposed new development would have upon such a beautiful area of the village.

Comments of Support are summarised as:

- a) Local businesses have written to express support for the proposals considering this provides opportunities for their business to have premises / suitable spaces for expansion in the area.
- b) Local businesses have been unable to find suitable spaces within the local area.
- c) This provides much-needed space for SME enterprises and is a great asset for the community of Hilton.
- d) References are made to the opportunity to provide opportunities for different kinds of businesses including:
 - o Hilton Creative Hub studio and recording space for musicians, musical tuition, rehearsal space, studio days and rental space for music teachers
 - o Roofing and solar PV business that is expanding and requires additional office and storage space. (business growing since 2009 and have aspirations to purchase space)
 - o Sole traders
 - o Rural enterprises
 - o Space for start-ups

- e) Support identified need and policy objectives from South Derbyshire District Council and the Hilton, Marston on Dove and Hoon Neighbourhood Plan
- f) No concerns regarding the appearance and size of the buildings, the effect upon highway safety, access or parking provision
- g) The plans and proposals provided are sound and provide suitable safe entry and exist points.
- h) Hilton is growing and current infrastructure for amenities does not cater for the community
- i) The development provides a great opportunity to provide jobs for local people, other than the limited existing number in pub and amenity roles, this would also reduce their need to travel for work.
- j) The location makes sense – in particular because of the planned development on the adjacent site, construction at the same time would be better than separate construction phases. The increased traffic is most likely to only affect a small section of roads from the A50 to the site and avoids increased traffic flow through the main part of the village.
- k) Strong support for the creation of a new foodstore / supermarket. Aldi is insufficient to meet current needs and as such they travel for 20 – 30 minutes. This provides more opportunity for a greater choice and variety enhancing convenience, accessibility and shopping experience for residents.
- l) The village needs more amenity and the associated job creation is a good opportunity for the people of Hilton.
- m) Swift action is urged for implementation as the project will greatly benefit the Hilton and South Derbyshire Community.
- n) The inclusion of a coffee shop is welcomed, this should be a sit down as well as drive-thru facility.
- o) There has been a lot of change in the past 30 years, progress and these facilities are now needed rather than traditional butchers etc.
- p) Understand other residents concerns about traffic but don't think these make sense, there is currently traffic chaos at times near the existing Aldi as people come from surrounding areas, this new development would remove that issue and keep traffic closer to the A50. Similar developments in other towns also have ample parking provision.
- q) The development can only be good for our village as it will provide more food shopping choice, less need to drive out of the area for your shopping (especially important for so many reasons), More local jobs, Local facilities for socialising, including a play area and a coffee shop with a drive-thru, Local business space for start-ups and small-to-medium enterprises and opportunities for rural enterprise
- r) Supporting information set out the proposals meet the requirements of the South Derbyshire Economic Development and Growth Strategy 2023-27 as well as the Derby and South Derbyshire Employment Land Review (October 2023) and that South Derbyshire has a shortage of B2/B8 Premises of all sizes - despite there being demand, and particularly a shortage on industrial units of 500-1,000sqm - (PLANNING AND RETAIL STATEMENT - Page 12)

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

(2016) Local Plan Part 1 (LP1): Policy S1: Sustainable Growth Strategy; Policy S2: Presumption in Favour of Sustainable Development; Policy S3: Environmental Performance; Policy S5: Employment Land Need; Policy S6: Sustainable Access; Policy S7: Retail; Policy E2: Other Industrial and Business Development; Policy E7: Rural Development; Policy SD1: Amenity and Environmental Quality; Policy SD2: Flood Risk; Policy SD3: Sustainable Water Supply, Drainage and Sewerage Infrastructure; Policy SD4: Contaminated Land and Mining Legacy Issues; Policy SD5: Minerals Safeguarding; Policy BNE1: Design Excellence; Policy BNE3: Biodiversity; Policy BNE4: Landscape Character and Local Distinctiveness; Policy INF1: Infrastructure and Developer Contributions; Policy INF2: Sustainable Transport; Policy INF7: Green Infrastructure

(2017) Local Plan Part 2 (LP2): Policy SDT1: Settlement Boundaries and Development; Policy BNE5: Development in Rural Areas; Policy BNE7: Trees, Woodland and Hedgerows; Policy RTL1: Retail Hierarchy

Hilton, Marston on Dove & Hoon Neighbourhood Development Plan (NDP) (2021): Policy N1: Noise Mitigation; Policy A1: Air Quality; Policy CP-T1: Highway Safety and Traffic Management; Policy F1: Flood Mitigation; Policy E4: Nature Conservation; Policy E5: Biodiversity; Policy L1: Recreational Facilities

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)
Employment Land Review (2023)

The relevant national policy and guidance is:

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

The relevant legislation is:

The Town and Country Planning 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:

- The location of the proposed development outside the defined settlement boundary
- Retail and economic impact and need
- Access, highway capacity and safety
- Design and impact upon the character of the area
- Residential Amenity
- Ecology and Biodiversity
- Trees and Landscaping
- Flood risk and drainage
- Developer contributions
- Other issues
 - Contaminated land
 - Agricultural land
 - Amenity spaces

Planning assessment

Policy and principle of development

Section 38 (6) of the Planning and Compulsory Purchase Act (2004) sets out that the determination of applications must be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for the application site comprises the Local Plan, Part 1 (2016) and Part 2 (2017), in this location the Hilton, Marston on Dove and Hoon Neighbourhood Development Plan was made on 4th November 2021 and, as such, carries full material weight in decision making.

The NPPF advises that local planning authorities (LPA's) should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area and that decision makers at every level should seek to approve applications for sustainable development where possible.

Section 6 of the NPPF requires in paragraph 85 that planning decisions create the conditions in which businesses can invest, expand and adapt. Requiring that significant weight be placed on the need to support economic growth and productivity. Paragraph 87 sets out planning decisions recognise the specific location requirements of different sectors including provision for storage and distribution operations at a variety of scales and in suitably accessible locations. Para 89 recognises that land may not be available within rural settlements that provides for growing needs and as such lands adjacent or close to the settlements, but outside boundaries may be required for development to support local economic and business needs. The framework discuss how such sites should relate to the existing settlements physically and be served by appropriate transport facilities and access so as not to have an unacceptable impact on local roads.

In order to ensure the vitality of town centres LPAs should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Advising that only if suitable sites are not available or expected to become available should out of centre sites be considered. It further advises that when considering edge of and out of centre proposals preference should be given to accessible sites which are well connected.

The application site lies outside the settlement boundary of Hilton as defined by Policy SDT1 of the LP2, which defines Hilton as a Key Service Village. The Policy sets out that where development proposals are outside the settlement boundary, within rural area, development will be limited to that which are considered acceptable inter alia by Policy BNE5.

Policy BNE5 further defines the types of development acceptable in Rural Areas, stating that planning permission will be granted where the development is allowed for subject to a number of criteria, of relevance to this proposals are the following criteria:

- i) allowed for by policies H1, H22, E7, INF10, H24, H25, H26, H27 or H28; or
- iii) unavoidable outside settlement boundaries; and
- v) will not unduly impact on: landscape character and quality, biodiversity, best and most versatile agricultural land, and heritage assets

It should be noted that the proposals must satisfy one of the criteria from i - iii and the requirements of criteria v.

This application is assessed against whether or not it is allowed for by policy E7 - Rural Development and Policy E2 - Other industrial and Business Development. Though not listed within BNE5, Policy E2 Part A sets out that the development of land for uses defined by classes B1 (b), B1 (c), B2 and B8 of the Use Classes Order will be permitted where:

- i) the site lies within or on the edge of the Swadlincote urban area, Derby or Burton upon Trent, or a Key or Local Service Village; or
- ii) the proposal is for the expansion of an existing business; or
- iii) the proposal is for the redevelopment of established industrial or business land or premises.

Though Policy E2 is not included within policies specified the exception to development within rural areas set out in BNE5 part i) the appeal decision at the immediately adjacent Talbot Nursery site (APP/F1040/W/20/3246651) concluded that the omission of Policy E2 from the exceptions within BNE5 i) "appears to be an omission since it is difficult to envisage how a proposal that is expressly supported by Policy E2 could be in conflict with other policies that seek to control development outside of the settlement boundaries (Paragraph 9)".

Policy E2 is included in consideration of this application in order to ensure that the different uses of the site, including the proposed SME units are considered.

Policy E2 predates changes to the Use Class Order in 2020 which now places Use Class B1 within Use Class E, for the purposes of Policy E2 these include: former use B1(b) - Research and development of products or processes and B1(c) For any industrial process (which can be carried out in any residential area without causing detriment to the amenity of the area).

Policy E7 sets out that the Council will support development proposals which diversify and expand the range of sustainable employment activities on land outside of settlement boundaries provided that these support the social and economic needs of the rural communities of the District. It sets out that the Council will support proposals for the re-use, conversion and replacement of existing buildings and the development of new buildings where:

- i) it is supported by a sound business case
- ii) the local highway network is capable of accommodating the traffic generated
- iii) development will not give rise to any undue impacts on neighbouring land;
- iv) it is well designed and of a scale commensurate with the proposed use

Similarly to Policy E7, part B of E2 secures the proposals are in scale with existing built development and should not give rise to undue impacts on the local landscape, natural environment or cultural heritage assets.

In consideration of the application the different uses of the site are assessed against the criteria laid down in Policy BNE5 in respect of the development allowed outside the settlement boundary and including both Policy E7 and Policy E2. Policy E2 is included having due regard for the above referenced appeal decision which is a material consideration.

The application site lies adjacent to the settlement boundary of Hilton which is a key service village. The site proposes different uses falling within classes E and B of the use class order. Though adjacent the settlement boundary the site is undeveloped and within the rural area.

The policy context for the types of development proposed outside of the defined settlement boundaries is set within the NPPF and the Local Plan. Policy E7 sets out support for development proposals that will diversify and expand the range of sustainable employment activities on land outside settlement boundaries provided that support the social and economic needs of the rural communities. The NPPF recognises that the social and business needs of rural communities may need to be served by development on land outside the settlement itself.

In respect of this, the application has undertaken pre-submission work to establish the need for units to support small businesses within Hilton and the surrounding areas, a number of letters from such businesses in support of the application are received. Furthermore, the Council's Economic Development Manager confirms there is a need for such provision within the area, this is considered to demonstrate compliance with the latter part of the introductory text to the policy.

It is not considered that it is essential for either the diversification or the expansion of sustainable employment activities required by E7 to be mutually affiliated - the proposed development will expand the provision of jobs within the retail sector and diversify and expand service industry providing jobs within the drive through coffee shop. The opportunities for small and medium sized businesses to expand and operate within Hilton is a need identified by the Council's Economic Development Manager and flexibility within the end use will allow for a range of businesses thus providing opportunities for the diversification and expansion of employment activity.

Furthermore, the applicant has agreed to implementing a local employment agreement for both the foodstore and the coffee shop during their operational phases to ensure the expansion of opportunities at this site. In addition to providing jobs and thus economic benefits the application proposals provide community outdoor space adjacent to the coffee shop thus providing some extent of social benefit.

In satisfying the requirements of Policy E7 and E2 it is considered the development proposed complies with criteria i) of Policy BNE5 and that development in this site is acceptable in principle.

Retail and economic impact and need

For out of centre proposals the NPPF requires a sequential assessment to be undertaken as set out above. It states that when considering proposals for main town centre uses these should be located in the town centre, then in edge of centre locations and only if suitable sites are unavailable and not expected to become available should out of centre sites be considered. In consideration of out of centre sites, preference should be given to accessible sites, well connected to the town centre. The Framework advises that in assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold. It advises the assessment should include

a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and

b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

The NPPF outlines the governments commitment to delivering a strong and competitive economy. It requires that a network and hierarchy of town centres are defined and their vitality and viability are promoted by allowing centres to diversify and respond to retail and leisure industry changes. It also sets out that where suitable and viable sites are unavailable within the defined town centre boundaries that policies should allocate edge of centre sites, and where there are insufficient edge of centre sites policies should explain how identified needs can be met in other well connected (to the town centre) accessible locations.

Policy S7 (LPP1) sets out that Part 2 of the local plan will consider the role of other retail provision within the District. Policy RTL1 (LPP2) states that applications for main town centre uses outside the centre of Hilton will be subject to the sequential test. Part E of the policy requires that all retail proposals over 1000m square will be required to submit a detailed retail impact assessment to measure the impact of the proposal on the vitality and viability of nearby centres and on committed and planned investment in those centres.

Policy E7 i) sets out that development that expands and diversifies the range of sustainable employment activities outside of settlement boundaries will be supported where the proposal is supported by a sound business case.

Policy B1 of the Hilton, Marston on Dove and Hoon Neighbourhood Plan (HMHNP) states that appropriate development proposals for small-scale and micro-businesses will be supported through the conversion of buildings within the plan area or the development of new buildings within the settlement boundary of Hilton. It states businesses would be restricted to uses within Class E and subject to other requirements. The plan further requires uses demonstrate that access and parking do not impact residential or other public amenity and that parking and EV charging are required as appropriate.

Retail Impact and the Sequential test

The Retail Impact Assessment has been reviewed and additional data provided to the consultancy undertaking the review. The Planning and Retail Statement (PRS) sets out that in undertaking the sequential assessment they have assessed sites capable of accommodating the foodstore including servicing and a drive-thru café with parking and circulatory route. The approach in order to demonstrate flexibility has been disaggregated and a 10% buffer (for sites 10% larger or smaller) has been applied to the considered site area requirements in order to demonstrate further flexibility. The conclusions of the report set out that the sequential test has been met and that there are no other suitable sites available or likely to become available. The requirements of paragraph 91 of the NPPF are considered to be met in respect of the sequential test.

The application site is near the strategic road network and adjacent main roads leading to the centre of Hilton, the Mease is served by footpaths and a cycle way. Existing residential development is near the site across Derby Road and to the southwest and west of the site. The application further proposes improvements to the highway network to facilitate access. The site is therefore considered to be well connected to the existing centre of Hilton as per the requirements of the NPPF for out of centre sites.

In respect of the impact of the development upon Hilton and other local centres within the study area the report concludes that, though some trade is likely to be drawn from these centres, it would not be drawn at a level that would unacceptably impact the vitality or viability of the centres.

The report concludes that it agrees there are no sequentially suitable sites available to accommodate the proposed development, either as a single development or with the two town centre uses considered separately.

The review of the supporting information considers trade will predominantly be drawn from and have the greatest impact upon the existing out of centre Aldi in Hilton, the report believes this draw may be higher than stated. They consider the impact upon the existing out of centre Tesco Express in Hilton will be lower than suggested. The review concludes that the convenience impact upon town centre foodstores will be limited.

In assessing the impact of the proposed drive-thru the review sets out that there is anticipated to be an impact upon the TLC Bakery and the Hilton Brook Public House, through the provision of an alternative food and beverage outlet. The impact upon the TLC bakery is stated to be a planning concern due to the town centre location, but that given the specialist offer provided (by TLC Bakery) loss of trade would be limited. The public house is stated not to be a planning concern due to the out of centre location.

In respect of the food and drink impacts the report concludes there will not be a significant adverse effect on any centre when considered in isolation. They also consider that trade draw from centres impacted by the foodstore will be limited and will not noticeably increase the forecast retail impacts.

Following the quantitative assessment of the impact the review sets out the implications in planning policy terms -the *impact of the proposal on existing, committed and planned public and private investment in a centre or centres*. The review has considered sites not included within the supporting information in addition to those included.

It confirms that the proposed development would not affect local centre investment proposals at Highfields Farm, Hackwood Farm, Land West of Mickloveror Wragley Way. They consider within Hilton the potential impact upon the Hilton Depot site and the Neighbourhood Plan site at Hilton Garage. There is potential that the scheme would adversely impact upon the Hilton Garage site stating that the increased out of centre provision of convenience retail (with or without the proposed Aldi) decreases the likelihood of attracting a convenience store to the site.

The report concludes that though supporting retail use, Neighbourhood Plan Policy L3 does not specifically require the inclusion of it. This, combined with the uncertainty as to if and when the site will come forward for redevelopment draw the conclusions within the report that the potential or impact on this proposal is not a reason for the refusal of this proposal.

In respect of the Hilton Depot site, the review concludes that as the majority of the site has been developed and they are not aware of any remaining undeveloped parts that are suitable for retail development the proposal will not adversely impact this allocation.

In addition to the above the review considered a development allocation at Hatton but noted that though the allocation required consideration to be given to retail provision to meet the proposed residential needs of the development, the submitted application did not include retail development.

Section 6 of the review progresses to consider the Impact of the proposal on centre vitality and viability, including local consumer choice and range and quality of the comparison and convenience retail offer. The findings of this summarise that even though the existing Aldi is an out of centre store (and therefore any impact is not a planning consideration) it is not expected to affect the future trading of the store. Considering after draw from this store is accounted for the next main draw would be from the Tesco Express (also out of centre), again the review concludes that any trade lost to the proposals would not be expected to affect the future trading of the store.

The review confirms that after the draw from the existing Aldi in Hilton the proposed development would draw from Tesco in Micklover but that the impact on the centre will not be significantly adverse due to the current health of the centre. It sets out that the impact on Hilton centre is harder to quantify and set out concerns that, if the levels forecast within the supporting information were reached there would be concerns regarding impact. The review progresses to state that it consider that the convenience impacts have been overstated in the WSP assessment and that in practice increasing foodstore provision in Hilton where there is already an Aldi store that is known to be significantly overtrading, would be unlikely to affect local convenience provision in either Hilton centre or the surrounding

villages.

The conclusions of the report confirm that the proposals have been assessed against retail and town centre policies at national and local levels. They note compliance with the sequential test demonstrated and that the proposed development would not have significant adverse impacts on defined town centre uses within the catchment area.

They suggest any recommendation for approval be supported by conditions to secure the uses stated and assessed. These are noted to include a requirement to restrict the net sales area of the foodstore to a maximum of 1,331sqm ; no more than 1,065 sqm retail floorspace to be devoted to convenience sales, nor more than 266sqm for comparison sales.

Commercial Units

The application is supported by a Planning and Retail Survey and an Economic Statement that consider local policy the South Derbyshire Employment Land Review and the South Derbyshire Economic Development and Growth Strategy 2023-27 (EDGS). The EDGS is correctly referenced as identifying the limited supply of small and grown on workspaces, including managed workspaces on flexible terms, which it considers a weakness to business support and productivity. The 2023 Employment Land Review also identifies a shortage of B2 and B8 units and concentrates on the A50 corridor as a strategic location for future growth. The need for space within Eg (office use and the shortage of provision is also identified.

The proposed SME units are therefore considered to contribute to addressing this weakness and support wider planning policy objectives of creating spaces where businesses can grow and develop. As confirmed above the proposed units are considered to accord with the requirements of Policy E2 in respect of other industrial or business development which lies on the edge of key service villages. The Councils Economic Development Manager further confirms the need for units such as those proposed. Data within section 3 of the Economic Statement demonstrates that growth rates in South Derbyshire exceed the national and regional levels and that the majority of businesses within the District employ less than 10 people. Further summary on the demand for office space is derived from data on high market rents, and lower availability of units within the Derby submarkets. Additional data is provided on the pre-letting of industrial units that are in construction in South Derbyshire.

It is acknowledged that representatives of the adjacent Aldi application consider that the information provided does not represent a sound business case, both because of the lack of a viability study, in the absence of which they consider the requirements of Policy E7 i) are not met.

Policy E7 sets out one of the criteria for developments to be allowed for is that they are supported by a sound business case. The application is supported by an Economic Statement and a Planning and Retail Statement. The Planning and Retail Statement has been assessed by a retail planning consultancy and the details of the assessment confirm the proposed food store will trade without adversely affecting existing centres in the catchment.

The case for the commercial units is further supported by the survey work undertaken during local consultation which indicates that there is need for the proposed SME units both from the commercial property market and from existing local businesses seeking to grow in the area.

Having reviewed the supporting information it is considered that the retail impact assessment is concluded to demonstrate that the foodstore can operate without affecting the vitality or viability of existing stores in Hilton or elsewhere.

Similarly there is an evidenced need within the Councils studies that SME units are required in the district, in particular those which are managed, as is proposed. The comments of support for the application and the support within the neighbourhood plan for small units is also acknowledged. The supporting information sets out that the proposed SME units will be managed and therefore this is considered to accord with the identified need. Regard is had for the comments received in relation to delivery of the proposed SME units, the applicant has agreed to a condition securing the development

of a minimum of 50% of the units at the point the foodstore opens and the remaining development undertaken and units available for occupancy within 12 months of the foodstore opening. This is considered to provide a mechanism by which to secure these units.

Finally, in determining whether the proposals meet the criteria set out in E7 i) regard has been had for the previously discussed appeal decision which set out the development proposed complied with E7 and E2 and therefore with BNE5 i), review of this case file shows has been unable to find reference to a viability assessment within either the appeal or application documents.

It is concluded that the proposed development meets the relevant policy requirements for the development of industrial and business units and retail and main town centre uses at the proposed site. Officers have worked with the applicant to secure conditions to ensure the economic benefits to the local labour market and the delivery of the SME units are secured via condition of the planning recommendation. The advice of the retail consultant in respect of the need to ensure the quantum of space for retail convenience and retail comparison uses as assessed is retained within the development is considered to meet the relevant tests and included within this recommendation.

Design and impact upon the character of the surrounding area

Section 12 of the NPPF sets the policy and decision making context for achieving well-designed and beautiful places and notes the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 135 sets out that planning decisions should ensure that developments function well and add to the quality of an area for its' lifetime, are visually attractive due to the architecture, layout and landscaping and that it is appropriately sympathetic to the surroundings, optimise the potential of a site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and create places that are safe, inclusive and accessible.

Paragraph 180 sets out that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes (in a manner commensurate with their statutory status or identified quality in the development plan).

Policy BNE1 of the Local Plan sets the districts requirements for good design quality setting out how this can be achieved using a number of design principles. The following principles are of relevance to this application: community safety movement and legibility, diversity and community cohesion, ease of use and accessibility visual attractiveness, neighbouring uses and amenity and healthy lifestyles.

Policy E2 and Policy E7 both make requirements in respect of the types of development allowed setting out that the scale should be appropriate and not result in undue impacts on the local landscape (E2) and that it is well designed and of a scale commensurate with the proposed use (E7 iv) and minimises visual intrusion and the impact on the character of the locality (E7 v).

This is an outline application and as such the final design of the different uses will be determined through subsequent application for reserved matters. Consideration of design within this application is limited to the illustrative masterplan and storey heights plans with other elements such as trees and highway design covered in the appropriate sections of the report.

The application is supported by a design and access statement that sets out the level of impact both on the landscape character of the area and from visual receptors will not be significant. The impact upon the landscape character this is assessed as declining from the medium term moderate adverse impacts to permanent moderate adverse effects from within the site and minimal adverse effect on the overall character of the area. The development will introduce built form to a previously undeveloped area this is considered in the context of the surroundings within the supporting LVIA however based upon the assessment the proposed development does not raise significant concerns nor do they indicate policy conflict that would present a reason for the refusal of the application.

The layout of the application including the proposed junction amendments have formed part of the applicant's discussion with the Council's Design Officer. In their consultation response to this application the Design Officer confirms that their comments are reflected in the illustrative masterplan

and they have no further comments to make. It is noted that approximately 47% of the site is retained as green and open space.

In terms of the layout this is considered to offer good connectivity both within the site and to form connections to the existing road layout and pedestrian and cycle network. The internal arrangement offers connectivity between the different uses of the site. The development is therefore considered subject to compliance with the illustrative masterplan and heights plan to comply with the relevant development plan policies in this regard.

The application includes a proposed building height and parameter plan which shows the commercial space at the northern part of the site adjacent to the A50 to be a maximum of 9m in height, the food retail unit to the south of this would be a maximum height of 7.5m and the smaller drive-thru to the east of the site would be a maximum height of 7m. These heights are considered to be acceptable subject to the detailed design issues which will be considered at Reserved Matters stage.

Access, highway safety and capacity

Section 9 of the National Planning Policy Framework offers advice on Promoting sustainable transport and advises that transport issues should be considered at the earliest stages of development for a number of reasons, of relevance to proposals are that potential impact from the development on existing transport networks can be addressed, so that opportunities to promote walking, public transport and cycling are identified and pursued and so that the patterns of movement, streets, and parking as well as other transport consideration are integral to the design and contribute towards high quality places.

It further advises that in considering development proposals opportunities to promote sustainable transport modes can be taken up, having regard for the type and location of development proposed, that safe and suitable access to the site can be achieved for all users, that the design of transport related features reflects current standards. Paragraph 115 advises that development should only be refused on highway grounds if there would be an unacceptable impact upon highway safety or if the residual cumulative impacts upon the road network would be severe.

Local Plan Policy S6 sets out that the Council will seek to minimise the need to travel, make the most efficient use of transport infrastructure and services, encourage a modal shift away from car use and support transport measures that address accessibility, safety, amenity, health, social, environmental and economic needs. This will be achieved through seeking patterns of development that minimise travelling distances and make the best use of transport infrastructure and services; the provision of new or enhanced sustainable transport infrastructure or by providing new or enhanced parking facilities and using promotional measures and improved communication to encourage sustainable transport choice. Policy E7 ii) sets out that development permitted by E7 will be supported where the local highway network is capable of accommodating the traffic generated.

Policy INF2 Sustainable Transport part A states that planning permissions will be granted for development subject to a number of criteria. Firstly traffic generated as a result should not have an undue detrimental impact upon local amenity, the environment or highway safety, the efficiency of transport infrastructure and the efficiency and availability of public transport services, secondly that appropriate provision for access that is safe and convenient for all modes of transport is made and finally that car travel is minimised relative to the needs of the development. In respect of public transport (C) the policy advises that development should be designed to ensure wherever possible that public transport services are within convenient walking distance of all visitors and staff. In respect of parking (E) advises development includes appropriate parking provision having regard to a number of criteria.

Sustainable transport and highway design were considered during the pre-application stages of the proposed development with feedback offered to the applicant. Further work has been undertaken throughout the planning process in respect of this.

The proposals include the reconfiguration of the roundabout between the Derby Road and the A5132 to include the installation of a fourth arm to provide access to the site. This will also require the relocation

of an existing bus stop on Derby Road. Extensions are proposed to the footways on the northern side of Derby Road adjacent the development to facilitate pedestrian and cycle access to the site. There will be an access point in the south-west corner of the site leading to the internal footpath and foodstore area, a shared pedestrian cycle way in adjacent the vehicular entrance on the western side and a further pedestrian footway on the eastern side of the vehicular entrance. This will link to the proposed toucan crossing on the A5132.

An internal network of footways, both diverting the existing public right of way and connecting the different uses within the site is proposed on the illustrative master plan. Parking is proposed within each area of the development with 117 car parking spaces (inclusive of accessible and EV charging spaces) and additional spaces for cycles to serve the foodstore. The commercial units will be served with 47 spaces and the drive-thru coffee shop 14 spaces.

The application is supported by a Transport Assessment and following initial comments from the Local Highway Authority (LHA) Officer an Addendum to this was provided. In addition a Workplace Framework Travel Plan is submitted.

The proposed uses are likely to be predominantly accessed by private car use by virtue of their need. Notwithstanding this, provision is made for cycle and pedestrian access and a framework travel plan for employees is submitted.

The LHA Officer has requested additional information during the application process to ensure they were able to understand the impacts of the increased vehicle movements likely to be generated from the proposed development. Following the submission and review of the information they confirm, subject to requested conditions, that they have no concerns regarding either highway safety nor that the volumes of traffic generated by the development will have a material impact upon the capacity of the junctions modelled within the submitted information.

The comments of the Parish Council in respect of concerns that the road network which express concerns that the road network would not cope with the increased traffic levels, and as such the development would not comply with the requirements of policy E7, are acknowledged. The TAA sets out that the modelling submitted is robust and is presented at the request of DCC. It is considered that as the Statutory Consultee for these matters is satisfied the development can progress without raising highway capacity or safety concerns that the application accords with policy and those concerns raised by the Parish do not present a robust reason for refusal of the application. The conditions requested by the LHA Officer from DCC are considered necessary and have been included within the recommendations in order to ensure that the development accords with the requirements of the relevant development plan policies and the National Planning Policy Framework.

Residential Amenity

The National Planning Policy Framework sets out that development should be appropriate for the location, and take account of the likely effects of pollution on living conditions and the natural environment and in doing so mitigate and reduce to a minimum potential adverse impacts resulting from noise from new developments.

Policy SD1 of the Local Plan part 1 sets out that the Council will support development that does not lead to adverse impacts in the environment or amenity of existing and future occupiers within or around proposed developments. The latter part of the policy considers the need for a strategic buffer between conflicting land uses in order that they do not disadvantage each other in respect of amenity issues such as noise.

Policy E7 iii) reiterates this setting out that development will be acceptable where it does not give rise to any undue impacts on neighbouring land.

The application site is bound by a SSSI, agricultural land, a road, and an adjacent site currently in use as a nursery with planning permission for commercial units and for which an application for the development of a foodstore is under consideration. The nearest residential receptors are located west of the adjacent nursery site, on the opposite side of Derby Road and the opposite side of the A5132.

The EHO has reviewed the submitted information and further information submitted to respond to their requests. They confirm, that given the nature of the application which is submitted in outline at this stage, the noise assessment and predicted noise levels arising are acceptable.

Further conditions are requested from the EHO regarding site investigation and any further remediation, validation and verification of contamination reports as necessary.

The site is sufficiently distant from residential development to alleviate other concerns regarding amenity of local residents. Furthermore, other adjacent land uses are considered not to conflict with those proposed so as to unduly impact either current occupiers of adjacent sites or future occupiers.

No concerns are raised from the Environmental Health officer regarding the findings of the Air Quality Assessment, nor are any conditions requested in relation to this. The proposals are considered to accord with the development plan policies that serve to safeguard residential amenity and therefore, subject to the recommended conditions, are considered acceptable.

Ecology and Biodiversity

Biodiversity and the need to protect the natural environment are contained within the environmental objective of the NPPF. Section 15 expands upon how decisions and plans should conserve and enhance the natural environment by protecting sites of biodiversity value and minimising impacts on, and providing net gains to, biodiversity

Policy BNE3 of the Local Plan set out the LPA's commitment to supporting development that contributes to the protection, enhancement, management and restoration of biodiversity and delivers net gains to biodiversity through the protection of sites of importance from inappropriate development within and adjacent to those sites, and, in v) protecting veteran trees from loss unless benefits clearly outweigh the loss. In B the policy states that proposals that could have a direct or indirect effect on sites, including SSSIs will need to be supported by appropriate surveys or assessment that allow the authority to fully understand the likely impacts of the scheme and the mitigation proposed.

Policy E5 of the Hilton, Marston on Dove and Hoon Neighbourhood Development Plan states proposals that would result in a net loss of biodiversity will not be supported and that proposals for new commercial development in the Plan area should seek to deliver no net loss and a measurable net gain. It further sets out that if significant impacts are identified appropriate mitigation or compensation measures will be required. These measures should be targeted to benefit local conservation priorities and all designated sites, including the SSSI will be protected from development

The application is supported by an Ecological Impact Assessment (EclA) that confirms the presence within and around the site of protected species and priority habitats. The study includes the recommendation to enhance existing hedgerows and introduce a 50m buffer between the southern areas of the SSSI and the nearest built form within the proposals. The proposed buffer is incorporated into the biodiversity planning for the site and is proposed to include wetland, grassland and scrub which are considered to provide habitat improvements and opportunities for foraging for species.

In response to consultation the LPA's biodiversity Officer, NE and DWT all consider that the buffer zone is required in order to safeguard the SSSI from unacceptable impacts as a result of the proposed developments. Further requests for conditions are made by each expert.

The SSSI is notified for its breeding bird interest and Natural England consider it necessary that development is undertaken outside nesting season in order to ensure that any heavy construction activity does not result in light, noise or vibration disturbance. They note it may be possible to avoid adverse impacts through construction mitigation measures but that wherever possible activity should be outside breeding season.

The Council's Biodiversity Officer considers that though the application proposed monitoring of water levels within the SSSI through indicator factors and observations the testing of water at the baseline (pre-development) and 10 year intervals for a period of 30 years would provide empirical evidence to confirm any changes, both positive and negative, to the water quality.

The application is supported by a Biodiversity Metric which demonstrates that a net gain of 1.56 habitat units or 15.98% and an additional net gain of 0.9 hedgerow units, equivalent to 11.49% are achievable on site. Both DWT and the Biodiversity Officer welcome the proposed net gain to biodiversity on-site and set out in their comments the requirement for habitat management and monitoring for the proposed net gain. The Council's Biodiversity Officer also confirms that to facilitate monitoring of the net gain a contribution to the council will be required and that this should be secured via a legal mechanism.

Having regard for the SSSI it is considered necessary to include a condition regarding a biodiversity construction environment management plan (CEMP) that secures methods of working that will prevent adverse impacts on the SSSI as well as other habitats and species present. The CEMP included within this recommendation contains both the recommendations of Natural England and the Derbyshire Wildlife Trust.

In respect of protected species both the originally submitted documents in support of the application and subsequent third party survey work have been considered by DWT. Due to the presence of some protected species and geographic location some of this information is retained as confidential by the LPA as are relevant comments from DWT. Having reviewed the information DWT make request for conditions which serve to protect the biodiversity value of the site including foraging routes and these conditions are included in this recommendation.

Trees and Landscaping

The importance of trees within development and the contribution made by trees to the quality of the environment is recognised in paragraph 136 of the National Planning Policy Framework which requires that policies and decisions seek to incorporate trees into development and take measures to ensure the longevity of newly planted trees.

Paragraph 186 advises that development resulting in the loss of irreplaceable habitats such as veteran trees should be refused unless there are wholly exceptional circumstances.

Policy BNE3 v) sets out that development will be supported which contributes to the protection, enhancement and management of biodiversity wherever possible by protecting veteran trees from loss, unless the need for, and benefits of the development in that location outweigh the loss.

Policy BNE7 of Local Plan part 2 discusses the requirement for development affecting trees, woodland and, or hedgerows. Of relevance to this application, the policy sets out that where development could affect trees and hedgerows that have amenity, ecological, landscape or historic value development will be expected to demonstrate the development is informed by relevant surveys and that appropriate tree and root protection measures are taken.

The application is supported by an arboriculture report and impact assessment the findings of which are agreed by the Tree Officer. They confirm that further investigation of a veteran tree in order to properly secure its place within the development site are undertaken and the measures to secure the protection of trees during the construction phases are secured. It is considered appropriate to condition tree protection measures prior to commencement of the relevant phase and to secure the further assessment of T19 prior to submission of reserved matters applications for Phase 1b or 2 due to the siting of the tree in proximity to these phases by virtue of its location at the eastern periphery of the site.

In respect of landscaping this application is submitted in outline and therefore it is considered that full detailed landscaping proposals are appropriate to be secured as part of reserved matters applications.

The application is considered to accord with the relevant development plan policies in respect of the impact on trees and provision for landscaping.

Flood Risk and Drainage

Paragraph 173 of the NPPF requires that in determining applications LPA's should ensure that flood risk is not increased elsewhere and where appropriate applications should be supported by a site

specific flood-risk assessment. Paragraph 175 further required that major applications incorporate sustainable drainage systems unless clear evidence indicates this is inappropriate.

The Hilton, Marston on Dove and Hoon Neighbourhood Plan sets out in Policy F1 that opportunities with landowners will be taken to explore better water management of upland areas including the use of sustainable drainage systems amongst other means.

Local Plan Policy SD2 explains that when considering applications the council will follow the sequential approach to flood risk management in giving priority to sites with the lowest risk of flooding. In respect of drainage Policy SD3 sets out that the council will work with other authorities and developers to ensure that the wastewater treatment and drainage infrastructure are managed effectively in a coordinated manner by employing a number of principles. These include working with the County Council to ensure that new development incorporate sustainable drainage schemes that reduce demand for potable water supplies and mimic natural drainage where possible. It further sets out an expectation that foul water connects to the mains sewer unless technically infeasible. It sets out that Sustainable Drainage systems, discharge to water courses or connection to surface water sewers will be expected to be utilised to manage surface water from new development.

The application site lies within Flood Zone 1 where there is the least likelihood of flooding from fluvial sources. The flood risk assessment (FRA) submitted in support of the application has assessed the level of risk from different sources of flooding, this concluded that there was a low to medium risk of groundwater flooding and that this should be monitored.

The application proposes to connect to the existing foul network and have submitted a foul water statement detailing a response from Severn Trent which does not raise issues regarding capacity of the sewer but does detail the requirement for a S106 agreement for formal connection to the foul water systems. It should be noted that this refers to S106 of drainage legislation rather than planning legislation. Further advice is offered in respect of surface water drainage.

The proposed surface water management strategy for surface water divides the development site into 3 catchment zones, one comprises the foodstore and associated parking area, the second the comprises the SME units and parking area and the third the drive through coffee shop and highway within the development.

The strategy introduces geocellular storage crates which will capture and store surface water flows from the foodstore and SME catchment areas before discharging these to the attenuation basin at the south western area of the site. The third catchment zone will flow directly into the attenuation basin. The attenuation basin is proposed to discharge into the existing drainage ditch at the western periphery of the site, the flows will be limited to 7l/s which is stated to be below the currently modelled rate for the site.

Conditions are recommended by the LLFA and supported by officers that set out the requirement for a detailed design of the surface water systems and confirmation of their suitability to provide adequate drainage, to the proposed development, in accordance with the drainage hierarchy. These conditions are considered to meet the tests for planning conditions and to ensure that the development is well served by drainage systems that do not increase flooding elsewhere. The application is considered to accord with the relevant development plan policies.

Developer Contributions

The NPPF advises that LPAs should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or obligations. The application proposes to deliver a net gain to biodiversity which is welcomed by the Council's Biodiversity Officer. They request a contribution to the ongoing monitoring of biodiversity reporting which is determined on the size and scale of the site, to be £10,242.80

Other Issues

Contaminated Land

Section 11 of the NPPF focuses on making effective use of land and sets out that planning decisions should promote this to meet the needs for different uses, while safeguarding and improving the environment. Paragraph 124 of the NPPF requires LPAs give substantial weight to the value of using suitable brownfield land in settlements for homes and other identified needs.

Policy SD4 requires that applicants demonstrate that schemes in areas known to be at risk of instability or contamination demonstrate, through investigations, that the scheme will incorporate any necessary remediation methods to render the development proposed safe.

The application is supported by a contaminated land assessment that makes recommendation for further investigation of the site prior to development. The Environmental Health Officer confirms the requirement for further investigate work in their response and it is therefore included by way of condition in this recommendation.

Agricultural Land

Policy BNE4 sets out that the Council will seek to protect Best and Most Versatile soils and direct development away from these areas.

The development proposes the use of land currently in agricultural use for non-agricultural purposes. The submitted Agricultural Land report considers that 27% of the site is grade 3a soil, and therefore best and most versatile. The site is currently used for grazing cattle. The supporting information and submissions from members of the public indicate this land is used for grazing and silage. Natural England have been consulted on this application and, though commenting on other matters, have not offered objection to this loss of grade 3a land.

Community Space

The comments of the Parish Council are acknowledged in respect of the proposed use of the community space as a play area, expressing a preference for allotments and concerns that the location is not optimal for a play area.

The application is made in outline and so final details for the use of this space may change. Notwithstanding this the play area is proposed in response to feedback from residents to the applicant during the consultation exercise and this in turn indicates a preference of local residents for such a use.

Conclusion and Planning Balance

The proposed development is acknowledged to lie adjacent the settlement boundary of Hilton and within the rural area where development is subject to a stricter degree of control in order to ensure the overarching objectives of sustainable development are achieved. The application proposes main town centre uses outside of a defined centre, and there will be impact on the area relating to the scale of the buildings proposed, the impact on the highway network, and the loss of some best and most versatile agricultural land. In response to publicity there have been additional concerns raised in relation to flood risk, biodiversity, noise and impact on neighbouring amenity.

It is accepted by independent retail consultants that the evidence submitted in support of the application demonstrates there is sufficient trade to support the foodstore. The South Derbyshire Economic Development and Growth Strategy 2023-27 and the Derby and South Derbyshire Employment Land Review (October 2023) identify a need for commercial units to accommodate SMEs, this position is supported in response to consultation from the Council's Economic Development Manager.

The application proposed would deliver benefits from the biodiversity enhancements (submission being prior to the mandatory requirement for BNG), providing improved amenity facilities for the residents of Hilton through the proposed amenity space and the prioritisation of jobs for local residents. These benefits are secured by conditions included in this recommendation.

These are considered to be economic benefits of the proposed development that weigh in favour of the proposed development. In environmental objectives the application, though occupying a site of previously undeveloped land, is capable of delivering environmental benefits through the creation of landscape and ecological areas to deliver a net gain to biodiversity. The proposed drainage system seeks to improve the drainage of the site through the outline surface water drainage system. The social benefits of the development are considered to be derived from the inclusion within the development of community play area, planting and open space for the benefit of local residents.

There are no technical objections from statutory consultees who consider that the application is suitable for approval subject to the inclusion of conditions to ensure its acceptability. Consequently, on balance the application is recommended for approval subject to the conditions set out in this recommendation.

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

- C. Grant delegated authority to the Head of Planning and Strategic Housing to conclude negotiations on and complete an agreement under section 106 of the Town and Country Planning Act 1990 so to secure the planning obligations outlined in this report; and
- D. Subject to A, **Approve** the application subject to the following conditions:

1. The development hereby approved shall be commenced either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last reserved matters to be approved, whichever is later. Applications for the approval of reserved matters shall be made to the Local Planning Authority no later than the expiration of 3 years from the date of this permission.

Reason: In order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended.

2. Applications for reserved matters shall be submitted in accordance with the layout shown within the approved Illustrative Masterplan (23028-HCD-ZZ-00-DR-A-09-001 Rev P01, dated 02/02/2024) the Land Use and Floor Space Parameter Plan (23028-HCD-ZZ-00-DR-A-09-003, dated 02/02/2024) and the Building Heights Parameter Plan (23028-HCD-ZZ-00-DR-A-09-004, Rev P01, dated 02/02/2024), the Open and Green Space Parameter Plan (23028-HCD-ZZ-00-DR-A-09006, Rev P01, dated 02/02/2024) .

The reserved matters applications shall be supported by a statement that demonstrates the submitted details accord with the approved master plan and height parameter plan in respect of, but not limited to layout, access, parking and building heights.

Reason: To ensure the satisfactory layout and appearance of the development in accordance with the requirements of Policy S6, Policy BNE1, Policy E2 and Policy E7 of the South Derbyshire Local Plan Part 1, Policy BNE5 of the Local Plan Part 2 and the National Planning Policy Framework.

3. The development shall be undertaken in accordance with the approved Phasing Parameter Plan, ref: 23028-HCD-ZZ-00-DR-a-09-002.

Reason: For the avoidance of doubt and in accordance with the applicant's stated intentions in order to ensure the timely delivery of the commercial units and community space and the

associated social and economic benefits in accordance with the requirements of Policy E2 and E7 of the South Derbyshire Local Plan.

4. Before the development hereby approved is commenced in any phase confirmation that the detailed design for the site access works required have been submitted to and approved in writing by the Local Highway Authority shall be submitted to and approved by the Local Planning Authority.

The access shall thereafter be constructed in complete accordance with the approved details prior to the occupation of any building.

Reason: For the avoidance of doubt and in order to ensure safe access to the development, which does not result in an adverse impact upon highway safety or capacity in accordance with the requirements of Policy S6 and Policy INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

5. Before the development hereby approved commences in any phase details of a Construction Management Plan (CMP) for that phase shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include but not be restricted to:
 - a) Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - b) Advisory routes for construction traffic;
 - c) Any temporary access to the site;
 - d) Locations for loading/unloading and storage of plant, waste and construction materials;
 - e) Method of preventing mud and dust being carried onto the highway;
 - f) Arrangements for turning vehicles;
 - g) Arrangements to receive abnormal loads or unusually large vehicles;
 - h) Highway Condition survey;
 - i) Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

The development in that phase shall thereafter be undertaken in complete accordance with the approved details.

Reason: In the interests of safe operation of the adopted highway during the construction phases of the development in accordance with the requirements of Policy INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

6. Before the development hereby approved commences within any phase a construction surface water management plan (CSWMP) for that phase shall be submitted to and approved in writing by the LPA in consultation with the LLFA. The CSWMP shall include details of how additional surface water run-off from the site will be avoided during the construction of that phase. The applicant may be required to provide collection, balancing and, or, settlement systems for these flows. The development shall thereafter be undertaken in accordance with the approved details prior to the commencement of any and all works that may lead to increased surface water run off.

Reason: To ensure the development is adequately served by a suitable surface water drainage system during the construction period in order to minimise the likelihood of flooding incidents and damage to the environment, property or life in accordance with the requirements of Policy SD3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

7. Before the commencement of the development hereby approved in any phase:

A Phase I contaminated land assessment (desk-study) shall be undertaken and approved in writing by the local planning authority.

The contaminated land assessment shall include a desk-study with details of the history of the site use including:

- the likely presence of potentially hazardous materials and substances,
- their likely nature, extent and scale,
- whether or not they originated from the site,
- a conceptual model of pollutant-receptor linkages,
- an assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments,
- details of a site investigation strategy (if potential contamination is identified) to effectively characterise the site based on the relevant information discovered by the desk study and justification for the use or not of appropriate guidance. The site investigation strategy shall, where necessary, include relevant soil, ground gas, surface and groundwater sampling/monitoring as identified by the desk-study strategy

The site investigation shall be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation shall be submitted to the local planning authority for approval.

Reason: To protect the health of the public and the environment from hazards arising from previous uses of the site and/or adjacent land which might be brought to light by development of it, recognising that failure to address such matters prior to development commencing could lead to unacceptable impacts even at the initial stages of works on site. in accordance with the requirements of Policy S2, policy SD1 and Policy SD4 of the Local Plan Part 1 and the National Planning Policy Framework.

8. Before the development hereby approved is commenced within any phase (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 details.
- Measures to prevent impacts to the SSSI via dust mobilisation
 - Measures to prevent impacts from pollution of watercourses running to the SSSI should be outlined
 - Avoidance of works within the bird breeding season
 - Measures to prevent direct habitat loss or damage
 - Risk assessment of potentially damaging construction activities.
 - Identification of “biodiversity protection zones”.
 - Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on species, habitats and trees during construction.
 - The location and timing of sensitive works to avoid harm to biodiversity features
 - The times during construction when specialist ecologists need to be present on site to oversee works.
 - Responsible persons and lines of communication.
 - The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - 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: To safeguard species and habitats and the adjacent SSSI in accordance with the requirements of BNE3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

9. No works of any kind, including preparatory site clearance, shall begin until a scheme of mammalian mitigation and enhancement measures has been submitted and approved in writing by the Local Planning Authority. This shall include the results of a recent survey of the site and adjacent habitats, whether a development licence will be required and the location of any

protective fencing around habitats and commuting routes. All works shall proceed in accordance with the approved scheme of mitigation.

Reason: In order to safeguard the wellbeing of and prevent any harm to protected and priority species in accordance with the requirements of Policy BNE3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

10. Before the commencement of the development hereby approved in any phase a Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA. The aim of the LBEMP is to provide details for the creation, enhancement and management of habitats and species on the site post development, in accordance with the proposals set out in the Biodiversity Net Gain Assessment and the Statutory Metric (Bioscan 2024). Revisions to these assessments to be agreed with the LPA. The LBEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following:-
- Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric.
 - Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
 - Appropriate management methods and practices to achieve aims and objectives.
 - Prescriptions for management actions.
 - Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
 - Details of the body or organization responsible for implementation of the plan.
 - A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 3, 4, 5, 10, 15, 20, 25 and 30 years.
 - Monitoring reports to be sent to the Council at each of the intervals above
 - A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
 - Details of offset gullies and drop kerbs in the road network to safeguard amphibians.
 - Detailed specifications for open water habitats to provide biodiversity benefits.
 - Requirement for a statement of compliance upon completion of planting and enhancement works.

The LBEMP shall also include details of the legal and funding mechanism by which the long-term implementation of the plan will be secured by the developer with the management body or bodies responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

Reason: In order to secure a net gain to biodiversity and to ensure the satisfactory appearance of the development in accordance with the requirements of Policy BNE1 and Policy BNE3 of the South Derbyshire Local Plan Part 1 and Policy BNE4 of the Local Plan Part 2 and the National Planning Policy Framework.

11. Before the commencement of the development hereby approved: Where the site investigation identifies unacceptable levels of contamination, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall have regard to relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The developer shall give at least 14 days notice to the Local Planning Authority (Environmental Health Division) prior to commencing works in connection with the remediation scheme.

Reason:

To protect the health of the public and the environment from hazards arising from previous uses

of the site and/or adjacent land which might be brought to light by development of it, recognising that failure to address such matters prior to development commencing could lead to unacceptable impacts even at the initial stages of works on site. in accordance with the requirements of Policy S2, policy SD1 and Policy SD4 of the Local Plan Part 1 and the National Planning Policy Framework.

12. No buildings shall be occupied until:

- The approved remediation works required by 11 above have been carried out in full in compliance with the approved methodology and best practice.
- If during the construction works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in 11 to 12 above and satisfy 12a above.
- Upon completion of the remediation works required by 11 and 12a above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

Reason: To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water in accordance with the requirements of policy S2, SD1 ad SD4 of the Local Plan Part 1 and the National Planning Policy Framework.

13. Before the development hereby approved is commenced a detailed design and associated management and maintenance plan of the surface water drainage for the site shall be submitted to and approved in writing by the Local Planning Authority. The details shall be in accordance with the principles outlined within:

RSK LDE Ltd. (January 2024). Land north of Derby Road, Hilton - Flood Risk Assessment. Ref: 680964-R1(03)-FRA "including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team" And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015)

Reason: To ensure the development is adequately served by a suitable surface water drainage system in order to minimise the likelihood of flooding incidents and damage to the environment, property or life in accordance with the requirements of Policy SD3 of the Local Plan and the National Planning Policy Framework.

14. Before the development hereby approved is commenced a detailed assessment to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 56 Reference ID: 7-056-20220825 of the planning practice guidance shall be submitted to and approved in writing by the Local Planning Authority. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- into the ground (infiltration);
- to a surface water body;
- to a surface water sewer, highway drain, or another drainage system;
- to a combined sewer.

Reason: In order to ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options in accordance with the requirements of

Policy SD3 of the South Derbyshire Local Plan, Policy F1 of the Hilton Marston on Dove and Hoon Neighbourhood Plan and the National Planning Policy Framework.

15. Before the development hereby approved in any phase is commenced including any site clearance, tree removal or any equipment, machinery or materials is brought onto site, a detailed tree protection plan to BS 5837:2012 shall be submitted to and approved in writing by the local planning authority.

The development shall thereafter be undertaken in complete accordance with the approved details, and retained for the duration of construction including any site clearance works. No fires, excavation, change in levels, storage of materials, vehicles or plant, cement or cement mixing, discharge of liquids, site facilities or passage of vehicles, plant or pedestrians, shall occur within the protected areas.

The approved scheme shall be kept in place until all parts of the development have been completed, and all equipment; machinery and surplus materials have been removed.

Reason: For the avoidance of doubt and in accordance with the applicants stated intentions, to ensure the satisfactory protection of trees and hedgerows within and adjacent the site in accordance with the requirements of Policy BNE3 and BNE4 of the South Derbyshire Local Plan and the National Planning Policy Framework.

16. The application for reserved matters in phase 1a (as approved by the phasing parameter plan) shall restrict the net retail sales area within the foodstore to a maximum of 1,331sqm, a maximum of 1,065 sqm retail floorspace to be devoted to convenience sales, and a maximum of 266sqm for comparison sales.

Reason: In accordance with the requirements of Policy S7 of the South Derbyshire Local Plan Part 1, Policy RTL1 of the South Derbyshire Local Plan Part 2 and the National Planning Policy Framework.

17. Prior to the submission of reserved matters applications in Phase 1b or Phase 2 a report detailing further assessment of Tree 19 to include the management and maintenance of the tree shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to ensure the protection, retention and appropriate management of the veteran tree in accordance with the recommendations within the Arboriculture Report and the requirements of Policy BNE3 and BE4 of the South Derbyshire Local Plan and the National Planning Policy Framework.

18. Before the development hereby approved is commenced, within any relevant phase of development (as approved by condition 3), a timetable for the provision/improvement of on-site linkages to footpaths, footways and cycleways adjacent to that phase, shall be submitted to and approved in writing by the Local Planning Authority. The development of the phase there of shall be carried out in accordance with the approved timetable.

Reason: In accordance with the requirements of Policy BNE1 of the South Derbyshire Local Plan Part 1 and the National Planning Policy Framework.

19. Before the foodstore is first opened for trade, a minimum of 50% of the shell and core of the proposed SME unit shall be built and details confirming the progress of construction shall be sent to the LPA and acknowledged in writing prior to the opening of the foodstore. The remaining 50% shall be built and the units made available to businesses within 12 months of the opening of the foodstore.

Reason: For the avoidance of doubt and in accordance with the applicants stated intentions in order to ensure the timely delivery of the proposed commercial units in accordance with the requirements of Policy E7 of the Local Plan and the National Planning Policy Framework

20. Before the foodstore hereby approved is brought into use a Local Labour Strategy (LLS) shall be submitted to and approved in writing by the Local Planning Authority. The LLS shall set out details of local labour initiatives which the applicant / owner will implement to maximise the access of the local labour market within South Derbyshire and the surrounding area to employment opportunities at the foodstore. The LLS shall include, but not be limited to:
- Employment and Training Plan
 - Range of opportunities to be offered including traineeships, apprenticeships and work experience opportunities
 - Specific local advertising scheme
 - Targeting of long-term unemployed residents facing additional barriers (to include pre-employment training, guarantee of interviews)
 - The number of jobs to be created in various roles (traineeships, apprenticeships and work experience) and for those entering or re-entering the labour market as a proportion of the total number of jobs within 6, 12 and 18 months of opening
 - Monitoring reports to be sent to the LPA within 1 month of the 6, 12 and 18 month target dates above.

Reason: In order to ensure the proposed development provides local employment opportunities in accordance with the requirements of Policy S1 and Policy E7 of the Local Plan and the National Planning Policy Framework

21. Before the drive-thru coffee shop hereby approved is brought into use a Local Labour Strategy (LLS) shall be submitted to and approved in writing by the Local Planning Authority. The LLS shall set out details of local labour initiatives which the applicant / owner will implement to maximise the access of the local labour market within South Derbyshire and the surrounding area to employment opportunities at the foodstore. The LLS shall include, but not be limited to:
- Employment and Training Plan
 - Range of opportunities to be offered including traineeships, apprenticeships and work experience opportunities
 - Specific local advertising scheme
 - Targeting of long-term unemployed residents facing additional barriers (to include pre-employment training, guarantee of interviews)
 - The number of jobs to be created in various roles (traineeships, apprenticeships and work experience) and for those entering or re-entering the labour market as a proportion of the total number of jobs within 6, 12 and 18 months of opening
 - Monitoring reports to be sent to the LPA within 1 month of the 6, 12 and 18 month target dates above.

Reason: In order to ensure the proposed development provides local employment opportunities in accordance with the requirements of Policy S1 and Policy E7 of the Local Plan and the National Planning Policy Framework.

22. Before any phase of the development hereby approved is commenced above slab level a Species Enhancement Plan for the relevant phase or phases shall be submitted to and approved in writing by the Local Planning Authority. Approved measures shall be implemented in full and maintained thereafter. The Plan shall clearly show positions, specifications and numbers of features, which shall include (but are not limited to) the following:
- internal and/or external bird nest boxes x 4
 - integrated bat boxes x 2

Reason: In order to provide species enhancements in accordance with the requirements of Policy BNE3 and the National Planning Policy Framework.

23. The foodstore development shall be restricted to use Ea of The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

Reason: In accordance with the applicants stated intentions and to ensure the benefits of the scheme in accordance with the requirements of Policy E7 of the South Derbyshire Local Plan and the National Planning policy Framework.

24. The use of the commercial units hereby approved shall be restricted to uses falling within Use Class B2, B8, E c) and E g) of The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

Reason: In accordance with the requirements of Policy E2 of the Local Plan and the National Planning Policy Framework.

25. Notwithstanding the provisions of Town and Country Planning Act, General Permitted Development Order the commercial units within phase 1b of the development shall not be subdivided nor shall any mezzanine levels be inserted into the buildings.

Reason: To ensure the buildings are retained in their intended use in accordance with the requirements of Policy E2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

26. Before the installation of lighting fixtures a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023). Such approved measures will be implemented in full.

Reason: To safeguard species and habitats in accordance with the requirements of Policy BNE3 of the Local Plan and the National Planning Policy Framework.

27. Any tree lost within 10 years of planting and any shrub or hedge lost within 5 years of planting shall be replaced by a like for like species of a similar size unless otherwise agreed in writing by the local planning authority.

Reason: In order to ensure good design and the retention of trees within the site in accordance with the requirements of Policy BNE1, Policy BNE4 and Policy INF8 of the Local Plan Strategy and the National Planning Policy Framework.

28. The development hereby approved shall be implemented and monitored in accordance with the regime contained within the approved Travel Plan (Workplace Framework Travel Plan, Land North of Derby Road, Hilton, Reference:237295, Revision: Final, dated 31st January 2021). In the event of failing to meet the targets within the Plan a revised Plan shall be submitted to and approved in writing by the Local Planning Authority to address any shortfalls, and where necessary make provision for and promote improved sustainable forms of travel to and from the site. The submitted details shall use Modeshift STARS Business to carry out this process and include mechanisms for monitoring and review over the life of the development and timescales for implementation. The approved Travel Plan shall be implemented, monitored and reviewed in accordance with the approved details.

Reason: For the avoidance of doubt and to reduce vehicle movements and promote sustainable travel in accordance with the requirements of Policy S6 and Policy INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

Informatives:

- e. The applicants attention is drawn to the comments of the Derbyshire County Council Lead Local Flood Authority in their response dated 22nd March 2024 and advised to contact them directly should further clarification be required.
- f. The applicant is advised to review the content of Natural England's consultation response dated 7th March 2024 in respect of the proposed development and necessary mitigation measures.

- g. The applicant should note the contents of paragraph 59 of DfT Circular 01/2022, which sets out that no water run-off that may arise due to any change of use will be accepted into the highway drainage systems, and there shall be no new connections into those systems from third party development and drainage systems. Any change of use to the existing connections to the Highways drainage will be classed as a new connection and therefore will be refused in the first instance as stated within the aforementioned Circular.
- h. The developer is advised they should contact the Business Compliance Team on all matters relating to food hygiene. Environmental.Health@southderbyshire.gov.uk Food businesses must register with the local authority at least 28 days prior to opening for business.

Item No. 1.2

Ref. No. [DMPA/2023/1062](#)

Valid date: 23/08/2023

Applicant: Aldi Stores Limited

Agent: Avison Young

Proposal: **Construction of a Class E foodstore, car parking, access, landscaping and associated engineering works at Talbot Farm Nursery, Derby Road, Hilton, DE65 5FP**

Ward: Hilton

Reason for committee determination

This application is reported to committee because more than 4 objections from members of the public are received in response to the application.

Executive Summary

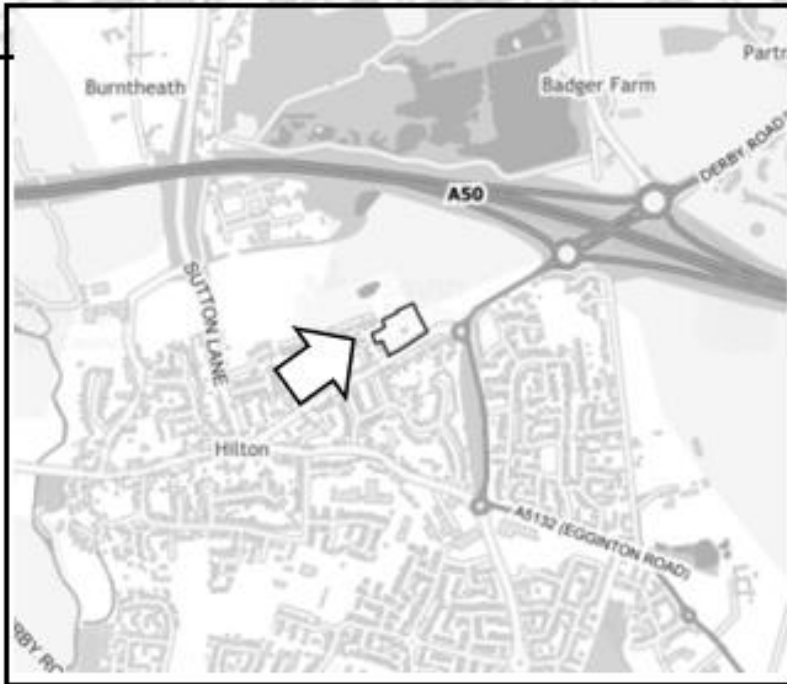
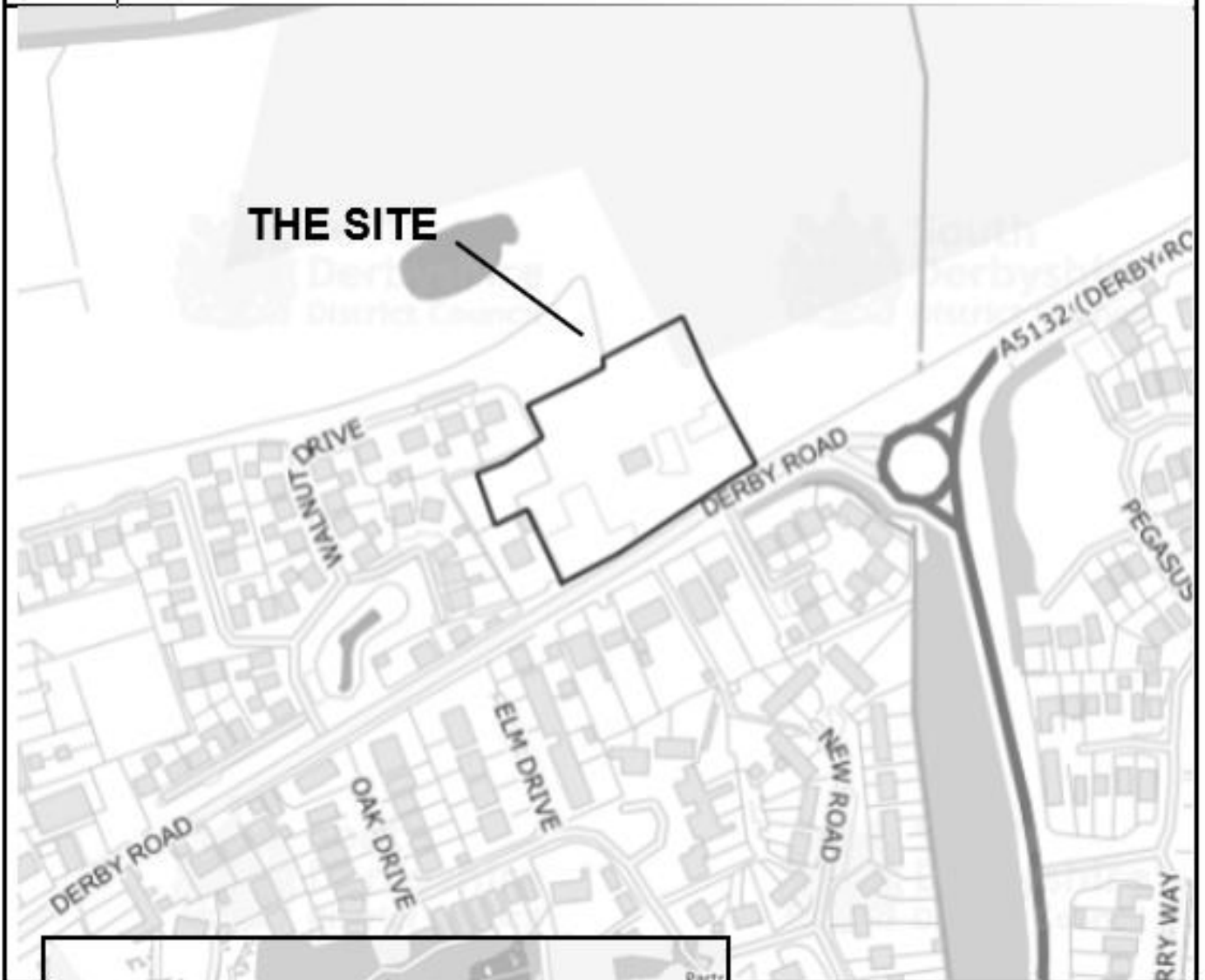
The proposal is for the erection of a new Aldi foodstore at a site to the north of Derby Road on the edge of Hilton that is currently occupied by the Talbot Nursery. The current site comprises both office uses and outdoor storage of various machinery as well as plants and trees associated with the existing nursery business. The site is outside, but adjacent to, the defined settlement boundary for Hilton as set out in the South Derbyshire Local Plan. The application site lies outside the town centre of Hilton and due to the proposed use has been subject to retail impact assessment which demonstrates there will not be a significant adverse effect upon any existing town centres. A sequential assessment has also been undertaken that concludes that there are no alternative available sites suitable for the development in more appropriate (town centre) locations. Objections have been received from the Ward Councillor, the Parish Council and members of the public in relation to traffic and highway safety, biodiversity net gain, drainage, noise and impact upon amenity. There are no objections from technical experts consulted in respect of the above concerns and conditions are recommended by a number of technical experts. The development, if supported, would serve to re-develop an existing brownfield site to provide a larger, well located, Aldi store and is therefore considered acceptable and is recommended for approval subject to the conditions included within this recommendation.

It should be noted that, following the initial drafting of this report, the findings of an additional transport survey were sent to DCC and the applicant. The findings of this report show higher volumes of traffic on roads and using the junctions in the vicinity of the site than those contained within the supporting information. Officers have supported DCC as the LHA to request the applicant undertake further sensitivity testing both of this development and the cumulative impact of this and the volumes of traffic likely to arise from this and the adjacent application should both applications be granted permission. Officers have discussed the anticipated timeframes with both the applicant and the LHA and are confident an update to this committee will be available prior to 18 June.

Site Description

The application site lies to the north of Derby Road on the edge of Hilton, to the north east of this site lies the A50 which forms part of the Strategic Road Network. To the south and west of the site lies residential development within the defined settlement boundary, though close to these existing residential areas the site lies outside both the defined settlement boundary and the identified Town Centre of Hilton, the site is partially adjacent the settlement boundary at the north eastern periphery. The site is currently in use by Talbot Nurseries, with buildings to the centre of the site with parking and growing areas surrounding the building. The site has hedgerow boundaries to the north, east and west and broken hedgerow boundaries to the Derby Road boundary adjacent the existing pedestrian

DMPA/2023/1062 – Talbot Farm Nursery, Derby Road, Hilton, DE65 5FP



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South Derbyshire District Council, LA 100019461.2020

footway. The site lies within Flood Zone 1 and the green zone for Great Crested Newts (GCN). The site

has potential for contamination and is within the mineral safeguarded area for Derbyshire. Though there are no listed buildings or conservation areas within or directly adjacent the site there are historic environment record markers for medieval fields and cultivation terraces to the north and records of a road running through the site on the 1781 enclosure map. The site lies within the Parish and Ward of Hilton.

The proposal

The application proposes the removal of existing buildings and construction of an Aldi store, the proposed store will have a total area of 1865 sq m measured externally and comprising an internal warehouse of 346 sq m, a welfare block and plant room of 115 sq m and a retail area of 1315 sq m. To the eastern elevation will be a delivery bay and external plant compound. The main customer entrance and exit will be situated on the southern elevation facing Derby Road. Surrounding the store will be the car park which will provide 115 car spaces, including accessible spaces, electric vehicle charging points.

Within the site the foodstore will be located towards the northern boundary to facilitate a setback from the highway and provide parking both between the store and neighbouring residential dwellings and the store and Derby Road. The Vehicular access for both customers, staff and deliveries is proposed off the existing Derby Road entrance that will be widened to facilitate safe access and egress. The proposed pedestrian access is located to the east of the vehicular access. Landscaping is proposed predominantly to the peripheries of the site with some border planting located between the customer parking and the HGV delivery area.

The foodstore building is of single storey design with a mono-pitched roof the highest eaves of which will be 6.25m and face Derby Road. The south and west elevations are proposed to include glazing to provide active frontages to the car park and a canopy above the entrance and exit is facing Derby Road is also proposed. The supporting information sets out that the landscaping proposals are based upon those which were approved by the appeal decision for commercial development of the site, furthermore the supporting information indicated that in terms of area the proposed development will increase the area of soft landscaping approved by the appeal decision from 745 sq m to 960 sq m.



Applicant's supporting information

Planning and retail documents

Planning and Retail Statement (PRS), Construction of a Class E Foodstore, Land North of Derby Road, Hilton, ALDI Stores Limited, dated August 2023, received 23/08/2023

The Planning and Retail Statement submitted in support of the application discusses the site, its context and the planning history of the site including appeal decisions and pre-application discussions. It lists the documents submitted in support of the development. It proceeds to discuss the proposed development, the end user, ALDI in terms of the operational model and other matters considered to be relevant to the application. It considers the proposals in the context of what it considers the relevant content of the development plan and other material considerations before discussing the principle of the proposed development and the retail impact and sequential tests. It provides a summary of the design, technical and environmental documents submitted in support of the application and provides conclusions that the proposed development.

Supplementary Retail Impact Assessment – Proposed Class E Foodstore, Derby Road, Hilton (DMPA/2023/1062), prepared by Avison Young for ALDI Stores Ltd, dated April 2024, received 02/04/2024

The Supplementary RIA document includes the findings and analysis of an independent household survey to provide an evidence base and subsequent updated assessment of the financial impact of the proposed development. It provides detail on the postcode areas which have been surveyed and the timeframe between 2024 and 2028. The summary of the report sets out that the findings support the previously submitted proportionate assessment and concludes that: the majority of any uplift in turnover to the proposed development will be from main food stored in Derby, predominantly Tesco in

Mickleover; diversion of trade within Hilton will be from the existing Tesco Express and, in 'very small levels' from other small convenience stores, but the impact will not be material or detrimental upon any defined town centre locations; should the existing ALDI be occupied by another foodstore provider the trade would be drawn from the proposed store and some clawback from expenditure in south Derby, again the impact upon defined centres would not be significant adverse impact.

Design and Access Statement ALDI Stores Limited, Proposed retail development at: Derby Road, Hilton, Reference: J21A56/DAS-01/V3, dated August 2023, received 18/08/2023

The Design and Access Statement sets out the site location and context as well as the design constraints. The document sets out the features of the proposals design to make the design energy efficient and to support integration into the surroundings whilst having regard for the functional requirements of this store and the need to address the issues currently experienced at the existing store in Huntspill Road.

Statement of Community Involvement Construction of a Class E Foodstore Land North of Derby Road, Hilton ALDI Stores Limited June 2023, received 18/08/2023

The SCI sets out the policy context and the communications strategy for involvement, specifically liaison with the Hilton Parish Council, the ward members for Hilton and the Council leader. Meetings were held with ward members and the Parish Council in March 2023, following earlier communication. Wider involvement via a mail drop to local residents was sent out in March providing basic information about the proposed development and directing readers to a website dedicated to the proposal which gave further details of online and in-person events. A further in store event was held at the existing Aldi in Huntspill Road. The document shows 72% of people consulted supported the principle of a new store with 9% unsure and 18% not supportive of the proposals. Further detail of the other questions and corresponding responses is included within the document.

Landscape Visual Appraisal, Land off Derby Road, Hilton, Reference:ZLA 1414, V3, dated July 2023, received 18/08/2023

The LVA confirms that the siting of the proposed development, physical constraints of the site and existing development patterns have been considered and minimise the potential for the development to break skylines and appear prominent in views towards the site. It notes the design elements and landscaping proposals have been development to further mitigate the proposed development. The report considers the policy context of the development and sensitivity of the landscape setting out that the impact on the landscape will be slight and will decline over time and that a negligible magnitude of change will occur to the overall landscape character of the area.

Environmental health documents

Air quality assessment, Aldi Stores Ltd, Derby Road, Document number: DRH-BWB-XX-ZZ-LA-RP-0001 AQA, Revision 4.0, dated July 2023, received 18/08/2023

The Air quality assessment sets out that the site is not within an air quality management area (AQMA) and that the assessment comprised a qualitative assessment for the construction phase in accordance with industry best practice guidance. Recommendations to minimise emissions during construction are recommended and the report summary states that, following implementation, the impacts would not be significant during the construction phase. The report confirms the methodology was agreed with SDDC in advance of the compilation of the report. The report sets out that the highest risk category identified was 'medium risk' and recommends mitigation for the construction phase in accordance with the Institute of Air Quality Management that will reduce the impacts of dust emissions.

Plant and Delivery Noise Impact Assessment, Aldi Store, Derby Road, Hilton, DE65 5FP, on behalf of ALDI, reference 91300, revision dated 04/07/2023, received 18/08/2023

The plant and delivery noise impact assessment sets out that the report is commissioned to undertake noise impact assessment in relation to external plant and deliveries at the proposed new Aldi store. It confirms an environmental noise survey has been undertaken to establish prevailing noise levels that affect the dwellings nearest the development site and predicts noise emissions from proposed plant at the most affected receptors. The report includes noise from heating and refrigeration plant which will be sited externally at the northeast of the store as is the delivery area. Deliveries are stated to be up to 3 times in a 24 hour period during both day and nighttime. The report sets the national planning policy context and the relevant practice guidance and local policy context.

The body of assessment establishes the noise levels anticipated from various delivery activities such as vehicle manoeuvres and unloading and movement of stock and establishes the distance between the sources of these noise emissions and the nearest sensitive receptors and, based on this data presents the predicted delivery noise levels during daytime and nighttime hours at the receptors. The report concludes externally that noise emissions from delivery to the store would be of negligible significance and, based upon current guidance the worst internal noise levels would also be below recommended levels. would also be of an acceptable level. Plant noise is also concluded within the report to be of an acceptable level.

Geo-environmental report, reference: GRO-22280-3922, dated 21/11/2022, received 18/08/2023

The Ground Gas preliminary risk assessment identifies low to moderate risk of ground gas based upon the assessments undertaken and outlined within the report including on site investigation. The report makes recommendation for the completion of the gas monitoring programme; issuing of the gas assessment, detailed foundation design and confirmation of the recommendations of the report with regulators.

Ecology, trees and landscaping documents

Preliminary ecological appraisal, New ALDI Store, Derby Road, Hilton, report number: RT-MME-159967-04-Rev B, dated 26 May 2023, received 03/11/2023

The Preliminary ecological appraisal (PEA) sets out the background to the project, scope of the appraisal, which includes desk based surveys, site walkover and subsequent project review of the data and recommendations that further surveys for Great Crested Newts and Water Vole as well as an additional preliminary Bat Roost Assessment were undertaken. The report makes recommendation for further survey work (as above) and the inclusion of a Construction Ecological Management Plan (CEcMP) as well as identifying potential future need for additional bat surveys depending upon the time of development and sensitive scheme design in accordance with the mitigation hierarchy; a CEcMP.

Biodiversity metric assessment, New ALDI Store, Derby Road, Hilton, report number: RT-MME-159967-05-Rev D, dated 19/02/2024, received 20/02/2024

The Biodiversity Metric Assessment sets out that the potential for a net gain to biodiversity to be achieved following the development of the site. The assessment uses a biodiversity metric to provide this assessment. It acknowledges the source of the baseline habitat review as the above PEA and use of Biodiversity Metric 4.0 calculator. It confirms that the future baseline conditions predicated are based upon the submitted landscape design plan and sets out the habitat unit value based upon the landscaping plan. The report confirms that a potential 5.49% net change to habitats, and 30.54% to hedgerows can be achieved based upon the proposed landscape and hedgerow changes.

Water Vole survey, Derby Road Hilton, Report Number: RT-MME-160407-01 Rev A, dated 4th July 2023, received 18/08/2023

The survey report confirms the findings of a desk based assessment and the suitability of a ditch at the boundary of the site to provide habitat for Water Vole. The results of the survey set out that there was considered to be limited potential to provide Water Vole habitat due to shading and dryness within the ditch, the report did state that the ditch banks provided vegetation suitable for foraging and suitable composition of earth to allow for burrowing. Notwithstanding this the survey results stated no evidence of Water Vole was found during the field survey. The recommendations of the report set out that should works not have commenced within 12 months of the survey this should be repeated in order to confirm that Water Vole remain absent from the site.

Great crested newt survey Derby Road Hilton, Report Number: RT-MME-160407-02, dated 22nd May 2023, received 18/08/2023

The survey report confirms that visual assessment of suitability for GCN wand water samples of accessible ponds within 250m of the proposed development were undertaken, this totalled two ponds to the north of the site but connected via woodland and hedgerow corridors offering suitable commuting routes for the GCN. When assessed against the great crested newt Habitat Suitability Index (HSI) both ponds were found to have poor suitability for GCN. The recommendation concludes that GCN are likely to be absent from the site and recommend that if, in the event GCN are discovered during works, all works should cease and a GCN licensed ecologist should be contacted to determine a way forward.

The survey also recommends that should works not have commenced within 2 years of the date of the report the survey work should be undertaken and a new assessment carried out.

Arboricultural Impact Assessment (AIA), Report Number: RT-MME-159967-02-Rev C, dated 07/07/2023, received 18/08/2023

The AIA assesses the trees within the red line application site and categorises the trees and hedgerows according to the British Standard (BS5837:2012). It considers two trees to be of moderate quality that will continue to be a valued contribution to the site for at least 20 years. All other trees and hedgerows were assessed as low quality in some cases with life expectancy of less than 20 years. There are trees subject to a TPO within the site. Four trees are proposed to be removed, one in category B and the others in category C, mitigation is stated as being required for this tree, there the category C tree loss should be replaced by higher value trees that will offer greater amenity.

Arboricultural Method Statement (AMS), Report Number: RT-MME-159976-03-Rev A, dated July 2023, received 18/08/2023

The AMS makes recommendations as to how the development can be carried out to protect and minimise adverse impacts upon the trees and hedgerows within and around the applications site. it identifies the necessary communications and roles which have responsibility for tree protection measures and other methods of working.

Highways documents

Interim Travel Plan, Project no: 45031, dated July 2023, received 18/08/2023

The interim travel plan sets out the context of the development and existing transport modes that would be suitable for the proposed development. It also sets out the travel patterns for Aldi staff and customers, setting out that pre-relocation and post re-location staff will be surveyed to establish if and how travel patterns change. The travel plan will be coordinated by the store manager and the targets set are to varied levels of staff travel by different modes of transport. The Travel Plan aims to reduce the use of single occupancy car trips over the 5 year monitoring period and seeks to liaise with the Council should targets not be met.

AMA Highways Technical Note

The Technical Note provides responses to the questions and comments of the DCC LHA Officer in respect of previously submitted highways information and refers to various datasets and additional junction models.

All other documents

Drainage Strategy

The drainage strategy sets out the development proposes to install surface water attenuation crates beneath the proposed car park and connect to the existing public surface water sewer in Derby Road. Similarly, it is proposed foul water will connect to the existing public sewer. In respect of surface water management, other methods are considered unsuitable for different reasons.

Relevant planning history

9/2019/0299 - Demolition of existing dwelling (use class c3) and nursery buildings (sui-generis use) and construction of 9 light industrial/office buildings (use class b1 c) with the creation of a new access to derby road and associated works. **Refused.**

APP/F1040/W/20/3246651. Appeal Allowed subject to conditions - 30/07/2020

The Inspectors report for the appeal set out that the main considerations were

- the effect on the character and appearance of the site and its surroundings;
- the likelihood of increased use of the restricted section of Derby Road, to the west of the appeal site, by HGVs as a result of the development;
- and the effect on highway safety.

The inspector considered in their report that the existing use of the site was for business use, characterised by the offices, hardstanding and storage uses. In respect of character and appearance of

the development the inspector concluded that the proposed development was not required by policy to be of the same size as existing development onsite and that the layout and landscaping proposed would minimise the prominence and impact of the development and that the proposed development would enhance the visual amenity of this area of Derby Road.

In respect of the second point (HGV's using restricted areas of Derby Road) the inspector concluded this was unlikely and that the development complied with Policy INF2. Similarly, the Inspector concluded in respect of highway safety that the required visibility splays were achievable and therefore the development would not adversely impact highway safety.

The Inspector concluded the development to be policy compliant subject to conditions from both the officer recommendation and additional conditions by the Inspector.

The below application to discharge conditions was approved in 2021.

DMOT/2020/1273 - Discharge of conditions 14/06/2021

The planning permission granted by the above appeal and application to discharge conditions was implemented via the demolition of the existing buildings on site, the permission has therefore been implemented and remains extant.

Responses to consultations and publicity

Hilton Parish Council (HPC) - Subsequent Comments – 18/10/2023 - Object to the increase traffic on Derby Road and impacts on queuing traffic at the existing roundabout serving Derby Road / A516 / A5132 in addition to traffic turning right into the proposed store and causing a potentially unsafe situation. The submitted TA considers these concerns unfounded, showing small increase in site traffic and sufficient capacity at the roundabout to accommodate the anticipated increase. HPC consider these assertions are 'optimistic'. HPC considers the proposals result in a conflict with SDDC LP Policy INF2 and will "have a detrimental impact upon local amenity, the environment, highway safety, the efficiency of transport infrastructure and the efficiency and availability of public services"

Considers the traffic data submitted in comparison to the survey work undertaken for the Hilton NP and queries the accuracy of the data. They further query the level of increase from the proposed development in comparison to the existing number of trips generated and provide data from a HPC survey that shows a 34.5% discrepancy between the submitted Aldi TRICS data (lower) and the HPC survey (higher) for the Saturday AM Peak, concluding the implications of such are that the Transport Assessment submitted underestimates the increase in traffic that will result from the proposed development. HPC consider further survey work should be undertaken independently by DCC and subsequently used to re-evaluate the estimates submitted.

Hilton Parish Council Initial comments- 02/10/2023

Question the noise report submitted which only addresses noise generation from deliveries and plans and concludes these are acceptable However experience from the existing Aldi in Hilton is that traffic noise is also of concern. The Parish Council note the drainage strategy proposed connection to existing foul and surface water drains on Derby Road. This will require roadworks and the Parish Council request that resurfacing in tarmac to minimise noise.

S106 contributions towards pedestrian crossings on the westbound exist slip and eastbound entry slip to the A50 are requested.

In addition the Parish Council consider the biodiversity input is less than the newly adopted positions and contravenes Policy E5 of the Hilton Neighbourhood Plan.

Hilton Ward Councillor Andrew - Raise concerns - 18/10/2023

Issues with traffic and aesthetic elements of the proposed development. The traffic figures submitted do not factor the increase in traffic from a larger store that is intended to serve a greater number of

customers. The scheme is in many ways better than the current permission for commercial units approved on appeal to the Planning Inspectorate, however, it will still adversely impact the village through traffic congestion.

The introduction of a living wall to the scheme would soften the environmental impact and align with the approved 'Ecological Emergency'. We need to ensure that Aldi builds something better for the environment than currently planned. Request the Officer liaise with the LHA in respect of the traffic data. Considers that if the application is likely to proceed, should be ensured that adverse impacts on nearby residents are minimised and the safety of users is prioritised. HPC further considers that should the data prove a greater increase, amendments to the proposed scheme to include highway amendments could address the issues.

HPC consider it will be unlikely that habits will change and that increased sustainable transport choices are unlikely contending that more people may drive to the proposed store due to its peripheral, rather than central, location. Query proposed and existing bus stop locations and implications of these.

HPC raise concerns relating to the absence of a biodiversity net gain and request this is addressed, suggesting in their comments features such as green walls in order to comply with the Neighbourhood Plan and improve landscaping.

Note the connection to SW and Foul water drains in Derby Road and request that in this location remediate and repair to the road following the engineering if connections is done in low noise tarmac to preserve amenity for local resident. S106 contributions to provide safe crossing points to the A50 slip roads (eastbound entry and westbound exit) are requested. Request a commitment that the existing store will not be left empty or redeveloped for housing but that it will be reused for purposes that improve the amenity of Hilton residents.

The Coal Authority - No observations – 19/09/2023

The application site does not fall within the defined coal field and therefore consultation is not required.

National Highways - No objection - 14/02/2024

Final comments - National Highways responded no objections on 27th September 2023 as the development should not have an impact on the SRN and believe the traffic impact to be negligible. After reviewing the documents National Highways position remains the same. **No objection - 14/02/2024**

Initial Comments - National Highways has considered the trip generation and believe the impact on the SRN (strategic Road Network) (noting in this location the SRN is the A50) will be negligible, therefore National Highways has no objections to this full application. **No objection - 27/09/2023**

Derbyshire Constabulary - Force Designing out Crime Officer - 13/02/2024

Final comments - Note the inclusion of the boundary treatment plan (P005 Rev P03) and confirm details acceptable. Nothing further to add in respect of previous comments / amendments.

Initial comments - No objection in principle. Note the southern area of the car park is not well surveilled by the store. Details of boundary treatments are unclear with reference to different types of fencing, but no clear plan / key for each location. Additional elements are requested including a clearly marked boundary (treatment) plan to include all enclosures including to the north. Additional CCTV will be required to ensure formal surveillance of all vehicular and cycle parking areas and pedestrian walkways. The officer considers, due to the excellent communications links provided by the location of the site for travelling offenders this scheme justifies full external CCTV coverage. No objection subject to conditions - 02/10/2024

Derbyshire County Council - Archaeology, Heritage and Conservation - No objection subject to condition 12/02/2024

The site is identified within the comments as lying within and adjacent known heritage assets - medieval fields and cultivation terraces (MDR12376 and MDR22795). They note a pre-application Desk Based Archaeological assessment to the west of the site demonstrated the Derby Road

previously running through this site on the 1781 enclosure map. They note previous archaeological work demonstrated the presence of archaeological features including pits and ditches as well as potential for Palaeolithic remains within the gravel geology of the site. They note the application is unsupported by a desk-based assessment but consider, based upon previous information they have enough information to form a view. This states there is clear archaeological potential, though not enough to warrant objection to the proposed development. , and therefore that the archaeological potential should be assessed through a conditioned scheme of phased archaeological work in line with NPPF para 200, comprising a scheme of evaluation to test possible archaeology and to assess Palaeolithic potential, along with targeted or open area excavation in the event of results from the evaluation trenching. The specific wording of the condition is recommended within the comments.

Derbyshire County Council - Local Highway Authority

It should be noted that, following the initial drafting of this report the findings of an additional transport survey were sent to DCC and the applicant. The findings of this report show higher volumes of traffic on roads and using the junctions in the vicinity of the site than those contained within the supporting information. Officers have supported DCC as the LHA to request the applicant undertake further sensitivity testing both of this development and the cumulative impact of this and the volumes of traffic likely to arise from this and the adjacent application should both applications be granted permission.

Most recent comments - No objection subject to condition 30/05/2024

In respect of parking the provision is considered to be greater than the demand from the store, however due to the location it is considered to be prudent to provide a greater number of spaces to ensure that parking does not occur in nearby roads and have a detrimental impact upon highway safety and amenity. The comments confirm that taking this into account the provision is considered acceptable. In respect of Traffic impact the comments confirm that the 'worst-case scenario' approach for both the proposed site access junction and the Derby Road/A5132 Roundabout taken provide a robust assessment of the impact of the proposal on traffic and the local road network.

In respect of the site access junction it is confirmed that traffic associated with the adjacent application has been included in the assessment and that it is confirmed the robust, worst case assessment has been undertaken and demonstrates that the proposed junction can satisfactorily accommodate the proposed development traffic with minimal queues and delays occurring at the future assessment year of 2028.

Comments further confirm that the Derby Road / A5132 roundabout will operate within capacity and the development traffic will not have a significant impact on the operation of the junction, again in the worst case scenario.

The comments reiterate that the cumulative traffic impact of this application and the adjacent application (Planning Ref: DMPA/2024/0198) has been assessed for the proposed site access and is considered to be acceptable. In addition, the adjacent application (Planning Ref: DMPA/2024/0198) also considered the cumulative impact of both developments on its site access proposals as well as the wider road network. Following review, the local highway authority consider that it has been demonstrated that the traffic associated with both developments, the cumulative impact, can be satisfactorily accommodated on the local highway network should both applications be granted approval.

The comments conclude no objection subject to conditions for:

- Construction Environment Management Plan
- The restriction of use on the foodstore until the highway improvements/offsite works/site access works have been complete. These comprise:
 - Site access
 - Pedestrian crossing

- Relocation of westbound bus stop
- Restriction of use of the foodstore until the parking and turning facilities have been provided
- Restriction on use of the proposed vehicular access until the existing accesses have been closed in accordance with details to be first submitted and agreed in writing with the LPA
- Submission of a delivery plan prior to the first use of the store
- Implementation and monitoring of the travel plan including the provision for a revised plan to be submitted and approved in the event that the targets within the plan are not met

Subsequent comments - Object - more information required 25/02/2024

Note the submission of a Highways Technical Note to address the issues raised and following review the following comments are made.

DCC Access Comment 1 - It would appear that the proposed access is opposite an existing bus stop on the southern side of Derby Road. It is considered that this is not the preferred location for the proposed vehicular access to the site as it could result in road safety issues. The applicant is therefore requested to review the access location or to relocate the bus stop. AMA Access Response 1 - It is proposed to relocate the bus stop further to the west away from the proposed site access as demonstrated on drawing no. AMA/45031/SK008/P02 attached at Appendix B. Further DCC Comment - Whilst this proposal is acceptable in principle agreement will need to be obtained from public transport operators.

DCC Access Comment 2 - It must be satisfactorily demonstrated that the proposed visibility splays do not cross 3rd party land and are not obstructed by any objects greater than 0.6m in height. AMA Access Response 2 - As demonstrated in the TA, visibility splays from the site access are in accordance with the Design Manual for Roads and Bridges (DMRB) standards for a 40mph speed limit at 2.4m x 120m to tangent to the east and to the nearside kerb to the west. The proposed site access visibility splays are set out in drawing no. AMA/45031/SK007/P03, attached at Appendix C. Further DCC Comment - This is noted, however drawing no. AMA/45031/SK007/P03, attached at Appendix C of the Highways Technical Note shows visibility splays of 2.4 x 43m rather than 2.4 x 120m as stated. Therefore the applicant is requested to show the correct visibility splays to establish if 3rd party land is crossed, particularly to the west of the access.

DCC Access Comment 3 - The swept path drawings show the HGV's crossing the centre line of the access on entering the site and crossing into the opposing lane of Derby Road on exiting the site, this is unacceptable, and the access must be amended accordingly. AMA Access Response 3 - Drawing no. AMA/45031/SK006/P03 attached at Appendix D shows that the eastern radius of the proposed access road has been amended to suitably accommodate the swept path of a large Aldi service vehicle (as shown on AMA/45031/ATR004.1 and 4.2 also attached Appendix D) so that it does not cross the opposing lane of Derby Road when exiting the site. This satisfactorily resolves any highways safety risks associated with the proposed access. In terms of crossing the centreline of the access when entering the site, this is a common occurrence across the majority of Aldi's up and down the country. As a result, Aldi manage all deliveries to/from site to ensure that the process is done as safely and efficiently as possible without impacting upon customers. Further DCC Comment - It is considered that the amended kerb line on the eastern side of the access ensures that large vehicles exiting the site can do so safely. However, there is still a concern that large vehicles crossing the centreline of the access on entering the site, from both directions, will result in safety issues. The swept path of a large vehicle turning left into the site has not been shown in the Note although it was in the submitted Transport Assessment, this movement had a greater impact on the centre line of the access than the right turn entry movement. It is evident that if a customer is waiting to turn right out of the access as a large vehicle is trying to turn in from either direction, then this would clearly cause safety issues as neither vehicle could do so safely. Therefore, it is considered that the access should be widened to ensure all vehicles can manoeuvre in and out of the site safely and without conflict. It is noted that the Note states that Aldi manage all deliveries to/from site to ensure that the process is done as safely and efficiently as possible without impacting upon customers. It is not clear how Aldi manage

this process and further details are therefore required, however, it should also be noted that the application is for a foodstore which could be occupied by a different operator in the future so it is important that access arrangements are safe.

DCC Access Comment 4 - With regards to pedestrian access, it is considered that as the site is located on the northern side of Derby Road and the majority of residential properties are located on the southern side of Derby Road a pedestrian crossing facility should be provided on Derby Road to ensure safe and convenient access to the site for pedestrians. AMA Access Response 4 - Drawing no. AMA-45031-SK006/P03 shows the introduction of a pedestrian crossing some 10m east of the proposed access road. This will comprise dropped kerbs and tactile paving and facilitate pedestrian movements across Derby Road. Further DCC Comment - It is considered that as the majority of residential properties are located to the west of the site it would be more appropriate for the pedestrian crossing facility to be located to the west of the site access. In addition, due to volume of traffic on Derby Road it is considered that a pedestrian refuge or a controlled crossing should be provided to ensure safe pedestrian access to the site and to encourage more trips on foot. The applicant is requested to review pedestrian accessibility to ensure that safe pedestrian access is provided.

DCC Access Comment 5 - In addition, a Stage 1 Road Safety Audit on the proposed access arrangements is required to be undertaken and submitted in support of the application. AMA Access Response 5 - A Stage 1 Road Safety Audit has been undertaken on the amended access proposals demonstrated on drawing no. AMA-45031-SK006/P03. The full RSA and Designers Response is attached at Appendix E. Further DCC comment - It is noted that the recommendations of the Stage 1 RSA have been incorporated.

DCC Parking Comment 1 - The TA states that the proposed car parking offer at the relocated store will sufficiently cater for demand associated with customers and staff without resulting in any overspill on the surrounding local highway network, whilst also providing parking that is fit for the future. However, no evidence has been submitted to support this, therefore the applicant is requested to fully justify the level of car parking provision proposed. AMA Parking Response 1 - An exercise with the Aldi retail team has been undertaken to review recent store extensions to understand how they trade before and after a floor area increase, with all other factors remaining the same with the only notable factor being the increase in retail area. This is considered to represent a reasonable position for appraising the proposed extension to the Aldi foodstore in Hilton. Sales data for the number of transactions for the month in a "normal" trading period, before the extension and sales data post extension has been collated which demonstrates that customer transactions nominally increased by 4.13% on average. The data demonstrates that customer transactions, i.e., the number of customers that visit the store per day, does not alter significantly with an increase in store GFA of between 15-41%. The survey information illustrates that transactions pre and post extensions are similar which supports the fact that new custom is not generated by additional floor area. On this basis, it is considered that given the minor increase in GFA is solely for operational purposes as part of a store 'refresh' programme and the offering remains unchanged in store, based on the site-specific data the extension would not result in a significant number of additional trips post its relocation. Further DCC Comment - The above is noted, however the proposal is not a store extension, it is for a new foodstore and should be treated as such. Whilst it is appreciated that the proposal is a relocation of the existing Aldi store it is considered that the parking demand, and hence the proposed parking provision, should be fully justified for the site location and store size.

DCC Parking Comment 2 - Whilst the number of disabled and EVCP spaces is considered acceptable the EVCP spaces that are accessible spaces should be located closer to the building entrance. AMA Parking Response 2 - Whilst we have looked into the feasibility of providing accessible EVCPs in a location closer to the store entrance it is not considered possible due to the following factors: Charging areas should be well-ventilated, ideally being situated in the open, and kept clear of combustible materials (by at least 2 metres), including any combustible elements of the premises construction. Due to the size constraints of the site, it is not possible to achieve the required distance between the building and any EVCPs installed in the parking bays located closest to the store; Chargers should be capable of being isolated in a safe location and without impacting the remainder of the premises or

property. In the event of a fire hazard, any EVCPs located next to the building would be difficult to isolate due to their proximity to the pedestrian footway to the west of the building and the warehouse / storage entrance to the north; and Lithium-ion batteries present new challenges to fire fighters as they can re-ignite after initially being extinguished. Careful consideration has been given to the location of all EVCPs within the car park so as to reduce the risk of fire spreading as well as any fire hazards to customers entering / exiting the store. The proposed location of the accessible EVCP bays is next to the pedestrian footpath which provides a direct and convenient link to / from the store entrance. Therefore, based on the factors set out above, and taking into account the location of the accessible EVCP bays in relation to the pedestrian footpath, it is considered that the location of the proposed accessible EVCP bays is acceptable. Further DCC Comment - The above clarification is accepted, however, the proposed accessible EVCP bays shown in the Note are not shown on the proposed site layout or other drawings included in the Appendices of the Note. The applicant is therefore requested to clarify the location of the accessible EVCP spaces.

DCC Parking Comment 3 - The proposal incorporates eight cycle spaces in the form of four 'Sheffield' cycle hoops to facilitate cycling to and from the store. Whilst this accommodates cycle parking for customers it does not provide satisfactory cycle storage for staff. Therefore secure, covered cycle storage is required for staff to encourage staff to cycle to work. AMA Parking Response 3 - Staff cycle parking will be accommodated on site within the storage room. This is standard across all Aldi's and ensures staff are provided with covered and secure cycle parking to encourage staff to cycle to/from work where practical.

Further DCC Comment - Whilst this proposal is acceptable in principle details are required as to the location, size, other uses and the number of cycles that can be stored in the store room to establish if it is suitable for such a use.

DCC Trip Generation Comment 1 - It is noted that the trip generation for the existing Aldi store has been established using trip rates established from the TRICS database. However, it is considered that traffic surveys of the existing store should be undertaken to establish actual trip rates which can be used provide a comparison to those established from the TRICS database. AMA Trip Generation Response 1 - To determine the trip generation of the existing Aldi store, a traffic survey was commissioned at the access road on Friday 01 December and Saturday 02 December 2023. As requested, the results of the survey have been converted in to trip rates, and this has been compared to the TRICS trip rates used in the TA. For the purposes of comparison, the peak hours selected in the TRICS assessment presented in the TA have also been utilised for the assessment presented. This ensures that a direct and accurate comparison can be made between the two data sets. The result of the survey is presented in Table 2 of the Note - the surveyed trip rates are higher than the TRICS trip rates used in the TA. A revised trip generation assessment, using the surveyed trip rates, is therefore presented below in Table 3 of the Note. The Note states that the forecasted uplift in vehicle trips associated with the development proposals are considered to be negligible and will not have a material impact on the local highway network. Further DCC Comment - The raw survey data of the existing store should be submitted for interrogation by the highway authority. It is assumed that the above trip generation exercise is based on national surveys of Aldi foodstore 'extensions' for both relocating and extended foodstores, new foodstores experience a pro-rata increase in vehicle-based trips of 4.6% based on an average 26% increase in floor area. The proposed Aldi foodstore will have a floor area of 1,315m² which equates to a 33% increase in floor area over the existing 990m² Aldi foodstore. This results in an increase in vehicle-based trips of 5.9%. However, to ensure a robust assessment of the impact of the proposed new store is undertaken it is considered that the trip generation of the proposed store should be established using the surveyed trip rates and the full RFA of the store. Taking this into account the revised proposed store trip generation and resultant uplift are as shown. As previously stated, that Note states that the forecasted uplift in vehicle trips associated with the development proposals are considered to be negligible. However, the revised trip generation exercise undertaken above indicates that the uplift in trip generation is material and requires an assessment of its impact. The Note states that despite the assumed uplift in trip generation, the Derby Road/A5132 priority-controlled 3-arm roundabout has been remodelled to reflect the update in vehicle trip generation. The assessment demonstrates that, regardless of the future development scenario, the junction would operate within capacity in the modelled assessment scenarios during the AM, PM and Saturday peak hours, with minimal queuing and delay. The RFC

value has increased by no more than 0.1 on each arm in each of the peak hours, except for the A5123 (S) in the PM peak hour where the RFC value increased by 0.3. It is considered that the operation of this junction, together with the site access junction, needs to be reviewed to take account of the comments detailed within this response.

DCC Trip Generation Comment 2 - The TA states that based on national surveys of Aldi foodstore 'extensions' for both relocating and extended foodstores, new foodstores experience a pro-rata increase in vehicle-based trips of 4.6% based on an average 26% increase in floor area. However, no evidence is provided to support this statement, and this should be provided. AMA Trip Generation Response 2 - The data presented under AMA Parking Response 1 is used to justify the pro-rata increase in vehicle trips associated with the increase in floor area. The data clearly demonstrates that the increase in GIA at existing stores has little effect on vehicular demand and its aim is to retain existing custom by providing a 'refreshed' store and improved customer environment. The same product lines are available at all Aldi stores in the region, the extension simply enables more of the same product to be placed on shelves for customers to select and as such has no influence on increasing demand. Further DCC Comment - As previously stated above, as the proposal is not a simple extension of an existing store it is considered that to ensure a robust assessment is undertaken of the impact of the proposed development, the new store be treated as such and the trip generation be established on the full RFA of the store and using the surveyed trip rates.

DCC Trip Distribution and Assignment Comment 1 - The trip distribution for both the existing and proposed stores have been established by use of a population based gravity model assuming a 10-minute driving time catchment. Whilst this is acceptable in principle no details of the gravity model have been submitted and this must be provided to enable a review of the model to be undertaken. AMA Trip Distribution and Assignment Response 1 - The population-based gravity model used for the trip distribution assessment assumes a 10 minute drive time catchment. The model utilises Google Maps routing information and population data based on the 2021 Census. A summary of the model is included in Table 5 of the Note. Further DCC Comment - Further details of the population-based gravity model are required to establish if it is suitable for use for the trip assignment of the trip generation of the proposed development. The population details of each area are required from the census data together with full details of the route choice from each area.

DCC Trip Distribution and Assignment Comment 2 - It is noted that to calculate the net change in traffic associated with the relocation of the Aldi foodstore, the existing traffic flows have been taken away from the proposed traffic flows. However, it is considered that this is inappropriate as the existing site will retain its land use as a retail store and could open under a different operator. It is considered therefore, that to

ensure a robust assessment is undertaken that the traffic flows associated with the existing site should not be removed from the highway network. AMA Trip Generation Response 2 - The net change in traffic flow diagram represents the redistribution of existing Aldi trips to the relocated store, not the net change in development traffic, i.e. the change in route traffic will make from the existing store to the relocated store. Further DCC Comment - The point that was being made in the DCC comment was that the existing store trips should not be removed from the highway network as the existing store site will remain with an extant land use and could re-open under a different operator. The proposal is for a new store and to ensure a robust assessment is undertaken it should be treated as such. In addition to the above matters further comments are made below with respect to the modelling of the 2 junctions assessed within the submitted TA. Derby Road/A5132 priority-controlled 3-arm roundabout It is noted that the names of each of the model have not been completed, to ensure clarity and to avoid any confusion the names of each arm should be included within the model. A drawing showing how the geometric parameters of the model have been established is required as there are concerns that some of the parameters do not reflect what is actually on the ground. The raw traffic survey data is required to ensure the traffic flow diagrams and conversion to pcu's has been undertaken correctly. Site Access Junction A drawing showing how the geometric parameters of the model have been established is required as there are concerns that some of the parameters do not reflect what is being proposed. The model is not showing any through traffic flows on Derby Road which is clearly incorrect and therefore the model must be revisited to correct this. The raw traffic survey data is required to ensure the traffic flow diagrams and conversion to pcu's has been undertaken correctly.

Summary

The Note concludes that based on the information presented, it is considered that the proposed extension would not result in any detrimental highways impact on capacity or road safety and that there are no traffic or transportation reasons as to why planning permission could not be granted. It is confirmed by the highway authority that in light of the further comments detailed above the highway authority are not in a position to accept this conclusion and the issues raised must be satisfactorily addressed to ensure a robust assessment of the impact of the proposed development is undertaken to establish if it is acceptable.

Subsequent comments - Object - more information required 02/11/2023

Comments note the submission of a Transport Assessment (TA) Note the access is proposed opposite an existing bus stop on the southern side of Derby Road and state this is not a preferred location as it raises road safety issues. The LHA advise either the access or bus stop are relocated. The comments set out that the proposed visibility splays do not cross third party land and are not obstructed above 0.6m in height. Comments note the swept path drawings show the HGV's crossing the centre line of the access when entering the site and crossing into the opposing lane of Derby Road on exiting the site and set out that this is unacceptable and the access must be amended accordingly.

Due to the location of the site on the northern side of Derby Road, and majority of residential dwellings to the south of Derby Road a pedestrian crossing facility is considered necessary to facilitate safe access to the site for pedestrians. The comments request a Stage 1 Road Safety Audit on the proposed access arrangements is undertaken and submitted in support of the application.

The comments refer to the content of the TA in respect of the proposed level of parking provision and request this is justified. They consider the accessible and EVCP spaces acceptable in quantum but request that the combined accessible EVCP spaces are relocated closer to the building entrance. In respect of cycle provision, the public provision proposed is considered acceptable, secure covered cycle parking provision for staff is requested to encourage staff to travel by bike.

The comments request Traffic Surveys be undertaken to establish the trip rates for the existing store and used as a comparison to the submitted TRICS data. The TA states that based on national surveys of Aldi foodstore 'extensions' for both relocating and extended foodstores, new foodstores experience a pro-rata increase in vehicle-based trips of 4.6% based on an average 26% increase in floor area. Evidence to support this statement is requested.

The comments consider that to robustly assess the trip generation of the proposed store, which is considered in effect a new store, the data should be based on the actual trip rates of the existing store or the TRICS trip rates and for the retail floor area of the proposed store.

In respect of trip distribution and assignment - the comments set out that the trip distribution for both the existing and proposed stores have been established by use of a population-based gravity model assuming a 10-minute driving time catchment. The comments accept the approach in principle, but request details of the gravity model are provided to enable a review of the model to be undertaken.

To ensure a robust assessment of traffic impact the traffic generated by the existing site (Aldi, Huntspill Road) should not be removed from the highway network.

The TA proposes the following future year scenarios for assessing the impact of the proposed development. These future year scenarios are to include impact assessments of the AM peak, PM peak and Saturday peak hours, which is considered acceptable.

Once the trip generation/assignment exercise has been revisited it may be necessary for other junctions to be included for operational assessments. The modelling outputs included within the TA have not been reviewed at this stage as it seems appropriate for agreement on the assessment traffic flows to be reached first.

An Interim Travel Plan has also been submitted in support of the planning application this has been forwarded on to the Sustainable Travel Team; comments will be issued in due course.

It should also be noted that the site is affected by a Building Line prescribed under the Roads Improvement Act 1925. The line will need to be revoked before any building works can begin. The applicant should contact Derbyshire County Council (email Highways.Hub@derbyshire.gov.uk or telephone 01629 533190) and is advised that there is a fee payable to cover administration and legal costs.

Initial comments - 19/10/2023 - Request additional time to assess application due to the volume of information received.

Derbyshire Wildlife Trust - No objection subject to condition - 04/03/2024

Final comments - No objection subject to condition - 04/03/2024

Comments note the amendments set out in the Biodiversity Metric Assessment (BMA) (Middlemarch Revision D February 2024) and confirm the Wildlife Trust are content that there is still a measurable net gain for habitats and hedgerows. The response reiterates previously requested conditions and acceptance of submitted details.

Subsequent comments - No objection subject to condition 16/11/2023

Comments note receipt of the amended Biodiversity Metric and updated Biodiversity Metric Assessment (BMA), Middlemarch Revision C November 2023 and a covering letter from Middlemarch. They describe the amendments and the changes resulting in a predicted net gain on-site of 5.49% against the previously predicted net loss of – 12.72%. The figures for hedgerows remain the same with the development providing a 41.28% net gain for hedgerows on-site. Comments note other findings of the metric but state these are insufficient to warrant further changes at this stage.

The comments reconfirm the previously submitted and considered ecological assessment of the site is considered to be accurate, and no further surveys is considered necessary. Comments state that impacts on protected species are unlikely, and any residual risk can be addressed through mitigation measures in the form of a Construction and Environmental Management Plan for biodiversity, the wording of which is included within the comment. In respect of Biodiversity Net Gain comments consider the amended metric calculations indicate the development can deliver a small on-site net gain to habitats and hedgerows and that these are considered achievable and should be implemented in full. Recommended condition wording for both the CEMP and BNG are included within the comments.

Comments further recommend conditions securing implementation of development in strict accordance with the measures outlined in the Arboricultural Method Statement, Middlemarch July 2023 and details of Bat sensitive lighting.

Initial comments - Object - 03/11/2024

The comments detail the documents reviewed and the absence of statutory or non-statutory nature conservation designations associated with the site, they also state that the Wildlife Trust are unaware of any records for protected species within the site. They confirm the PEA is a comprehensive assessment of the site that is accompanied by the recommended additional surveys for Great Crested Newt (GCN) and Water Vole and the recommendation, subject to the timing of development for a further bat survey, focused on building 1, should development not be within 12 months. Comments confirm additional submitted survey work for GCN and Water Vole has demonstrated that impacts on these species are very unlikely and that no further survey work or specific mitigation or compensation is required in this instance.

The comments note the Biodiversity Metric Report shows a loss of habitat units and that this is not mitigated for in the proposed onsite mitigation and compensation measures. They note that an onsite gain for hedgerow is proposed however confirm that a gain for hedgerow cannot be used to address a loss in habitat units. They advise the applicant should seek to address the loss on site and that off-site mitigation / compensations should only be considered as a last resort.

Comments support the Arboricultural Impact Assessment and the Arboricultural Method Statement, and advise these should be implemented in full and secured via condition.

Derbyshire County Council - Lead Local Flood Authority (LLFA)- No comment - 03/05/2024

The LLFA have been consulted and confirm they have no comment to make.

Derbyshire County Council - Planning Policy

Derbyshire County Council - Public Rights of Way

East Staffordshire Borough Council - No objection - 27/02/2024

The response accepts there are no sites within East Staffordshire that should have been included within the sequential tests. The note the proposed use of the existing Aldi in Hilton, as set out within the information, The comments review the proportionate impact test undertaken and the parameters of this, noting some crossover between the catchment of the proposed store and the existing Aldi in Burton upon Trent. The comments offer no objection at this time, however, request they are reconsulted should the split between convenience and comparison floorspace be altered.

Open Space Society – No comments received.

Peak and Northern Footpaths Society - No objection

Final comments - No objection - 06/02/2024

Initial comments - No objection - advise the full width of Footpath Hilton 1 must be unobstructed and that planting to the northern boundary of the site to screen the development from users of the Public Right of Way. No objection - 19/09/2023

Severn Trent

South Derbyshire District Council

Design Officer - No objection 13/02/2024

Final comments - Confirm the revised plans address the majority of issues raised and consider on that basis that the latest plans are acceptable.

Initial comments - Note that in terms of layout, elevation treatment, materials, pedestrian connectivity and landscaping the proposed development reflects comments made by the Design Officer at pre-application stage. They state that there is a difference between the size of the proposed substation on Derby Road on different plans and advise details are confirmed either prior to determination or secured via condition, they consider a GRP green finish would be most appropriate for the location. They further recommend the pedestrian footway from Derby Road to the store should be increased to 3m wide shared surface footway rather than the currently proposed 2m wide footway. No objection subject to conditions - 02/10/2023

Environmental Health Officer (EHO) - No objection subject to conditions

Final comments - Further comments set out the necessary lighting levels (5 EV (lux)) and measurement with specific conditions wording recommended. **No objection subject to conditions** - 30/11/2023

Subsequent comments - Further comments reiterate no objection in principle but request conditions in respect of construction hours, lighting and compliance with approved strategy, compliance with details of submitted plant and methods of delivery, compliance with contaminated land works and verification. **No objection subject to conditions** - 01/11/2023

Subsequent comments - No objection in principle offer advice regarding matters relating to food hygiene, health and safety and the requirement and timescales for food businesses to register with the LPA. No objection - 20/09/2023

Initial comments - No objection subject to conditions

No objection to the proposed development but request conditions in respect of:

- Restrictions to hours of construction activity
- Lighting to be installed in conformity with the submitted details
- Conformity with the installation, retention and implementation of plant and methods of delivery set out within the submitted noise report.
- Completion and verification of contaminated land works in accordance with the submitted details.

Planning Policy - Consider the sequential test and impact assessment should be based on a ten-minute off-peak drive distance, rather than 5 minute as submitted, in order to encompass key service villages. They further request the impact assessment is based upon the assumption of a net increase of >1000m square in retail floorspace. Noting that the current study is now out of date they request that a new household survey be undertaken to support the impact assessment including population and expenditure data that includes new housing coming forward within the requested catchment area. Note that given the extent of housing development local to the site has exceeded the growth of retail provision it may be that the evidence of the impact assessment shows that there is insufficient provisions coupled with no sequentially preferable sites, there may be a case to allow retail provision on the edge of the village to address unsustainable travel patterns, subject to the impact on existing retail centres.

27/10/2023

Members of the Public

Comments were received in response to the application from members of the public both in support and objection to the application. 14 comments object (noting submission of 1 additional comment that was received, verbatim, on the same date from the same member of the public). 7 comments offered no objection, 4 of which were 'subject to conditions' and one of which was 'subject to obligation'. 53 comments in support of the application have been received.

Comments of objection are summarised as:

- a) The site is highly inappropriate for safety and other reasons
- b) Main concerns are danger which would be caused by the enormous amount of increase in traffic on Derby Road, traffic approaching from the east must negotiate a blind bend leaving the roundabout followed by access to a side road 25m later.
- c) The junction is already dangerous as traffic leaving the roundabout doesn't anticipate turning traffic entering Talbot Mews and therefore 'tailgates' vehicles whilst accelerating to the speed limit.
- d) Egress from Talbot Mews is also dangerous as there is conflict between traffic leaving the roundabout and accelerating to speed and vehicles leaving Talbot Mews - the eastern direction of travel from Talbot Mews is stated to be particularly dangerous.
- e) Any increase to traffic on this road will increase the described hazards and make it virtually impossible to exist Talbot Mews and travel eastwards.
- f) It is not really possible to introduce a safe access off Derby Road as this will 'back-up' with traffic at busy times in both directions causing particular hazard to the road about where passing traffic will be likely to unexpectedly encounter the queue causing accidents and danger to life and limb.
- g) Derby Road adjacent the access proposed is not sufficiently wide to allow traffic to safely pass stationary traffic that is queuing to get into the Aldi store.
- h) Queuing traffic and HGV's at the bottleneck will result in traffic fumes and pollution even if the above point is addressed.
- i) Potential that increased traffic will blight the value of the respondents dwelling
- j) Comparably the proposed store will double the existing parking provision and , the existing store takes access from a quiet road and so the move does not make sense..
- k) queries the number of spaces for staff and raises concerns that vehicles will park on Derby Road to use the store.
- l) The rush house (morning and Evening) already results in queuing traffic on the Road from those commuters accessing the strategic road network, this will be exacerbated.

- m) traffic from villages to the west of Hilton will access the site through the village rather than via the Mease, the respondent understands current traffic calming in the village (village route) was installed following a pedestrian fatality at a crossing in the village.
- n) The proposals would be better located on the north side of the A%0 on the A516 Derby Road or Etwall bypass which is a long straight road with good sight lines.
- o) HGV movements were a concern in the original planning application for the Talbot Turf site - the government inspector concluded that the HGV movements would be limited to a few a day and overturned the refusal
- p) since that time HGV movements in the area accessing Hilton Industrial estate have increased in particular vehicles carrying aggregates and this would make the access to the site unsafe
- q) Using the previous permission is not appropriate as the proposed use would generate substantially more traffic, the previous permission is not appropriate to this application.
- r) supermarkets are alleged to be notorious for seeking permission for sites and then expressing surprise at the post development traffic increases.
- s) would only support the application if the entrance was elsewhere, the proposed entrance will increase traffic noise and pollution and effect the health of residents in the long and short term
- t) have recently moved to the country and are unhappy that there are two supermarkets, commercial and drive-thru uses proposed - this will increase traffic, noise and pollution. Realistically speaking the entrance for the new Aldi should be elsewhere, for example in the plan for the other supermarket - request plans are considered to be amended and improved through the adjacent proposed s

53 responses were received either in support or supporting / not objecting and requesting conditions or obligations. The contents are summarised as follows:

- a) The proposal is for a new food store that will support the growth of Hilton, and better serve the needs of the community.
- b) the increased number of parking spaces will reduce the number of cars parked on the street, therefore reducing traffic issues
- c) a new, more suitable Aldi in Hilton will allow for Hilton's economy to grow, increasing the number of jobs available, all while protecting existing employment.
- d) the new store presents a more suitable opportunity for Aldi to support the growth of Hilton.
- e) the new Aldi store should be approved because the location of the new store, outside of the village centre, will help to reduce the number of HGVs needing to route through Hilton
- f) the new store is an important next step in Hilton's growth.
- g) the new Aldi store should be approved because the larger sales area will allow for the public to have a greater variety of choice.
- h) support the proposals but consider a crossing would be required on Derby Rd to ensure the safe crossing of pedestrians visiting the proposed new store.
- i) the new store will be built to a higher environmental standard, helping Hilton ensure that residents are offered the best level of choice for a lower level of environmental impact.
- j) The car park at Huntspill Road is just too small which leads to customers parking in residential areas nearby
- k) the respondent and other local people supporting this proposal because it will be good for Hilton and the local community. and state they hope the council will approve this planning application.
- l) The scheme accords with the Local Plan and will be good for the village
- m) The proposal would see a better supply of important Food Retail than the existing premises offers by virtue of a larger store with a better car park and access. The proposal would not compromise the economic stability of the local centre as set out in the accurate sequential test. As such, subject to relevant conditions, this should be approved.
- n) one of many people who walk to the existing Aldi, the proposed location doesn't need many local people to drive there, but feel a proper pedestrian crossing is required to enable people to cross the Derby Road and A5132 onto the footpath heading south into Hilton, the road is busy and a hazard to cross due to limited visibility, if a main shop is to be moved the area needs to be improved for pedestrians.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

(2016) Local Plan Part 1 (LP1): Policy S1: Sustainable Growth Strategy; Policy S2: Presumption in Favour of Sustainable Development; Policy S3: Environmental Performance; Policy S5: Employment Land Need; Policy S6: Sustainable Access; Policy S7: Retail; Policy E2: Other Industrial and Business Development; Policy E7: Rural Development; Policy SD1: Amenity and Environmental Quality; Policy SD2: Flood Risk; Policy SD3: Sustainable Water Supply, Drainage and Sewerage Infrastructure; Policy SD4: Contaminated Land and Mining Legacy Issues; Policy SD5: Minerals Safeguarding; Policy BNE1: Design Excellence; Policy BNE3: Biodiversity; Policy BNE4: Landscape Character and Local Distinctiveness; Policy INF1: Infrastructure and Developer Contributions; Policy INF2: Sustainable Transport; Policy INF7: Green Infrastructure

(2017) Local Plan Part 2 (LP2): Policy SDT1: Settlement Boundaries and Development; Policy BNE5: Development in Rural Areas; Policy BNE7: Trees, Woodland and Hedgerows; BNE10: Heritage; Policy RTL1: Retail Hierarchy Hilton, Marston on Dove & Hoon Neighbourhood Development Plan (NDP) (2021): Policy N1: Noise Mitigation; Policy A1: Air Quality; Policy CP-T1: Highway Safety and Traffic Management; Policy F1: Flood Mitigation; Policy E4: Nature Conservation; Policy E5: Biodiversity; Policy L1: Recreational Facilities

Hilton, Marston on Dove & Hoon Neighbourhood Development Plan (NDP) (2021): Policy N1: Noise Mitigation; Policy A1: Air Quality; Policy CP-T1: Highway Safety and Traffic Management; Policy F1: Flood Mitigation; Policy E4: Nature Conservation; Policy E5: Biodiversity; Policy L1: Recreational Facilities

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)
Trees and Development Supplementary Planning Guidance
Employment Land Review (2023)

The relevant national policy and guidance is:

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

The relevant legislation is:

The Town and Country Planning 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:

- Policy and the principle of development
- Retail impact and the sequential test
- Design and impact upon the surrounding area
- Highway access and safety
- Residential Amenity
- Ecology and biodiversity
- Trees and landscaping
- Other issues
- Conclusion and planning balance

Planning assessment

Policy and principle of development

The Planning and Compulsory Purchase Act (2004) sets out in Section 38 (6) that planning applications that accord with an up-to-date development plan should be determined without delay unless material considerations indicate otherwise. The development plan for this area comprises the South Derbyshire Local Plan Part 1 (2016), the South Derbyshire Local Plan Part 2 (2017) and the Hilton, Marston on Dove and Hoon Neighbourhood Plan (2021). The National Planning Policy Framework is a material consideration in planning decisions as is the requirement that planning decisions must reflect relevant international and statutory requirements.

The National Planning Policy Frameworks (NPPF) sets out that the purpose of the planning system is to contribute towards the achievement of sustainable development. This is expanded upon in respect of the application of presumption in favour of sustainable development and Paragraph 11 c - d ii sets out what this means for decision making. The presumption is stated within Paragraph 12 not to alter the statutory status of the development plan as the starting point for decision making. Section 6 of the NPPF states that planning decisions should create the conditions in which investment, expansion and adaptation are possible for businesses (paragraph 85). In terms of location paragraph 87 identifies that planning decisions should recognise the specific location requirements of different sectors at a variety of scales and in suitably accessible locations. Of further relevance to the proposed location of this store are the content of paragraph 89 which identifies in growing rural settlements there may not be land available within the settlement and land outside boundaries may be required for development to support local economic and business needs. Guidance on how sites should relate physically to the existing settlements and benefit from appropriate transport facilities in order not to have an unacceptable impact upon local roads is also offered.

For applications including main town centre uses (of which this is one) that are proposed outside town centres the NPPF requires the LPA to ensure the development proposals comply with the requirements of the sequential test and are supported by a retail impact assessment.

Policy S1 of the local plan sets out at ii) that the sustainable growth strategy for the District includes the provision of employment land through regeneration of employment development sites in urban areas and other location which are, or could be well served by infrastructure or public transport. Within South Derbyshire the settlement boundaries are defined by Policy SDT1 (LPP2) the policy identifies Hilton as a Key Service Village. Policy SDT1 limits development in rural areas outside the settlement boundary to that which is allowed for by the provisions of Policy BNE5 which states that planning permission will be granted where the development is allowed for subject to a number of criteria. The first four criteria are not all required to be satisfied, however criteria v) should be satisfied in addition to one (or more) of the first 4 criteria of relevance to this application are:

- i) allowed for by policies H1, H22, E7, INF10, H24, H25, H26, H27 or H28; or
- ii) unavoidable outside settlement boundaries; and
- v) will not unduly impact on: landscape character and quality, biodiversity, best and most versatile agricultural land, and heritage assets

Policy E7: rural Development sets out support for development proposals which diversify and expand the range of sustainable employment activities on land outside of settlement boundaries provided that these support the social and economic needs of the rural communities of the District. It sets out that the Council will support proposals for the re-use, conversion and replacement of existing buildings and the development of new buildings where:

- i) it is supported by a sound business case
- ii) the local highway network is capable of accommodating the traffic generated
- iii) development will not give rise to any undue impacts on neighbouring land;
- iv) it is well designed and of a scale commensurate with the proposed use

The application site is outside the defined settlement boundary and is therefore assessed primarily

against the criteria of Policy E7, having regard for the provisions of the NPPF and other material planning considerations. The planning statement in support of the application sets out that the proposed store will provide an additional 10 local jobs in the operational phase and that existing staff will retain their employment being transferred to the proposed stores, which is considered to 'expand the range of sustainable employment opportunities' as set out within the introductory text of Policy E7. In respect of supporting the social needs of the rural community the supporting information indicates that the proposal will provide a higher standard of service required by customers in Hilton and the surrounding villages in order to address this requirement.

The supporting information further sets out that the development is supported by a sound business case on the basis that the existing Huntspill Road store, has a smaller footprint than that of ALDI's current minimum requirements and the characterisation of these stores. The information further sets out that the business case for the proposals is clear and evidenced by the trading conditions within the existing store, which would be addressed by the provision of a new store that better serves the needs of shoppers and generates the above.

Policy E7 in regards of the expansion of sustainable employment activities is considered to be addressed, it is not considered that the introductory text requires that proposals outside the settlement boundary should both diversify and expand such opportunities and therefore the expansion of opportunities in conjunction with the support for the social and economic needs of the rural community is considered to be addressed. In respect of the business case, the existing volume of trade and issues raised are considered to provide sufficient assurances that the proposed store can operate successfully, this is further expanded upon in the below section of the report. The additional criteria (ii) - v)) of Policy E7 are discussed in the following relevant sections of this report.

The proposed development is considered to accord with the requirements of Policy E7 of the Local Plan in respect of development within rural areas and therefore to satisfy the requirements of Policy BNE5 of the Local Plan (P2). Further regard is had for the NPPF in respect of considering the requirements for development to support the needs of growing rural communities. The development is therefore considered acceptable in principle.

Retail impact and the sequential test

The NPPF requires that a sequential assessment is undertaken for development proposals comprising town centre uses at out of centre locations. It requires the application of a hierarchy for the consideration of proposals for main town centre uses, which should be located first in the town centre, then in edge of centre locations and, only if suitable sites are unavailable and not expected to become available, should out of centre sites be considered. It further advises that when considering out of centre sites, accessible sites that are well connected to the town centre should be given preference.

In addition, when assessing applications for retail development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment where the development is over a proportionate, locally set floorspace threshold, which is 1000m square within the South Derbyshire Local Plan. It advises the assessment should include

- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

The government's commitment to delivering a strong and competitive economy is reiterated in the NPPF which requires that a network and hierarchy of town centres are defined within plans and that plans and decision promote their vitality and viability by allowing centres to diversify and respond to retail and leisure industry changes. It adopts a 'town centre first' approach in setting out if suitable and viable sites are unavailable within defined town centre boundaries it advises policies should allocate edge of centre sites, and that where insufficient suitable sites within, or at the edge of town centres are available policies should explain how identified needs can be met in other accessible locations that are

well connected to town centres.

Policy S7 of the Local Plan sets out that retail provision within South Derbyshire will be considered in Part 2 of the local plan. Part 2 Policy RTL1 states that applications for main town centre uses outside the centre of Hilton will be subject to the sequential test. Part E of the policy requires that all retail proposals over 1000m square will be required to submit a detailed retail impact assessment to measure the impact of the proposal on the vitality and viability of nearby centres and on committed and planned investment in those centres.

As noted in the preceding section Policy E7 i) sets out that development that expands and diversifies the range of sustainable employment activities outside of settlement boundaries will be supported where the proposal is supported by a sound business case.

The sequential test and retail impact assessment have been reviewed by Officers who have engaged support from a specialist retail planning consultancy. The consultant confirms within their report that the proposed development and most recently submitted Supplementary Planning and Retail Statement look at a range of sites within a 10-minute drive time that are located within town centres and provides assessment of these centres, they note that conclusion reached is that there are no sites at a preferable location within the search area. The review confirms that on this basis, and in agreeing with the conclusions compliance with the sequential test is demonstrated.

The applications propose a town centre use in the development of a retail foodstore at an edge of centre location. In the town centre first hierarchy set out in the NPPF the application site is considered to be an edge of centre location. The centre of Hilton is identified within Retail Hierarchy Map 3 of the Local Plan Part 2 as being to the west of the site, the site is connected via Derby Road from which the proposed development will take access. The site is therefore considered to further satisfy the advice of the NPPF in respect of being well connected to the existing centre.

In terms of retail impact the information supporting the application sets out that the majority of trade will be drawn from the existing ALDI which the development proposes to replace. Some trade draw is also outlined to be expected from other small convenience stores in Hilton and some larger 'main shop' trade from existing supermarkets in the surrounding areas. The Supplementary Retail Impact Assessment concludes that the proposals will not have a significant adverse effect on any designated centre within the study area and as such the requirements of Policy RTL1 are met in that the impact assessment has demonstrated no significant adverse effect upon the vitality and viability of existing town centres as a result of the proposed development.

The review by independent consultants further considers the Planning Retail Statement, Supplementary Planning Retail Statement and the Supplementary Retail Impact Assessment undertaken by the applicant and reviews the predictions including their own consideration of the likely sales uplift and trade draw. Though the report identifies issues with the data in respect of the trade draw from both supermarkets and convenience stores it confirms that, as the policy tests relate to the effects on defined town centres, and not individual outlets these are met. Furthermore, the main draw as a result of the proposals will be from the existing Aldi on Huntspill Road. It confirms that there will be no significant adverse impacts from the proposals in terms of trade draw.

The independent report also considers there to be issues with the cumulative assessment of impacts within the SRIA, notwithstanding this it concludes that though assessment of the alternative trading options of the existing store but acknowledges that the application does not include the existing store within its scope and sets out that the use of the existing unit for other main town centre uses, would also not be expected to raise cumulative impact concerns. The report concludes that the submitted information demonstrates compliance with the sequential test and though identifying issues with the impact assessment due to problems with the household survey data that the impact assessment is based on and incomplete consideration of cumulative impacts as not all trading options for the existing Aldi unit have been considered. However, they conclude that their own assessment of trade draw and cumulative impact should the existing store be used for comparison retail or leisure uses the would not be any resultant significant adverse impact.

The conclusions further advise that should approval be granted the retail floorspace, for both convenience and comparison sales as well as the net sales areas should be secured via condition of any approval. Subject to the inclusion of the recommended condition the application is considered to accord with the relevant planning policies.

Design and impact upon the surrounding area

The NPPF places emphasis upon good design, the emphasis continues through various sections and is stated within the social objective to play a role in shaping beautiful and safe places and sustainable communities. In addition, good design is considered important to make effective use of land, assimilating development into the surrounding area, providing a good range of travel options and fundamentally providing places that are attractive. Section 12 concentrates on well-designed places and sets out that planning decisions should ensure that developments function well and add to the quality of an area as well as being visually attractive due to the architecture, layout and landscaping, are appropriately sympathetic to the surroundings whilst establishing a sense of place using different features to create attractive, welcoming and distinct places to live that are of an appropriate mix of built and green infrastructure and minimise opportunities for crime and disorder.

Local Plan Policy BNE1 sets the districts requirements for good design quality placing an expectation on development to achieve safe and healthy environments that are easy to access and move around and that are appropriate to their location providing coherence, such as in the national forest and also conform to the Design Guide Supplementary Planning Document.

The proposed store is located to the northeast of the site furthest from the neighbouring residential dwellings and Derby Road. The supporting information sets out that regard has been had for the importance placed upon the retention of the existing boundaries in the relevant appeal decision. The majority of boundaries are proposed to be retained and, in some areas, enhanced as part of the site wide landscaping. This is considered to support the assimilation of the proposals into the surrounding area. The design of the store is somewhat dictated by its functional use, however the materials proposed, include cladding using different colours and materials including grey cladding, glazing and timber cladding. The proposed palette of materials are considered to be appropriate to the functional nature as well as serving to break up the large elevations of the store and reduce the impact upon the surroundings.

The supporting information also sets out the inclusion in the design of energy saving materials that support the thermal efficiency of the building and the use of air source heat technology for refrigeration as well as the inclusion of solar panels to the roof of the store. The proposals will need to comply with building regulations and, in the absence of policy requirements for developments to employ sustainability measures the inclusion of those measures stated is considered sufficient.

The design and materials proposed are secured via conditions of this recommendation which considers the application accords with policies in relation to design.

Highway access and safety

The National Planning Policy Framework requires in paragraph 114b that during the consideration of development proposals it should be ensured that safe and suitable access to the site can be achieved for all users. Where this is unachievable the Framework advises that development can be refused.

Policy S6 of the Local Plan looks to minimise the need to travel and make efficient use of transport infrastructure and services as well as encouraging use of sustainable transport modes as well as encouraging a shift away from private car use and supporting transport measures to address accessibility, and that this will be achieved by seeking patterns of development that minimise the travelling distances and make use of existing infrastructure or services and provide enhanced walking and cycling provision. It seeks to achieve this by seeking patterns of development that enable travelling distances to be minimal and make the best use of existing transport infrastructure and services. Policy INF2 of LPP1 requires that development will be granted permission where there is no undue detrimental effect upon local amenity, the environment, highway safety or the efficiency of either transport infrastructure or public transport of appropriate provision is made for safe convenient pedestrian access.

Policy T1 of the Hilton, Marston on Dove and Hoon Neighbourhood Plan sets out proposals for development should include safe pedestrian access and links to existing footpath, cycle routes and public transport and provide safe and secure cycle parking at shops.

The application proposed the access off Derby Road opposite the existing westbound bus stop, it confirms, as do the Local Highways Authority (LHA) that this will require relocating with the agreement of the service prover or providers. The application proposed in addition a new pedestrian access off Derby Road and, following discussion with the LHA, a zebra crossing between the north and south sides of Derby Road, that will be located east of the vehicular access and therefore between the east and westbound bus stops. In respect of pedestrian access and access to public transport the policy requirements are considered to be fulfilled. Cycle Parking and EV charging are proposed for customer benefit within the car park area and cycle storage for staff within a dedicated facility in the warehouse

The application has been supported by a number of technical documents that have modelled the existing and increased traffic levels as well as the capability of local junctions to accommodate any increased traffic flows resulting from the proposed development at this site. Officers have been supported by the Derbyshire County Council Highways team who have assessed the information supplied and, in some instances requested further information. DCC as the LHA have commented on the information several times and in their most recent comments conclude the development can be undertaken, subject to conditions securing the proposed access, delivery and off-site highways works without posing risks to highway safety or capacity.

It is noted that Hilton Parish Council and residents of Hilton have objected to the proposals on highway safety grounds however it is also considered that the majority of comments have been received prior to the submission of additional detail and that as the Highways Authority in their role as statutory consultee consider the development can be undertaken without risking highway safety this is considered acceptable. The request for pedestrian crossing points to the slip roads of the A50 is also noted, however such requests are not considered to be directly related to this development and therefore would not comply with the relevant legislation for planning obligations. However, the request for a pedestrian crossing point to the south of the site was considered to satisfy policy requirements and has therefore been secured via condition of this recommendation.

The application proposal is considered to accord with relevant highway requirements of policy subject to the recommended conditions.

In addition to the proposed development being considered acceptable, the LHA confirm that: *'the cumulative traffic impact of this application and the adjacent application (Planning Ref: DMPA/2024/0198) has been assessed for the proposed site access and is considered to be acceptable. In addition, the adjacent application (Planning Ref: DMPA/2024/0198) also considered the cumulative impact of both developments on its site access proposals as well as the wider road network. Following review, the local highway authority consider that it has been demonstrated that the traffic associated with both developments, the cumulative impact, can be satisfactorily accommodated on the local highway network should both applications be granted approval.'*

Outstanding Highways matters

Following the receipt of above comments, the LPA received communication from the Local Highway Authority stating, that in light of a recent survey of traffic volumes and junctions in the vicinity of the site undertaken by a separate department of Derbyshire County Council on behalf of the Hilton Parish Council, the applicant repeats the sensitivity test and cumulate impact of the development proposed and with the adjacent application (DMPA/2024/0198).

Officers have liaised with the Highway Officer and the Applicant and are confident that, prior to the presentation of the application at committee, they will be in a position to provide an update confirming if the development remains acceptable as set out above.

Residential Amenity

Paragraph 135 f of the National Planning Policy Framework sets out that planning decisions should create safe, inclusive and accessible places with a high standard of amenity for existing and future users. Paragraph 191 progresses to set out that new development should be appropriate for its location taking into account the likely effects on health and living conditions and in doing so mitigate and reduce to a minimum potential adverse impacts resulting from noise from new developments and limit the impact of light pollution from artificial light on local amenity.

Policy SD1 of the Local Plan part 1 sets out that the Council will support development that does not lead to adverse impacts in the environment or amenity of existing and future occupiers within or around proposed developments. The latter part of the policy considers the need for a strategic buffer between conflicting land uses in order that they do not disadvantage each other in respect of amenity issues such as noise.

Hilton, Marston on Dove and Hoon Neighbourhood Plan Policy N1 Noise Mitigation sets out that development in the plan area and close to the A50 or major road network shall be supported by a noise assessment to identify any mitigation measures necessary to reduce harmful impacts upon amenity and quality of life. and Policy A1 - air quality sets out that development that has a detrimental impact on existing air quality will be resisted and requires new development proposals should include an assessment of air quality impacts within the vicinity of the proposed development arising from traffic.

The proposed foodstore is stated within the supporting information to have opening hours from 08:00 hours to 22:00 hours – Mondays to Saturdays and Bank Holidays; and from 09:00 hours to 18:00 hours on Sundays. It is further set out within the supporting information that the noise levels anticipated to arise from servicing of the development. The Noise Impact Assessment is confined to assessing noise from external plant and deliveries. In both cases the noise levels are concluded not to be of an unacceptable level that would exceed levels set out in the relevant guidance documents. The council's Environmental Health Team have assessed the application and offer no objection to the proposals on noise grounds subject to the imposition of conditions securing compliance with the submitted information for delivery and plant.

The application is supported by an air quality assessment which makes recommendations for the construction period to minimise the impact of dust emissions, the report concludes that subject to implementation of the recommended mitigation the impacts during the construction period from dust emissions will not be significant. It is considered that it is therefore appropriate in the interests of ensuring there are no significant impacts upon air quality and amenity to secure these mitigation methods by condition of this recommendation.

In respect of lighting conditions are also requested that secure maximum lighting levels in order to make the development acceptable. No objection is offered on air quality grounds from any statutory consultee. Subject to inclusion of the recommended conditions and compliance with these the development proposals do not give rise to significant concerns regarding air quality, noise or light pollution and are therefore considered to accord with the relevant development plan policies.

Ecology and biodiversity

The environmental objective of sustainable development contained within the National Planning Policy Framework is to protect and enhance our natural, built and historic environment in a number of ways including improving biodiversity. Section 15 of the Framework sets out how policies and decisions should conserve and enhance the natural environment and establishes that planning decisions should protect sites of biodiversity value, minimise impacts upon and provide net gains to biodiversity.

South Derbyshire Local Plan Policy BNE3 (Part 1) sets out the commitment to supporting development that contributes to the protection, enhancement, management and restoration of biodiversity and delivers net gains to biodiversity. Policy E5 of the Hilton, Marston on Dove and Hoon Neighbourhood Development Plan states that proposals resulting in a net loss to biodiversity will not be supported and commercial proposals within the plan area should deliver a measurable net gain to Biodiversity.

Throughout the process of the application revised landscaping and biodiversity gain proposals have

been submitted. Though the determination date falls after the introduction of mandatory net gain it should be noted that the submission of the application predates the point at which development proposals are required to deliver a minimum 10% net gain to biodiversity. The proposed development has been revised thorough the planning process in order to produce a net gain (5.49%) which is considered to address the requirements of the development plan, Neighbourhood Plan and NPPF for this application. The Derbyshire Wildlife Trust have been consulted throughout the application process and have confirmed that the net gain is both appropriate and achievable and have recommended conditions to secure the net gain to biodiversity via a Landscape Biodiversity Enhancement and Management Plan which combines the landscape and biodiversity proposals across the site in order to secure the proposed net gain.

In respect of protected and priority species the Wildlife Trust have confirmed that the contents of submitted documents provide compressive assessment of the site and where relevant further recommended surreys have been undertaken and in some cases recommended dependent upon the timing of the proposed development. In respect of Water Vole and Great Crested Newt the response confirms that the survey work has demonstrated the impact upon these species and no further work or specific mitigation, nor compensation are required for these species. For bats, further survey work on building 1 and for Water Vole further survey work is now required due to the time elapsed between the last survey work, these are included as conditions within this recommendation. A further condition to secure additional Great Crested Newt surveys should the development not have commenced within 2 years of the survey (i.e. by May 2025) is also included in accordance with the recommendations of the ecological surveys submitted. Additional condition to ensure the safety of Great Crested Newt should they be encountered during development is also included to ensure the safeguarding of species.

The proposed development is considered to accord with the relevant policy, subject to compliance with the conditions of this recommendation.

Trees and landscaping

The NPPF identifies the role of trees in creating high quality places. Policy BNE7 of the Local Plan Part 2 requires that where development is proposed that could affect trees and hedgerows it will be required to demonstrate that appropriate measures are secured to ensure adequate root protection and buffers around these. Paragraph D of the policy further requires that where new planting is proposed consideration should be given to the different characteristics of the site. It recognises the potential impact upon the character of the district through different types of development including large modern developments and, in recognising this, focuses on the importance of high-quality design in the planning process.

The supporting information sets out that the development has been designed to ensure the retention of trees and soft landscaping at the boundaries of the site, having regard for the emphasis placed upon the existing landscape boundaries of the site within the relevant appeal decision. Several trees and a section of hedgerow will be removed to facilitate the access and parking arrangements proposed. The application has been reviewed by the Derbyshire Wildlife Trust who request a condition securing compliance with the Arboricultural information submitted is included within this recommendation. The policy context for protecting and retaining trees and hedgerows within development in order to secure environmental and amenity benefits is set out above and is considered to support the inclusion of the requested condition. Further landscaping to enhance the development is secured via the Landscape Biodiversity Enhancement and Management Plan detailed above.

Other issues

Cumulative impact of this proposal and application reference DMPA/2024/0198

Officers have sought independent retail advice from a retail consultancy on the impacts of this and the adjacent scheme in planning policy and retail impact terms should both applications receive approval. The report assesses three trading scenarios:

- A replacement Aldi, new foodstore on the Trenport site and a foodstore operator in the existing Aldi unit.

- A replacement Aldi, new foodstore on the Trenport site and a comparison operator in the existing Aldi unit.
- A replacement Aldi, new foodstore on the Trenport site and a leisure/food & beverage operator in the existing Aldi unit.

It further considered the potential for the existing Aldi to be subdivided and provide a mix of food, non-food and leisure units.

The assessment concludes that the approval of both this application and the adjacent Trenport application would not be expected to give rise to any additional retail impact concerns when compared with approval of one or other of the applications. regardless of the end use of the existing Aldi Unit. They do state that there may be a harmful impact upon Policy L3 of the Neighbourhood Plan which support the inclusion of retail development and associated parking and servicing as part of wider housing development retail development at The Mease housing allocation site (H1A of the neighbourhood plan). The report further states in respect of this allocation that it is understood to stem from identified need for improved retail provisions, and that if this is correct that should the need be met, albeit in a different location in the village, this is not a major concern in retail planning policy terms.

Archaeology

The County Council Archaeology Team have reviewed the application and confirm that due to surrounding archaeological potential and evidence of a road entering the proposed development site a written scheme of investigation is required to ensure the sites archaeological potential is investigated and recorded as appropriate. This is considered to meet the policy requirements and is therefore included in this recommendation.

Flood risk and drainage

The National Planning Policy Framework sets out that the planning system should take account of flood risk and new development should manage flood risk from all sources. All development should be directed away from areas of risk at flooding and no development should increase the risk of flooding. Paragraph 173 requires that new development does not increase flood risk in other locations.

Local Plan Policy SD2 sets out that the council will give priority to development in areas at lowest risk of flooding. It further requires suitable measures to manage surface water on all sites in order to minimise increasing the risk of local flooding as a result of the development. It sets out that development that could lead to changes in surface water flows or increase flood risk should utilise Sustainable Drainage Systems, unless it is demonstrated that ground conditions are not suitable for SUDS.

The application site lies within Flood Zone 1 and is supported by Drainage Strategy and an Operational and Maintenance report for private drainage proposed within the site. The drainage strategy assessed the potential for different surface water management techniques to serve the development and concluded, in accordance with the hierarchy that the site would need to connect to the public surface water sewers in Derby Road via a rising main as other methods were not considered feasible due to ground conditions or ownership. The report assesses the current run off rate and proposes to maintain this runoff rate in the drainage design. Foul water is proposed to be discharged to the foul water sewer in Derby Road.

Both the LLFA and Severn Trent have been consulted twice on this proposal. No response has been received from Severn Trent and the LLFA have declined to comment on the proposed application due to its' scale. In the absence of comments Officers have reviewed the proposed drainage design and consider that as it proposes to maintain the existing runoff rate and provides onsite attenuation it is appropriate to secure the design and maintenance of the proposed scheme via condition of this recommendation.

Conclusion and planning balance

The National Planning Policy Framework sets out that there are three dimensions to sustainable

development, economic, social and environmental and that these should be considered collectively and weighed in the balance when assessing the suitability of development proposals.

The application proposes the redevelopment of previously developed land to provide a retail foodstore adjacent the Hilton Settlement Boundary, the store is proposed to replace an existing smaller, store that carries less product range, overtrades, and experience parking problems at certain times. The proposed store would have greater parking provision and offer a greater product range as well as sustaining the employment opportunities that currently within the village and providing 10 new jobs. The application also proposes a net gain to biodiversity of 5.49%.

It is acknowledged that there will be visual impacts and increased impacts upon amenity through noise generation during the operational periods, however conditions are included within the recommendation to ensure that the harm arising from such impacts is not unacceptable. The increased traffic volumes are also understood; however, the Local Highway Authority has confirmed that the development will not exceed capacity on the network nor present risks to highway safety, furthermore highway improvements including the introduction of a pedestrian crossing are proposed as part of the development which will provide benefits not only to the application site but to the wider pedestrian connectivity in the vicinity. The adverse impacts of the development are considered to be controlled sufficiently by conditions included within this recommendation that the benefits are such to outweigh the drawbacks.

Advice upon the retail impact of the development is considered to demonstrate that the proposals will not significantly impact trade at any of the assessed stores such as would present a robust reason for refusal of the application. Furthermore, the cumulative impact of this and other proposed development would not have a significantly adverse retail impact.

There are no unresolved technical objections from statutory consultees who consider, subject to the recommended conditions, the development proposed is acceptable. Consequently, the application is recommended for approval subject to the conditions set out below.

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 accordance with the following plans
Proposed Site Plan, Drawing No. P003, Rev. P08, dated 12/04/2024
Proposed Floor Plan, Drawing No. P200, Rev. P04, dated 12/04/2024
Proposed Elevations, Drawing No: P201, Rev. P03, dated 22/02/2023
Proposed Roof Plan, Drawing No. P202, Rev. P01, dated 22/02/2023
Proposed Drainage Layout, Sheet 1, Drawing No 0050, Rev P03, dated 05/04/2023
Proposed Boundary Treatment Plan, P005, Rev, P03, dated 22/01/2024

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 in accordance with the requirements of Policy BNE1, Policy ~S6, Policy INF2, Policy SD2 and Policy BNE3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

3. Before the development hereby approved is commenced, details of a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority.

Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);

- a. Advisory routes for construction traffic;
- b. Any temporary access to the site;
- c. Locations for loading/unloading and storage of plant, waste and construction materials;
- d. Method of preventing mud and dust being carried onto the highway;
- e. Arrangements for turning vehicles;
- f. Arrangements to receive abnormal loads or unusually large vehicles;
- g. Highway Condition survey;
- h. Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

The development shall thereafter be undertaken in complete accordance with the approved details for the duration of the construction period.

Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development in accordance with the requirements of Policy INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

4. Before the development hereby approved is commenced (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) a Construction Environment Management Plan for Biodiversity (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 on protected or priority species or their habitats 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.
 - i) Robust measures to minimise adverse impacts on Hilton Gravel Pits SSSI and to minimise pollution during the construction works

The development shall thereafter be undertaken in complete accordance with the approved CEMP for Biodiversity.

Reason:

5. Before the development hereby approved is commenced a Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA. The LBEMP shall provide details for the creation, enhancement and management of habitats and species on the site post development and shall demonstrate a minimum net gain to biodiversity of 0.21 habitat units or 5.49%, in accordance with the proposals set out in the submitted Biodiversity Metric Assessment Revision D (Middlemarch, February 2024) and in broad accordance with the submitted landscaping details. The LBEMP should combine both the ecology

and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following:

- a) Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric.
- b) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
- c) Appropriate management methods and practices to achieve aims and objectives.
- d) Prescriptions for management actions.
- e) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
- f) Details of the body or organization responsible for implementation of the plan.
- g) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 5, 10, 15, 20, 25 and 30 years.
- h) Monitoring reports to be sent to the Council at each of the intervals above.
- i) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- j) Details of offset gullies and drop kerbs in the road network to safeguard amphibians.
- k) Requirement for a statement of compliance upon completion of planting and enhancement works.

The LBEMP shall also include details of the legal and funding mechanism by which the long-term implementation of the plan will be secured by the developer with the management body responsible for its delivery. The approved plan shall be implemented in complete accordance with the approved details

Reason: In order to provide and secure a net gain to biodiversity in accordance with the requirements of Policy BNE3 and to ensure the satisfactory appearance of the development in accordance with the requirements of Policy BNE1 of the South Derbyshire Local Plan and the National Planning Policy Framework.

6. Before the development hereby approved is commenced, including any site clearance or demolition works an updated Preliminary Bat Roost Assessment of Building 1 shall be undertaken and submitted to the Local Planning Authority for approval in writing.

In the event that any presence of bats roosting within the building is identified a further report detailing necessary measures to prevent harm to the bat population and any mitigation or licenses considered necessary shall be submitted to and approved in writing by the LPA.

Should the survey identify a license from Natural England is required this shall be obtained prior to the commencement of works.

Reason: For the avoidance of doubt and in accordance with the applicant's stated intentions and to adequately safeguard protected bat populations and their habitats during the construction of the development in accordance with the requirements of Policy BNE3 of the South Derbyshire Local Plan Part 1 and the National Planning Policy Framework.

7. Before the development hereby approved is commenced, including any site clearance or demolition works an updated Water Vole Survey shall be undertaken and submitted to the Local Planning Authority for approval in writing.

In the event that any presence of Water Vole or their habitat is identified a further report detailing necessary measures to prevent harm to the population and their habitat and any mitigation or licenses considered necessary shall be submitted to and approved in writing by the LPA.

Should the survey identify a license from Natural England is required this shall be obtained prior to the commencement of works.

Reason: In order to safeguard protected species and their habitats in accordance with the requirements of Policy BNE3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

8. Before the development hereby approved is commenced details for the permanent closure of the existing vehicular access shall be submitted to and approved in writing by the Local Planning Authority. The existing vehicular access shall be permanently closed in accordance with the approved details prior to the newly approved vehicular access being brought into first use.

Reason: In the interests of highway safety in accordance with the requirements of Policy S6 and Policy INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

9. The development hereby approved shall not be commenced, including any site clearance or demolition works, until:
 - a) a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and
 1. The programme and methodology of site investigation and recording
 2. The programme for post investigation assessment
 3. Provision to be made for analysis of the site investigation and recording
 4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 5. Provision to be made for archive deposition of the analysis and records of the site investigation
 6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation"

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

"c) The development shall not be brought into first use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured."

All works should be in accordance with a bespoke written scheme of investigation (WSI) prepared specifically to the needs of this site and the development, pre-approved by this office in writing before implementation. The WSI should be compiled by the archaeological organisation commissioned to undertake the works in the field and should be undertaken to recognised industry standards, in line with the appropriate qualitative standards of field practice and recording as outlined in key methodological literature (for example Barker 1993, Roskams 2001). All archaeological works should be undertaken by a suitably experienced archaeological organisation with suitably and most importantly demonstrably experienced archaeologists undertaking the work on the ground.

Reason: In order to ensure the protection of any important archaeological features within the site in accordance with the requirements of Policy BNE10 of the South Derbyshire Local Plan Part 2 and the National Planning Policy Framework.

10. Before the development hereby approved is commenced a scheme to protect the proposed development from ground gas ingress, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented in accordance with the approved details and a verification report, completed by a suitably qualified professional, confirming the installation of the scheme shall be submitted to and approved in writing by the local planning authority prior to the development being brought into first use.

Reason: In order to prevent pollution and protect amenity in accordance with the requirements of Policy SD1 and Policy SD4 of the South Derbyshire Local Plan and the National Planning Policy Framework.

11. If development on site has not commenced prior to 22/05/2025 an updated Great Crested Newt Survey shall be undertaken and submitted to the Local Planning Authority for approval in writing.

In the event that any presence of Great Crested Newt is identified a further report, prepared by a great crested newt licensed ecologist, detailing necessary measures to prevent harm to the population and any mitigation or licenses considered necessary shall be submitted to and approved in writing by the LPA.

Should the survey identify a Great Crested Newt license is required this shall be obtained prior to the commencement of works.

Reason: In order to safeguard protected species in accordance with the requirements of Policy BNE3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

12. The Development hereby approved shall not be brought into use until the highway improvements, offsite works and site access works comprising:
 - a. Proposed Site Access as shown on drawing AMA/45031/SK012
 - b. Pedestrian Crossing as shown on drawing AMA/45031/SK012
 - c. Relocation of westbound bus stop as shown on drawing AMA/45031/SK012

Have been fully constructed in accordance with the details specified.

Reason: In order to ensure the safe and free flow of traffic onto the highway in accordance with the requirements of Policy S6 and Policy INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

13. Before the development hereby approved is brought into first use a delivery plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include details of a servicing booking system that shall control the times of delivery and details of how deliveries will avoid cross over and peak shopping times.

Deliveries shall thereafter be undertaken in complete accordance with the approved details for the lifetime of the development.

Reason: In the interests of highway safety and to minimise the impact of vehicles servicing the development upon customers in accordance with the requirements of Policy S6 of the South Derbyshire Local Plan and the National Planning Policy Framework.

14. The Development hereby approved shall not be brought into use until the parking and turning facilities have been provided as shown on Drawing No. J21A56 P003 Rev P08.

Reason: In accordance with the submitted details in order to ensure the provision of adequate safe parking in accordance with the requirements of Policy INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

15. The lighting scheme for the new development shall be installed and operated to ensure that light intrusion into neighbouring residential windows shall not exceed 5 EV (lux) measured as vertical luminance. Any floodlights within the proposed lighting scheme shall be installed and operated to have full horizontal cut-off such that the Upward Waste Light Ratio does not exceed 5%. The Lighting scheme shall ensure that the main beam angle of all lights directed towards any potential observer is not more than 70° to reduce glare.

Prior to the opening of the foodstore hereby approved a validation report prepared by a competent person shall be submitted and approved in writing to the local planning authority to demonstrate the scheme has been fitted according with the agreed design and above planning conditions.

Reason: To safeguard the amenities of neighbouring dwellings in accordance with the requirements of Policy SD1 and Policy BNE1 of the South Derbyshire Local Plan, the South Derbyshire Design Guide Supplementary Planning Document and the National Planning Policy Framework.

16. The methods of delivery shall be undertaken in complete accordance with the details set out within the Noise Impact Assessment, project reference - 91300, dated 08/02/2023 and shall not exceed 3 deliveries within a 24-hour period.

Reason: In order to prevent harmful impacts upon amenity arising from unacceptable noise levels in accordance with the requirements of Policy SD1 of the South Derbyshire Local Plan Part 1 and the National Planning Policy Framework.

17. Before the development hereby approved is commenced above slab level a bat and bird box plan shall be submitted to and approved in writing by the LPA. The boxes shall be integrated and attached at eaves level. Prior to the development being brought into first use photographs of the boxes in situ shall be submitted to the LPA to fully discharge the condition.

Reason: In order to achieve a net biodiversity gain in accordance with the requirements of Policy BNE3 of the South Derbyshire Local Plan Part 1 and the National Planning Policy Framework.

18. 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 from 0800 to 1800 hours Monday to Friday and from 0800 to 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 order to protect the amenity of the area and adjoining residential dwellings in accordance with the requirements of Policy BNE1 and Policy SD1 of the South Derbyshire Local Plan Part 1 and the National Planning Policy Framework.

19. The development hereby approved shall be undertaken in accordance with mitigation measures detailed within tables 5.5 and 5.6 of the submitted Air quality assessment, (Document number: DRH-BWB-XX-ZZ-LA-RP-0001_AQA, Revision 4.0, dated July 2023 and received 18/08/2023).

Reason: In order to prevent adverse impacts from dust during the construction phase in accordance with the requirements of Policy SD1 of the South Derbyshire Local Plan and the National Planning Policy Framework.

20. The retail foodstore hereby approved shall be restricted to opening from 08:00hrs to 22:00hrs on Mondays to Saturdays and Bank Holidays and from 09:00hrs to 18:00hrs on Sundays.

Reason: For the avoidance of doubt and in accordance with the applicant's stated intentions and in order to safeguard residential amenity in accordance with the requirements of Policy SD1 of the Local Plan Part 1 and the National Planning Policy Framework.

21. In the event that Great Crested Newt are discovered at the site during the construction period all works should cease immediately and the developer / applicant should engage great crested newt licensed ecologist to inspect the site and provide recommendations. The Council should be informed of the presence of newts and the report of the ecologist should be submitted to and approved in writing by the Local Planning Authority.

Development should thereafter be undertaken in complete accordance with the approved details.

Reason: In order to safeguard the ecological interests of the site and any protected species in accordance with the requirements of Policy BNE3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

22. The refrigeration and heating plant installed shall be in accordance with the details set out within the Noise Impact Assessment, reference 91300 dated 08/02/2023 the plant shall be maintained and retained in conformity with the state noise emissions and shall not exceed the predicted levels.

Reason: In order to adequately safeguard amenity in accordance with the requirements of Policy SD1 and Policy BNE1 of the South Derbyshire Local Plan Part 1 and the National Planning Policy Framework.

23. The development hereby approved shall be carried out in strict accordance with the measures contained within the Arboricultural Method Statement, prepared by Middlemarch and dated July 2023.

Reason: In order to ensure the satisfactory protection and management of the existing trees within and adjacent the site in accordance with the requirements of Policy BNE7 of the South Derbyshire Local Plan Part 2, the Trees and Development Supplementary Planning Guidance and the National Planning Policy Framework.

24. The net sales area, meaning all areas to which the public have access, of the development hereby approved shall be no more than 1315m square, of which no more than 1052m square shall be used for convenience sales and more than 260m square shall be used for comparison sales.

Reason: In accordance with the requirements of Policy S7 of the South Derbyshire Local Plan Part 1, Policy RTL1 of the South Derbyshire Local Plan Part 2 and the National Planning Policy Framework.

25. The private drainage system shall be operated and maintained in accordance with the details set out within the Private Drainage O & M Manual, document reference: 60101w0003a, dated 11/04/2023.

Reason: In order to ensure that the development is served by adequate drainage systems that do not introduce or exacerbate flood risks in accordance with the requirements of Policy SD2 and SD3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

26. The Travel Plan hereby approved, shall be implemented and monitored in accordance with the regime contained within the Plan. In the event of failing to meet the targets within the Plan a revised Plan shall be submitted to and approved in writing by the Local Planning Authority to address any shortfalls, and where necessary make provision for and promote improved sustainable forms of travel to and from the site. The submitted details shall use Modeshift STARS Business to carry out this process and include mechanisms for monitoring and review over the life of the development and timescales for implementation. The approved Travel Plan shall be implemented, monitored and reviewed in accordance with the approved details.

Reason: To reduce vehicle movements and promote sustainable travel in accordance with the requirements of Policy S6 and Policy INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

27. Any shrub or hedge lost within 5 years of planting, or any tree lost within 10 years of planting shall be replaced by a like for like species of a similar size unless otherwise agreed in writing by the local planning authority.

Reason: In order to ensure good design and the retention of trees within the site in accordance with the requirements of Policy BNE1 and Policy BNE4 of the South Derbyshire Local Plan and the National Planning Policy Framework.

28. Before the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023). Such approved measures shall be implemented in full and retained in accordance with the approved details for the lifetime of the development.

Reason: To safeguard species and habitats in accordance with the requirements of Policy BNE3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

30. Before the foodstore hereby approved is brought into use a Local Labour Strategy (LLS) shall be submitted to and approved in writing by the Local Planning Authority. An Employment and Training Plan shall set out details of local labour initiative which the applicant / owner will implement to maximise the access of the local labour market within South Derbyshire and the surrounding area to employment opportunities at the foodstore. The plan shall include, but not be limited to:
- a. Range of opportunities to be offered including traineeships, apprenticeships and work experience opportunities
 - b. Details of specific local advertising scheme with evidence to be provided
 - c. Measures to assist long-term unemployed residents facing additional barriers (to include pre-employment training, guarantee of interviews)
 - d. The number of jobs to be created in various roles (traineeships, apprenticeships and work experience) and for those entering or re-entering the labour market as a proportion of the total number of jobs within 6, 12 and 18 months of opening
 - e. Monitoring reports to be sent to the LPA within 1 month of the 6-, 12- and 18-month target dates above.

Reason: In order to ensure the proposed development provides local employment opportunities in accordance with the requirements of Policy S1 and Policy E7 of the Local Plan and the National Planning Policy Framework

Informatives:

- i. The development hereby approved includes the carrying out of work on the adopted highway. You are advised that before undertaking work on the adopted highway you must enter into a highway agreement under Section 278 of the Highways Act 1980 with the County Council, which would specify the works and the terms and conditions under which they are to be carried out.

Contact the Highway Authority's Implementation team at development.implementation@derbyshire.gov.uk allowing sufficient time for the preparation and signing of the Agreement. You will be required to pay fees to cover the Council's costs in undertaking the following actions:

Drafting the Agreement
A Monitoring Fee
Approving the highway details
Inspecting the highway works

Planning permission is not permission to work in the highway. A Highway Agreement under Section 278 of the Highways Act 1980 must be completed, the bond secured, and the Highway Authority's technical approval and inspection fees paid before any drawings will be considered and approved.

- j. It is expected that contractors are registered with the Considerate Constructors scheme and comply with the code of conduct in full, but particularly reference is made to "respecting the community" this says: Constructors should give utmost consideration to their impact on neighbours and the public
- Informing, respecting and showing courtesy to those affected by the work;
 - Minimising the impact of deliveries, parking and work on the public highway;
 - Contributing to and supporting the local community and economy; and
 - Working to create a positive and enduring impression and promoting the Code.
- k. The CMP should clearly identify how the principal contractor will engage with the local community; this should be tailored to local circumstances. Contractors should also confirm how they will manage any local concerns and complaints and provide an agreed Service Level Agreement for responding to said issues.

Contractors should ensure that courtesy boards are provided, and information shared with the local community relating to the timing of operations and contact details for the site coordinator in the event of any difficulties. This does not offer any relief to obligations under existing Legislation.

- l. The development hereby approved, and any associated highway works required, may impact on the operation of the highway network during its construction (and any demolition required). You are advised to contact the Highway Authorities Network Management Team at www.derbyshire.gov.uk/transport-roads/roads-traffic/roadworks/roadworks.aspx before undertaking any work, to discuss any temporary traffic management measures required, such as footway, Public Right of Way, carriageway closures or temporary parking restrictions a minimum of eight weeks prior to any activity on site to enable Temporary Traffic Regulation Orders to be prepared and a programme of Temporary Traffic Management measures to be agreed.
- m. The applicant is advised they should contact the Environmental Health Section on all matters relating to food hygiene and health and safety and that food businesses must register with the local authority at least 28 days prior to opening for business.
- n. The applicant's attention is drawn to the comment of Derbyshire Wildlife Trust in their correspondence dated 16/11/2023, CCCC and 04/03/2024 and advised to have regard for these comments.

Item No. 1.3

Ref. No. [DMPA/2024/0361](#)

Valid date: 07/03/2024

Applicant: N Hollinshead

Agent: David Haston

Proposal: Construction of a livestock building with associated covered cattle handling area, construction of covered slurry/dirty water store, formation of surface water attenuation swale, landscaping and habitat creation works at Baldfields Farm, Ash Lane, Etwall, Derby, DE65 6HT

Ward: Etwall

Reason for committee determination

This application has been called to committee by Councillor Kirke as local concern has been expressed over a particular issue which members should consider.

Executive Summary

The application is for the construction of a livestock building with associated covered cattle handling area, construction of covered slurry/dirty water store, formation of surface water attenuation swale, landscaping and habitat creation works. There has been objections relating to the over-intensification of the farm, concerns regarding slurry and highway issues from neighbouring residents and the Parish Council. No objections have been received from statutory consultees subject to conditions. Therefore, it is recommended for approval subject to the conditions contained within the report.

Site Description

The application site Baldfields Farm, is located within the Parish of Ash. The farmstead and recently constructed livestock building is located centrally within the farm, approximately 2km to the north of Etwall, and approximately 770 meters north east of Ash Lane. With the proposed livestock building located adjacent to the existing farmstead to the east. The farm extends to approximately 99.7 hectares that has been farmed by the current farmer since September 2022. The proposed site is located within Flood Zone 1 and Agricultural Land Grade 3

The proposal

The proposal involves the construction of a livestock building with associated covered cattle handling area, construction of covered slurry/dirty water store, formation of surface water attenuation swale, landscaping and habitat creation works.

Applicant's supporting information

Planning Application Drawings

Proposed Elevations H0273-BF04-A1-PL-05 (07 March 2024)

Proposed Site Plan H0273-BF04-A3-PL-03 (07 March 2024)

Location Plan H0273-BF04-A3-PL-01 (07 March 2024)

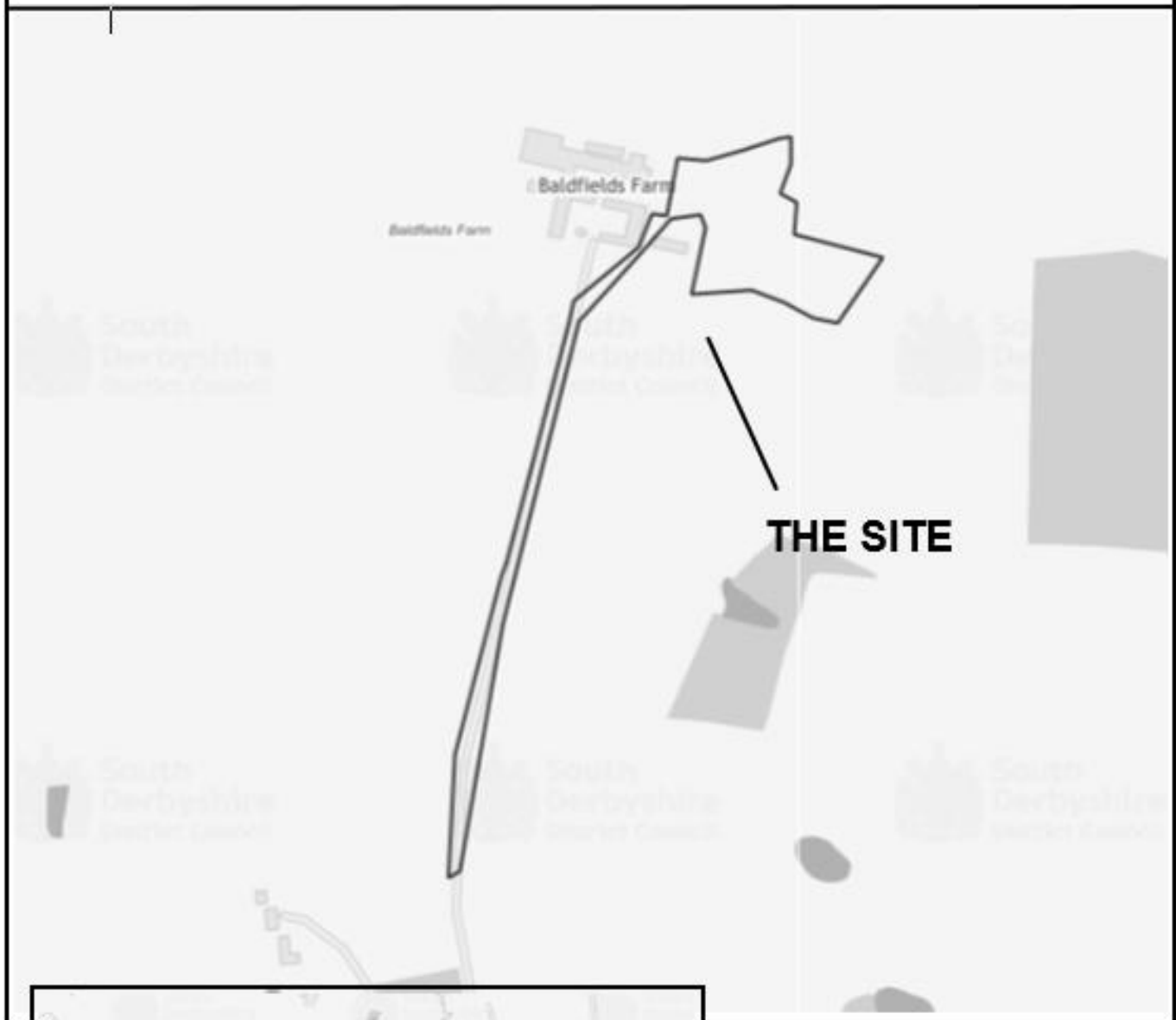
Landscape Plan H0273-BF04-A3-LP-01 (07 March 2024)

Existing Site Plan H0273-BF04-A3-PL-02 (07 March 2024)

Proposed General Arrangement Plan H0273-BF04-A1-PL-04 (07 March 2024)

The Preliminary Surface Water Calculations (aba Consulting 28 January 2024) sets out the details regarding the surface water run off and the opportunities to implement SUDs features throughout the application site.

DMPA/2024/0361 – Baldfields Farm, Ash Lane, Etwal, DE65 6HT



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South Derbyshire District Council, LA 100019461.2020

The Preliminary Ecological Appraisal (Brindle & Green February 2024) sets out a Phase 1 Habitat Survey and Protected Species Assessment and looks at the potential ecological constraints covered by the proposed planning application.

Biodiversity Metric 4.0 The Biodiversity Metric detailing the baseline habitat units onsite

The Planning, Design & Access Statement sets out the issues stating why the proposal is considered to be in accordance with the National Planning Policy Framework, in particular the presumption in favour of sustainable development and concluding the proposal would provide a development which would help to support the UK Agricultural Industry and the expansion of Baldfields Farm.

Landscaping Specification - This is to be considered alongside the landscape plan provided and outlines the proposed landscape planting to be undertaken as part of the development including the species, method of planting, protection and aftercare

Ammonia Impact Assessment (Isopleth Ltd. February 2024) - The report has been undertaken to look at the potential ammonia impacts associated with the erection of an additional cattle shed. This looks at the potential ammonia sources and modelling of dispersion has taken place.

Heritage Statement (Avalon Heritage January 2024) - The report has been commissioned to look at the potential impacts on the designated heritage assets within the vicinity of Baldfields Farm. It has identified that there is no designated heritage assets but there is a series of non-designated assets in the form of ridge and furrow within the vicinity of the site. It is concluded that the proposed developments will not result in any substantial or significant impact on the setting of the wider historic landscape.

Application Supplementary Information Note 1 - Construction Traffic Movements (25 April 2024) - A document providing full details regarding the construction traffic movements and instructions for HVG traffic movements for the site for the both the proposed development and also the current silage clamps which are under construction.

Application Supplementary Information Note 2 - Manure Management (03 June 2024) - A document providing full detail in response to the objection submitted by Etwall Parish Council, including how the Cattle will be housed and the store and treatment of slurry / dirty water on the farm.

Application Supplementary Information Note 3 – Highways (04 June 2024) – A document providing a response in relation to objections received relating to Highways issues.

Relevant planning history

DMPN/2023/1426 - Certificate of Lawfulness for proposed installation of silage clamps - Approved 14/02/2024

DMPN/2023/0190 - Prior notification for the erection of a livestock building and associated concrete aprons - Approved 9/03/2023

Responses to consultations and publicity

Derbyshire County Highway Authority

No objection (May 2024). This is based on the further information regarding the movement of HGVs during the construction period with regard to the applicant's clarification that the construction period is anticipated to be approximately 100 days... a total of 217 HGV deliveries are expected.

First Response (April 2024) - Although there are no highway objections to the planning application in principle further details are required with regards to the movement of HGVs during the construction period. It is noted that the access road from Ash Lane is narrow and does not permit passing of large vehicles. Details are therefore required as to how HGV movements will be managed to ensure that HGVs do not meet on the access road thereby creating issues for neighbouring properties and on Ash

Lane itself. Upon receipt of the requested information further comments will be issued.

Derbyshire Wildlife Trust

We have reviewed the information submitted, inclusive of the Preliminary Ecological Appraisal and Biodiversity Metric 4.0 (Brindle & Green, February 2024) and Derbyshire Biological Records Centre (DBRC) and have the following comments and recommendations to make.

Nesting Birds: No hedgerow removal is currently proposed for the scheme and therefore nesting birds are not thought to be impacted by the development.

Bats: The current proposals indicate that the native hedgerow will be retained. Impacts on foraging and commuting bats are therefore considered to be low, however precautionary measures pertaining to a sensitive lighting scheme should be employed to safeguard bats during / post construction

Great Crested Newt (GCN): The PEA indicates that a single pond was identified within 250m of the application site. P1 a woodland pond lies approximately 230m south of the application site and was given a HSI score of 'Average', connecting to the application site via hedgerows and modified grassland. The proposals will seek the partial clearance of sub-optimal terrestrial habitat in the form of modified grassland. There is therefore a low risk that the development could adversely affect great crested newt and precautionary measures are advisable.

Reptiles: Due to the connectivity to the wider environment, reptiles may utilise the site for commuting purposes episodically. The proposals will seek the partial clearance of sub-optimal terrestrial habitat in the form of modified grassland. There is therefore a low risk that the development could adversely affect great crested newt and precautionary measures are advisable.

Badger : The site offered suitable commuting and foraging habitat for badger including modified grassland and a single native hedgerow. Records of badger are also present locally. The proposals will seek the partial clearance of modified grassland. Precautionary measures are therefore advisable to safeguard this species during construction.

Brown Hare & Hedgehog : The site offered suitable commuting and foraging habitat for brown hare and hedgehog; records are also present locally. The proposals will seek the partial clearance of modified grassland. Precautionary measures are therefore advisable to safeguard this species during construction

The Biodiversity Metric 4.0 indicates that the scheme can achieve a total net unit change of +10.78% (0.16 units) habitat gain and a no net loss of hedgerow units by enhancing off-site modified grassland with land ownership. The development therefore does provide biodiversity gains as stipulated by the NPPF. The habitat creation and enhancements are deemed proportionate and achievable for the scheme. The proposals will seek the retention of small areas of modified grassland and the implementation of a sustainable urban drainage feature to achieve 'Good' condition via the seeding of meadow mixture for wetlands (Emorsgate EM8) and managed as a traditional meadow.

Off-site implementations include and enhanced area modified grassland from 'Poor' condition to 'Good' condition via re-seeding with a general-purpose meadow mixture and managed as a traditional meadow.

No hedgerow baseline information is currently included within the metric. The current plans indicate that sections of off-site hedgerow (within land ownership) will be enhanced via gap-filling. It is therefore recommended that the on-site hedgerow baseline and off-site enhancements are included within the submitted BNG metric to establish the total hedgerow unit change.

Environmental Health

No comments or objections.

Etwall Parish Council

As there is no Parish Council in the area of the proposed development (Ash CP) Etwall Parish Council considered the above application at their meeting on the 13th May 2014 at the request of a nearby resident. As noted in the Derbyshire County Council Highways response, the farm is located on narrow lanes and construction HGV traffic needs management.

We understand that significant building work of a similar nature has already taken place under permitted development with construction traffic having a severe detrimental effect on the lanes.

This is significantly impeding access to local residents homes due to potholes, damaged verges etc. In our opinion, this damage should be made good by the developer.

We cannot find any comment on how the slurry etc after collection in the slurry tank will be disposed of. There appears to be no treatment facility and the land owned by the farm appears to be too small for the volumes anticipated. We are concerned that polluted run-off from the land due to slurry spreading will go into the nearby streams causing pollution.

In view of the above, Etwall Parish Council OBJECT to the proposed development. As noted in the Derbyshire County Council Highways response, the farm is located on narrow lanes and construction HGV traffic needs management.

Lead Local Flood Authority

Due to current workload the LLFA are only able to respond to major planning applications.

Peak and Northern Footpath Society

No objection. The applicants have very carefully considered the impact on users of the extensive public rights of way network around the application site. The proposed mitigation measures would generally be effective. The advantages of permitting the proposed development would outweigh the potential harmful impact on rights of way users.

Four representations have been received from members of the public, these can be summarised as follows:-

- This is phase two of a plan to turn Baldfields Farm from a small farm of under 100 cattle to a industrial complex with over 350 cattle
- The previous two permissions residents have been unable to express concerns over as they were not notified, therefore they only realised what was happening the HGVs started delivering to the farm with building material
- Within Ash there are no turning or passing places for when the vehicles meet
- The road surface has already become very damaged and degraded
- Signage was only installed after previous road damage
- The entrance to the farm was originally via a cattle grid and adjacent access gate. Now the cattle grid has been filled in and a padlocked gate installed.
- There is a potential solution to all of the issues regarding the highway as an alternative access to Baldfields Farm directly from Ash Lane could be constructed north-west of Ash.
- It is stated that farm workers will reside at the farm. At present the farmhouse is in poor state and there is no alternative accommodation.
- A visit by the Planning Committee is welcomed

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 relevant policies are:

- 2016 Local Plan Part 1 (LP1) : S1 (Sustainable Growth Strategy) ; S2 (Presumption of Sustainable Development) ; S6 (Sustainable Access) ; H1 (Settlement Hierarchy) ; BNE1 (Design Excellence) and INF2 (Sustainable Transport)
- 2017 Local Plan Part 2 (LP2) : SDT1 (Settlement Boundaries and Development) ; BNE5 (Development in Rural Areas) ; BNE6 (Agricultural Development) and BNE7 (Trees , Woodland and Hedgerows).

National Guidance:

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

Local Guidance:

- South Derbyshire Design Guide SPD (Design SPD)

Planning considerations

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

- Principle of Development;
- Design;
- The effect of the proposal on the environment; and
- Highways

Planning assessment

Principle of Development

The Planning and Compulsory Purchase Act (2004) sets out in Section 38 (6) that planning applications that accord with an up-to-date development plan should be determined without delay unless material considerations indicate otherwise. The development plan for this area comprises the South Derbyshire Local Plan Part 1 (2016) and the South Derbyshire Local Plan Part 2 (2017). The National Planning Policy Framework is a material consideration in planning decisions as is the requirement that planning decisions must reflect relevant international and statutory requirements.

In accordance with Policy SDT1 the site is located outside of a settlement boundary therefore development is limited to that considered acceptable inter alia by Policy BNE5. This policy allows for development within rural areas to be granted if it is considered essential to a rural based activity and will not unduly impact upon landscape character, quality , biodiversity , BMV land and heritage assets.

Policy BNE6 states that Agricultural Development will be allowed provided that

- i) it is suitable for its intended purpose; and
- ii) it is of an appropriate scale and design; and
- iii) it is sited in proximity to existing agricultural buildings, wherever practicable; and
- iv) appropriate landscape mitigation is included wherever necessary

The development is considered essential for the further development of the farm which involves the rearing and finishing of beef cattle, as the proposed livestock building will accommodate up to an additional 140 cattle at any point. In recent years the application site has had a new livestock building constructed which was approved under Schedule 2, Part 6 Class A of the General Permitted Development Order (DMPN/2023/0190) , this then means that the farm can house up to 270 cattle at the farm.

Design

The proposed livestock building is of a traditional agricultural form which is to be constructed of concrete panels to the lower walls on the eastern and western elevations with timber cladding to the upper walls. The roof is proposed to be made of grey cement roof sheets with a ventilated light ridge . The proposed slurry store is to be made from walls of concrete panels and then to have a green coloured reinforced PVC tensioned cover roof. The design of the slurry store has been done in accordance with the guidance provided by the Department for Environment , Food & Rural Affairs and The Environment Agency. This is a strict guidance that has to be followed by all farmers. The proposed buildings are considered to be appropriate within the existing farm location and will reflect the existing character of the surrounding agricultural context. Although the application proposals will result in new built form within the rural countryside, the scale and nature of the proposals are considered to be appropriate and will not have a negative impact on the surrounding landscape character.

The effect of the proposal on the environment

The applicant has provided a Preliminary Ecological Appraisal and a Biodiversity Metric as part of the submission of the application. This detailed information has been reviewed by Derbyshire Wildlife Trust. Conditions have been suggested should the application be approved to ensure as a precautionary measure there is enhanced protection of the following species:

- Foraging and Commuting Bats ,
- Great Crested Newt (GCN) ,
- Reptiles ,
- Badger, and
- Brown Hare & Hedgehog

Through the Biodiversity Impact Assessment and Metric submitted it is noted that the proposals will involve the partial clearance of modified grassland and bare ground to allow for the construction of the livestock building, cattle handling area , water store , swale and landscaping. It has been verified that there will be a net gain of 10.78% and no net loss of hedgerow units, this is to be done by enhancing off-site modified grassland within the applicants land ownership. This grassland is currently assessed as 'Poor' and it is proposed to be made to 'Good' condition via re-seeding and traditional meadow management.

The cattle at the farm is accommodated on a straw-based bedding system therefore the vast majority of manure produced is 'solid' farmyard manure. The cattle that is proposed to be accommodated within the proposed livestock building would also live on the straw based bedding system. This means that there is minimal slurry produced at the farm itself through the livestock living on the farm. The store for slurry / dirty water is still required for the minimal amount of slurry that might be produced, and also for the storage of rainwater that is produced through various methods including:

- run-off from 'dirty' yards
- run-off from farmyard manure temporarily stored on the concrete surfaced areas to the north of the livestock buildings

Despite the contents of the store being very diluted and having a low organic matter content, the dirty water still would fall into the definition of 'slurry' as defined under the **Water Resources (Control of**

Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations (SSAFO Regulations).

Therefore in accordance with **The Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018 (known as 'The Farming Rules for Water')** the 'slurry' still needs to be collected, stored and applied to the land at the appropriate time of the year. These rulings are enforced by the Environment Agency who provide inspections to farmyards to ensure that the installations of slurry, silage and fuel storage is in accordance with the regulations. The National Farmers Union (NFU) provides guidance on this and assistance to all farmers to ensure that they are compliant with the regulation. Baldfields Farm is not located within a NVZ (Nitrate Vulnerable Zone), therefore under the regulations state that there must be at least four months slurry storage over a winter period at a farm in this location. There is legal obligations placed upon the farmer to comply with the eight rules - of which five specifically relate to the storage and application of organic manure. This includes that the manure must not be stored or applied within a certain distance to inland freshwater, applied if the soil is water logged or frozen , or if there is a significant risk of causing environmental pollution from soil erosion or run-off. In order to demonstrate compliance with these Regulations to DEFRA, Manure Management and Nutrient Management Plans will in due course need to be prepared. This work is already under way and will be finalised before the new livestock building and slurry/dirty water store are brought into operation.

Highway

The proposed development is accessed from Ash Lane which is a narrow quiet country road. Due to the recent development of the farm all taking place within a short space of time there has been concerns raised by neighbours and the Etwall Parish Council regarding the condition of the lane and the amount of HGVs that have been in used Ash Lane as the construction route. Following consultation with the County Highway Authority they requested for further information regarding the movement of HGVs during the construction period as Ash Lane due to being narrow does not permit the passing of large vehicles. Further information was supplied by the agent on the details of the construction traffic movements stating ***The construction period is anticipated to be approximately 100 days... a total of 217 HGV deliveries are expected.*** This detail was then provided to the highway authority on when the peak movements would be expected and how the staff are expected to arrive. Following this information there is no objection to the application from the Highway Authority. It is noted that this is the same access route that is currently in use for the construction of the approved silage clamps.

The objections from neighbours are noted including the request for conditions to be imposed on the development should it be granted permission, these include for no construction until a bypass is created as an alternative access to Baldfields Farm, the imposition of a weight restriction on Ash Lane, and a restriction on the number of cattle to be accommodated on the farm. These are all conditions that would not be considered acceptable as it is not considered that they meet the statutory tests set out in Paragraph 55 of the National Planning Policy Framework for which a condition has to satisfy the following tests:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

Given the lack of objection from the Highway Authority, it is not considered that the conditions suggested would be necessary to make the development acceptable.

Should permission be granted a condition would be in place for the approval of a construction management plan which will include details of routes for construction traffic, hours of operation and a proposed temporary traffic management plan this includes the requirement for signage for the delivery lorries . Further objections regarding the condition of the highway surface are noted, it has been witnessed that there are minor elements of damage to the road surface. However the maintenance of the road something that is a highway matter and not a planning matter. It is considered that the proposal would comply with policy INF2 of the Local Plan.

Conclusion and Planning Balance

The proposal is considered to be in accordance with Policy BNE5 and BNE6 of the Adopted Local Plan whereby agricultural development is supported. These policies allow for the agricultural based development if it is demonstrated that it is of an appropriate scale and design, sited in proximity to existing agricultural buildings and appropriate landscaping mitigation is included. Additionally, NPPF paragraph 88 encourages planning decisions to enable the development of agricultural business. Concerns have been raised regarding the HGV construction traffic from the recently constructed developments that were approved under a Certificate of Lawfulness and a Prior Notification that was submitted to the Council, and also the potential that this will lead to over intensification of the farm. There are no objections from Derbyshire Highway Authority, therefore it is considered suitable to approve the proposal subject to conditions. Ecological issues are considered to be adequately addressed with the recommended 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

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 Elevations H0273-BF04-A1-PL-05 (07 March 2024)
Proposed Site Plan H0273-BF04-A3-PL-03 (07 March 2024)
Location Plan H0273-BF04-A3-PL-01 (07 March 2024)
Landscape Plan H0273-BF04-A3-LP-01 (07 March 2024)
Existing Site Plan H0273-BF04-A3-PL-02 (07 March 2024)
Proposed General Arrangement Plan H0273-BF04-A1-PL-04 (07 March 2024)
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 installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. 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 order to safeguard protected and/or priority species from undue disturbance and impacts.

4. Due to the low risk of herptiles (including Great Crested Newts) being present, a Method Statement for site clearance shall be produced and submitted to the LPA for approval. This shall include reasonable avoidance measures such as seasonal timings, strategic clearance of vegetation and any potential refugia, and a watching brief. It shall also include instructions in the unlikely event that great crested newts are encountered. The approved Method Statement shall be implemented in full, and a short statement of compliance submitted to the LPA upon completion of clearance works.

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

5. All excavations shall be covered overnight or else have an escape ramp to prevent entrapment of badgers, hedgehogs and other wildlife. All pipework greater than 150 mm shall be blanked off at the end of the day and chemicals shall be stored securely. Topsoil mounds shall be checked for badger activity prior to removal or re-use. An ecologist shall be contacted if any evidence of badger activity is found within the application area during development.

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

6. Site clearance shall be undertaken in a manner by which to safeguard hedgehogs and brown hare. All rubble piles, leaf piles, compost heaps, dense vegetation and other general debris that could be used for shelter shall be carefully cleared by hand to a location such as a skip, other container or raised pallets. This shall be undertaken prior to machinery entering site and avoiding the core hibernation period for hedgehogs (November-February). If a hedgehog is discovered during clearance, it shall be moved immediately and carefully with gloved hands to an area of shelter such as beneath adjacent hedgerow/bushes. Brown hare should be directionally guided away from clearance works if discovered. A short statement of compliance shall be submitted to the LPA upon completion of clearance works to discharge this condition.

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

7. A Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the LBEMP is to provide details for the creation, enhancement and management of habitats and species on the site post development, in accordance with the proposals set out in the submitted Biodiversity Metric (Once completed). The LBEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following:-
 - a) Description and location of features to be retained, created, enhanced, and managed, as per the approved biodiversity metric.
 - b) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
 - c) Appropriate management methods and practices to achieve aims and objectives.
 - d) Prescriptions for management actions.
 - e) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
 - f) Details of the body or organization responsible for implementation of the plan.
 - g) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 5, 10, 20, 30 years.
 - h) Monitoring reports to be sent to the Council at each of the intervals above
 - i) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
 - j) Detailed habitat enhancements for wildlife, in line with British Standard BS 42021:2022.
 - k) Detailed specifications for open water habitats to provide biodiversity benefits.
 - l) Requirement for a statement of compliance upon completion of planting and enhancement works.

The LBEMP shall also include details of the legal and funding mechanism(s) by which the long-term 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 order to safeguard and enhance habitat on or adjacent to the site in order to secure an overall biodiversity gain.

8. No development, including preparatory works, shall commence until space has been provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, and parking and manoeuvring of employees and visitors vehicles, with this space laid out in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. Once implemented, the approved facilities shall be retained free from any impediment to their designated use 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.

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

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

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, or any order revoking and re-enacting that Order with or without modification, the building shall be used for agricultural purposes in connection with the farming of the agricultural land within the agricultural unit only.

Reason: The use of the building as part of another agricultural enterprise or for other uses could lead to the intensification in the use of a substandard access, contrary to the best interests of highway safety.

11. Within 12 months of the slurry lagoon being brought into use, and unless the local planning authority has previously confirmed that it is not necessary, a written scheme for the containment and storage of manure, including a timetable for implementation, shall be submitted to and approved in writing by the local planning authority. Any such scheme shall be implemented and thereafter maintained in accordance with the approval, unless as may otherwise be agreed in writing with the local planning authority.

Reason: To protect the amenity of the locality and for people living and/or working nearby, in accordance with local plan policy SD1.

Item No. 1.4

Ref. No. [DMPA/2023/1654](#)

Valid date: 03/01/2024

Applicant: East Midland Homes

Agent: Tyler Parkes

Proposal: The Variation of Condition 2 (Approved Drawings), 3 (Facing Materials), 4 (Door/Window Details), 5 (Architectural Details), 9 (External Land Levels and Retaining Walls), 11 (Electric Vehicle Charging), 15 (Ecology), 16 (Invasive Weeds), 17 (Ecology CEMP), 20 (Biodiversity Enhancement), 21 (Bird Nesting), 28 (Construction Dust and Noise), 29 (Ground Investigation Sands), 30 (Ground Investigation Alluvium), 31 (Ground Investigation Alluvium and Ground Gas), 35 (Construction Method Statement), 36 (Highway Details in Surface Water), 39 (Surface Water form Highway), 42 (Highway Future Maintenance), 43 (Car Ports/Parking), 46 (Soft Landscaping), 47 (Hard and Soft Landscaping), 48 (LEAP), 51 (Tree Protection Plan), 52 (Accessibility Standards), 53 (Surface Water Management), 54 (Construction Water Management), and 56 (Foul Water Drainage) of permission ref. DMPA/2019/1176 for the erection of 100% affordable 70 unit residential scheme with associated works on Land at SK2817 5619 off Oak Close, Castle Gresley, Swadlincote, Derbyshire.

Ward: Linton Ward

Reason for committee determination

This variation of condition planning submission is being reported to Planning Committee due to the call-in request received from Cllr Pegg with the reasoning for this cited as 'multiple issues' with no specific points of concern/ objection outlined.

No comments have been received following formal consultation with the Castle Gresley Parish and Linton Ward, and no formal comments of concern or objection have been received from neighbours or members of the public regarding this variation of condition submission.

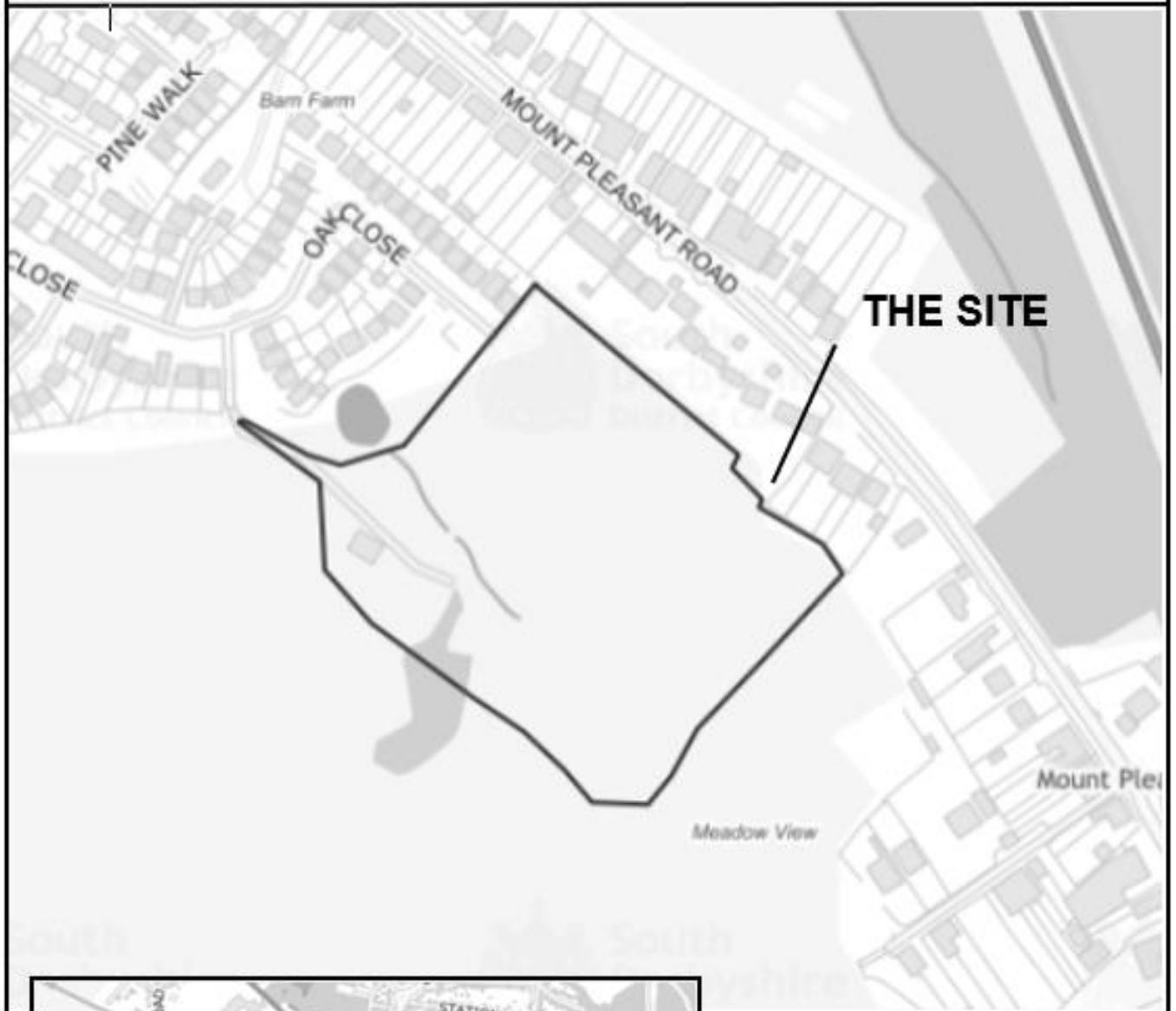
Executive Summary

The proposal is for the variation of planning conditions attached to the scheme of development permitted by the Planning Inspectorate on 05 September 2022 under the reference of APP/F1040/W/21/3287625. Planning permission was hereby granted for the erection of 100% affordable 70 unit residential scheme with associated works on Land at SK2817 5619 off Oak Close, Castle Gresley, Swadlincote. The principle of the development has therefore been established under this host permission. The variation of condition submission currently under consideration comprises of conditions to be revised/ amended in accordance with new revised/ amended details.

The scheme of development forming this variation of condition application has been reviewed and considered in conjunction with the scheme of development previously permitted at appeal. Site Layout - Ref. 2494-33 Rev.K presents the previously approved site layout. The main changes under consideration include:

- **Site Layout:** Minor alterations to the proposed site layout are proposed. These changes include an increased provision of tree planting including within the amenity area of plots, within open areas across the site, to the across the north of the site, and to the south of the site including surrounding the detention basins. Re-design access pathways from parking areas to dwellings with most paved

**DMPA/2023/1654 – Land at SK2817 5619 off Oak Close, Castle Gresley,
Swadlincote, Derbyshire**



South
Derbyshire
District Council

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areas now more tightly positioned between the parking areas and built form of the dwellings. A provision of 140 parking spaces is proposed to serve the 70 units as previously permitted. Amongst other minor layout changes, alterations to the layout of the pathways running through the public open space to the south of the site are also proposed. Redesigned planting is proposed within the drainage basins and relocation of the proposed timber play equipment.

- **Positioning of Plots:** The layout of the proposed plots remains largely as previously permitted. There are no significant alterations to the positioning of the proposed built form which facilitates the x70 unit residential scheme.
- **Land Levels:** It is proposed to revise the finished floor levels within 15 plots and rationalise the external levels strategy. Changes would aid the achievement of the accessibility standards and improve external levels locally to the affected plots and simplify, reduce, or remove the need for external retaining structures. Most of the finished floor level changes are minor. The most notable of the finished floor level changes affects Plot 65 (+1725mm) to Plot 68 (+2950mm) to the south-west of the site and associated ground levels within the locality.
- **Accessibility Standards:** Amendments are proposed to both the external and finished floor levels which in part seek to improve the accessibility that could be achieved across the site. An assessment of the proposed scheme and accessibility standards is set out within the accompanying Technical Review of Condition 52 and Part M Requirements and associated drawing E106-1011-P02 Site Plan – Part M Compliance; also provided for information is drawing E106-1017-P02 which shows the parking for M4(2) dwellings.
- **Maintenance Corridor:** The maintenance corridor to the eastern side of the site, which stretches the full extent of this boundary, is proposed to be increased in size and accessibility. Double gates are proposed to the rear of Plot 21 to enable sufficient access to the area to the rear of Plot 21 to Plot 31 to enable EMH to undertake landscape maintenance. The provision of landscaping and planting is not impinged upon by these alterations. The provision of trees is increased with additional trees added in the rear amenity of Plot 21 to Plot 24.
- **Drainage Basins:** Alteration to the shape of the storm water detention basins are proposed. The shape of the northern basin has been amended to provide a more natural shape and better fit within the surrounding topography. The detailed design of the southern basin, providing off-site land drainage, has also been developed to take into account additional topographical survey.

In addition to this, conditions are also proposed to be revised/ amended in accordance with details previously approved. Relevant technical consultation input has been requested and received to inform the assessment of the technical information comprised within this proposal. It is considered that the application is acceptable, subject to the conditions listed in the report.

Site Description

The site under consideration is addressed as Land Off Oak Close, Castle Gresley Swadlincote. The site is accessed from Oak Close which is a 5.5m, 30mph speed limit, dual flow, single lane highway with pedestrian infrastructure to both sides lit with street lighting and dropped kerbs. Oak Close itself is accessed via Cedar Road which leads onto Bass's Crescent or Arthur Street both leading onto Linton Road providing access to the wider area, all of which are adopted highways. The site has varying topography and is mostly sloping. To the north, west and east are existing residential properties of general single and two storey nature in a variety of forms such as semi-detached and detached properties.

The Proposal

The applicant is seeking planning permission for the proposed Variation of Condition 2 (Approved Drawings), 3 (Facing Materials), 4 (Door/Window Details), 5 (Architectural Details), 9 (External Land Levels and Retaining Walls), 11 (Electric Vehicle Charging), 15 (Ecology), 16 (Invasive Weeds), 17 (Ecology CEMP), 20 (Biodiversity Enhancement), 21 (Bird Nesting), 28 (Construction Dust and Noise), 29 (Ground Investigation Sands), 30 (Ground Investigation Alluvium), 31 (Ground Investigation Alluvium and Ground Gas), 35 (Construction Method Statement), 36 (Highway Details in Surface Water), 39 (Surface Water form Highway), 42 (Highway Future Maintenance), 43 (Car Ports/Parking), 46 (Soft Landscaping), 47 (Hard and Soft Landscaping), 48 (LEAP), 51 (Tree Protection Plan), 52 (Accessibility Standards), 53 (Surface Water Management), 54 (Construction Water Management), and

56 (Foul Water Drainage) of permission ref. DMPA/2019/1176 for the erection of 100% affordable 70 unit residential scheme with associated works on Land at SK2817 5619 off Oak Close, Castle Gresley, Swadlincote, Derbyshire.

The applicant has outlined that amendments are proposed in respect of external and finished floor levels, repositioning of Plots 21, 22, 65 and 66, amendments to the parking associated with Plot 20, alterations to the maintenance corridor along the eastern boundary and the shape of storm water detention basins, as well as clarification and variations to the accessibility standards.

The overall proposal remains as previously approved with 70 dwellings providing 100% affordable housing including flood attenuation measures to address pre-existing off-site flood risk to nearby properties and enhancements to forestry and public open space provisions. There is no change to the approved financial contributions.

This variation of conditions application seeks the approval of new revised/ amended details under a total of x21 planning conditions. In addition to this, in the interests of consistency, it is also proposed to revise/ amend the wording of a total of x7 planning conditions in accordance with details previously approved. This is set out further below:

Conditions to be revised/ amended in accordance with **new revised/ amended details:**

- 2 (Approved Drawings)
- 5 (Architectural Details)
- 9 (External Land Levels and Retaining Walls)
- 11 (Electric Vehicle Charging)
- 16 (Invasive Weeds)
- 17 (Ecology CEMP)
- 20 (Biodiversity Enhancement)
- 28 (Construction Dust and Noise)
- 35 (Construction Method Statement)
- 36 (Highway Details in Surface Water)
- 39 (Surface Water form Highway)
- 42 (Highway Future Maintenance)
- 43 (Car Ports/Parking)
- 46 (Soft Landscaping)
- 47 (Hard and Soft Landscaping)
- 48 (LEAP)
- 51 (Tree Protection Plan)
- 52 (Accessibility Standards)
- 53 (Surface Water Management)
- 54 (Construction Water Management)
- 56 (Foul Water Drainage)

Conditions to be revised/ amended in accordance with **details previously approved:**

- 3 (Facing Materials)
- 4 (Door/Window Details)
- 15 (Ecology)
- 21 (Bird Nesting)
- 29 (Ground Investigation Sands)
- 30 (Ground Investigation Alluvium)
- 31 (Ground Investigation Alluvium and Ground Gas)

With regards to the planning conditions where new revised/ amended details are to be incorporated the proposals are outlined as follows:

Condition 2 - Revised details to be reviewed and considered including boundary treatments, site sections and car parking layouts. It is proposed to update the condition wording to incorporate the previously approved (unchanged), revised and new drawings.

Condition 5 - New construction details to be reviewed and considered. It is proposed to update the condition wording to incorporate the new details into the condition.

Condition 9 - Revised details to be reviewed and considered including floor levels and land levels. It is proposed to update the condition wording to incorporate the revised details into this condition. It is proposed to revise the finished floor levels within 15 plots. Changes would aid the achievement of the accessibility standards. The most notable of the finished floor level changes affects Plot 65 (+1725mm) to Plot 68 (+2950mm).

Condition 11 - New electric vehicle charging details to be reviewed and considered. It is proposed to update the condition wording to incorporate the new details into the condition.

Condition 16, and Condition 17 - Revised details to be reviewed and considered including the construction and ecological management plan. It is proposed to update the condition wording to incorporate the revised details into this condition.

Condition 20 - New biodiversity enhancement scheme to be reviewed and considered. It is proposed to update the condition wording to incorporate the new details into the condition.

Condition 28, and Condition 35 - Revised details to be reviewed and considered including a new construction management statement. It is proposed to incorporate the revised details into the condition, noting that the drawings referenced 100_BSP, and 100_PP are incorporated into the construction management statement and can therefore be deleted as separate references.

Condition 36 - Revised details to be reviewed and considered including the swept path analysis, adoptable highways layout and barbing layout. It is proposed to update the condition wording to incorporate the previously approved (unchanged) and revised details into the condition.

Condition 39 - Revised details to be reviewed and considered including a Section 104 Layout - Planning Condition 53 (S73 Scheme). It is proposed to update the condition wording to incorporate the revised detail (dwg 25371-SK13 B) into the condition and delete all other drawings/ documents as not relevant to discharge the condition. Re-design access pathways from parking areas to dwellings with most paved areas now more tightly positioned between the parking areas and built form of the dwellings. A provision of 140 parking spaces is proposed to serve the 70 units as previous permitted. Amongst other minor layout changes, alterations to the layout of the pathways running through the public open space to the south of the site are also proposed.

Condition 42 - Revised details to be reviewed and considered including Adoptable Highway Layout (s73 Scheme). It is proposed to update the condition wording to incorporate the revised details into this condition.

Condition 43 - Revised details to be reviewed and considered including the submitted car parking layout and suite layout as proposed. It is proposed to update the condition wording to incorporate the revised details into this condition. Overall, a provision of 140 parking spaces is proposed to serve the 70 units as previous permitted.

Condition 46 - Revised and new details to be reviewed and considered including the submitted site layout as proposed, landscape masterplan and soft landscape proposals. It is proposed to update the condition wording to incorporate the revised and new details into this condition.

Condition 47 - Revised and new details to be reviewed and considered including the submitted forestry and POS drawing, and soft landscape proposals. It is proposed to update the condition wording to incorporate the revised and new details into this condition. An increased provision of tree planting is proposed including within the amenity area of plots, within open areas across the site and to the across the north of the site.

Condition 48 - Revised and new details to be reviewed and considered including the submitted soft landscape proposals. It is proposed to update the condition wording to incorporate the revised and new

details into this condition. Redesigned planting is proposed within the drainage basins and relocation of the proposed timber play equipment.

Condition 51 - Revised details to be reviewed and considered including the submitted Tree Protection Plan Rev. V5. It is proposed to update the condition wording to incorporate the revised details into this condition.

Condition 52 - New Site Plan - Part M Compliance Overview details to be reviewed and considered. It is proposed to update the condition wording to incorporate the new details into the condition. Amendments are proposed to both the external and finished floor levels which in part seek to improve the accessibility that could be achieved across the site.

Condition 53, Condition 54, and Condition 56 - Revised layout and water management documentation has been submitted and it is proposed to incorporate the approved (unchanged) and revised details into the condition and delete all other drawings/ documents which are not relevant to discharge the condition or where duplicated.

Applicant's supporting information

- Application Form - Received by the LPA: 22 December 2023.
- Covering Letter - Dated: 21 December 2023 - Received by the LPA: 22 December 2023.
- Planning Support Statement - Dated: 21 December 2023 - Received by the LPA: 22 December 2023.
- Conditions Tracker - Dated: 17 April 2023 - Received by the LPA: 23 April 2024.

Recent relevant planning history

APP/F1040/W/21/3287625 - The erection of 100% affordable 70 unit residential scheme with associated works on Land at SK2817 5619 off Oak Close, Castle Gresley, Swadlincote, Derbyshire - (previously refused by SDDC Planning Committee under planning reference DMPA/2019/1176) - Decision overturned by the Planning Inspectorate on 05 September 2022 and **Approved**.

DMPA/2019/1176 - The erection of 100% affordable 70 unit residential scheme with associated works on Land at SK2817 5619 off Oak Close, Castle Gresley, Swadlincote, Derbyshire - Refused by SDDC Planning Committee on 03 June 2021.

9/2004/0874 - The pruning of willow trees protected under South Derbyshire District Council's Tree Preservation Order number 78 at - TPO consent - approved - 31 August 2004.

9/2001/1245 - The erection of forty-two dwellings with access from Oak Close on land at - Reserved Matters - Neighbouring land to the west - Approved subject to conditions - 11 April 2002.

9/1198/0635/O - Outline Land at Archers Barn - Approved subject to conditions.

Responses to consultations and publicity

Castle Gresley Parish:
No comments received.

Linton Ward:
No comments received.

Environmental Health Officer:
Can confirm that the dust risk assessment had been previously approved. Similarly, whilst they are not standard South Derbyshire District Council working hours, the 07:30 - 18:00 Monday to Friday timings were also previously agreed so happy to discharge Condition 28. (10 April 2024).

National Forest Company:

The area of green infrastructure fulfils the requirements of Policy INF8, welcome the approach to the play area, the pedestrian link to Oak Close and the inclusion of fruit trees in rear gardens. The applicant has responded positively to other the comments we raised. In respect of these comments, we agree that a Management Plan for the woodland can be conditioned, we are pleased to note the increase in size of the trees in public areas as recommended, we note timber in the porch/ canopy design on Dwg 50004-P02, and a condition could require further use of timber in the car ports as suggested by the applicant. (05 April 2024).

County Highways:

Having reviewed the submitted information there are no highway objections to the planning application. (09 February 2024).

Coal Authority:

Can confirm that the site falls within the Coal Authority's defined Development Low Risk Area. On this basis we have no specific comments to make. (31 January 2024).

Crime Prevention Design Advisor:

The amendments and conditions concerned have no impact upon community safety matters or our prior comments. Consequently, I've no objection to the application or comments in respect of the detail. (02 February 2024).

Environment Agency:

Have reviewed the submitted documents and on this occasion the Environment Agency will not be making any formal comment. The Environment Agency did not request the planning condition(s) the applicant is seeking to discharge/ vary. (25 January 2024).

Natural England:

As the proposed development lies outside the catchment of the River Mease SAC, and a significant distance from any other SSSIs, NE have no objection. (23 February 2024).

Derbyshire Wildlife Trust:

Following on from our response dated 5th April 2024, we have the following comments to make:
Condition 20 - Biodiversity Enhancements: I have reviewed the Biodiversity Enhancement Strategy (Ramm Sanderson, April 2024) and can confirm that the appropriate amendments have been made regarding the extent and location of habitat creation, in order to discharge this condition. (21 May 2024).

Condition 15 - Mitigation measures were included in the CEMP. These measures should be adhered to in full.

Condition 16 and 17 - Reviewed the CEMP and have no objection to the approval of the Condition 16 and 17 in relation to the proposed variation of Condition 2.

Condition 20 - The precise extent and location of wildflower meadows and other habitats should be clearly labelled on the Biodiversity Enhancement Strategy Plan so that anyone trying to implement the plan knows exactly what management types to apply to each area of the green space. If these changes can be made to the enhancement plan, I have no further objections.

Condition 21 - We have previously advised that condition 21 can be discharged. The applicant should ensure that checks continue to be carried out within 24 hours prior to the clearance of any vegetation or structures that could support breeding birds throughout the bird breeding season (March - August inclusive).

(05 April 2024).

County Archaeology:

There will be no archaeological impacts from the application and we need not be consulted on this application further. (07 February 2024).

Highways England:

The conditions listed above would not adversely impact the safe operation of the Strategic Road Network (SRN). As such National Highways has no further comments to make. (26 January 2024).

Lead Local Flood Authority:

Do not have comment or objection to the proposed changes as the changes will not impact the flood risk to the development and the drainage strategy for the development will remain unchanged. The applicant should ensure that the relevant surface water conditions can be discharged within the proposed layout. (24 April 2024).

Derbyshire Swift Conservation:

Apologies for the delay in responding. We are happy with the updated Biodiversity Enhancement Strategy and have no further comments. (14 May 2024).

Tree Officer:

The Tree Survey Table 5 recommends the removal of 15 trees and 2 tree groups to accommodate the proposed development. The loss of the above trees will be mitigated by the proposed soft landscape planting scheme. No objection to the above proposals. (16 May 2024)

Responses to Publicity:

Following the formal consultation, which included neighbour notification letters dated 24 January 2024, the publication of a press advert on 02 February 2024, and the displaying of a site notice on 09 February 2024, no formal comments of concern/ objection have been received in response regarding this submission.

Relevant policy, guidance and/ or legislation

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

The relevant Development Plan policies are:

- South Derbyshire Local Plan Part 1 - LP1 - S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), SD6 (Sustainable Energy and Power Generation), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF6 (Community Facilities), INF7 (Green Infrastructure), INF8 (National Forest), INF9 (Open Space, Sport and Recreation).
- South Derbyshire Local Plan Part 2 - LP2 - SDT1 (Settlement Boundaries and Development), H23 (Non-Strategic Housing Allocations), BNE7 (Trees, Woodland and Hedgerows), BNE8 (Local Green Space), BNE10 (Heritage).

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document November 2017
- Affordable Housing Supplementary Planning Document November 2017
- Section 106 Agreements - A Guide for Developers
- Trees and Development
- Cycling Strategy
- Strategic Housing Market Assessment Executive Summary and Full Report January 2020
- Housing Position Paper January 2021

- The National Forest Strategy 2014-2024
- Sustainable Community Strategy 2009-2029
- Landscape Character of Derbyshire
- Open Space Sport Community Facilities Strategy

The relevant national policy and guidance is:

- National Planning Policy Framework (NPPF).
- Planning Practice Guidance (PPG).
- Technical housing standards - nationally described space standard (NDSS) 2015.

The relevant legislation is:

- Town and Country Planning Act 1990
- The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
- The Town and Country Planning (Development Management Procedure) (England) Order 2015
- Habitat Regulations

Planning considerations

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

- Principle of development
- Design and local character
- Residential amenity
- Access and highway safety
- Trees, hedgerows, and landscape character
- Biodiversity and geodiversity
- Coal mining, sub-terranean remains, land stability and pollution
- Flood risk and water management
- Unilateral undertaking
- Planning balance
- Other considerations

Planning assessment

Principle of development

The principle of the proposed scheme of development for the erection of a 100% affordable x70 unit residential scheme with associated works on Land at SK2817 5619 off Oak Close, Castle Gresley, Swadlincote has already been established by the host planning permission to which this variation of condition application relates. Approval was granted by the planning inspectorate on 05 September 2022 under the reference of APP/F1040/W/21/3287625 following the decision to refuse by SDDC Planning Committee, contrary to officer recommendation, under the planning reference DMPA/2019/1176.

This variation of condition submission incorporates two distinct parts. The applicant is seeking the approval of new revised/ amended details under a total of x21 planning conditions. These conditions are condition 2, 5, 9, 11, 16, 17, 20, 28, 35, 36, 39, 42, 43, 46, 47, 48, 51, 52, 53, 54 and 56. Detailing with regards to these alterations is summarised under the 'The Proposal' section which is presented earlier within this report. In addition to this, in the interests of consistency, it is also proposed to revise/ amend the wording of a total of x7 planning conditions in accordance with details previously approved under the discharge of condition applications referenced DMOT/2022/1404, DMOT/2023/0180, and DMOT/2023/0762. These conditions are condition 3, 4, 15, 21, 29, 30 and 31.

As outlined earlier within this report, the scheme of development forming this variation of condition application has been reviewed and considered in conjunction with the scheme of development previously permitted at appeal. Site Layout - Ref. 2494-33 Rev.K presents the previously approved site layout. The main changes under consideration include:

Minor alterations to the proposed site layout are proposed. These changes include an increased provision of tree planting is proposed including within the amenity area of plots, within open areas across the site, to the across the north of the site, and to the south of the site including surrounding the detention basins. Re-design access pathways from parking areas to dwellings with most paved areas now more tightly positioned between the parking areas and built form of the dwellings. A provision of 140 parking spaces is proposed to serve the 70 units as previous permitted. Amongst other minor layout changes, alterations to the layout of the pathways running through the public open space to the south of the site are also proposed. Redesigned planting is proposed within the drainage basins and relocation of the proposed timber play equipment.

Positioning of Plots: The layout of the proposed plots remains largely as previously permitted. These are no significant alterations to the positioning of the proposed built form which facilitates the x70 unit residential scheme.

It is proposed to revise the finished floor levels within 15 plots and rationalise the external levels strategy. Changes would aid the achievement of the accessibility standards and improve external levels locally to the affected plots and simplify, reduce, or remove the need for external retaining structures. Most of the finished floor level changes are minor. The most notable of the finished floor level changes affects Plot 65 (+1725mm) to Plot 68 (+2950mm) to the south-west of the site and associated ground levels within the locality.

Regarding accessibility standards, amendments are proposed to both the external and finished floor levels which in part seek to improve the accessibility that could be achieved across the site. An assessment of the proposed scheme and accessibility standards is set out within the accompanying Technical Review of Condition 52 and Part M Requirements and associated drawing E106-1011-P02 Site Plan – Part M Compliance; also provided for information is drawing E106-1017-P02 which shows the parking for M4(2) dwellings.

The maintenance corridor to the eastern side of the site, which stretches the full extent of this boundary, is proposed to be increased in size and accessibility. Double gates are proposed to the rear of Plot 21 to enable sufficient access to the area to the rear of Plot 21 to Plot 31 to enable EMH to undertake landscape maintenance. The provision of landscaping and planting is not impinged upon by these alterations. The provision of trees is increased with additional trees added in the rear amenity of Plot 21 to Plot 24.

Alteration to the shape of the storm water detention basins are proposed. The shape of the northern basin has been amended to provide a more natural shape and better fit within the surrounding topography. The detailed design of the southern basin, providing off-site land drainage, has also been developed to take into account additional topographical survey.

Design and local character

The most applicable policies to consider regarding the design, character and appearance related consideration are S1, H1, H20, H21 and BNE1 of the LP1 and H23 of the LP2. The most applicable guidance to consider are the South Derbyshire Design Guide Supplementary Planning Document, Affordable Housing Supplementary Planning Document, and the Technical housing standards - nationally described space standard document.

This variation of condition submission incorporates new revised/ amended details to conditions which specifically relate to design and local character including condition 2 (Approved Drawings), 5 (Architectural Details), 9 (External Land Levels and Retaining Walls), 46 (Soft Landscaping), 47 (Hard and Soft Landscaping) and 48 (LEAP). It is also proposed to update the wording of condition 3 (Facing Materials) and 4 (Door/Window Details) in accordance with details previously approved under the

discharge of conditions application referenced DMOT/2023/0180. The design, character and appearance merits associated with this variation of condition submission have been carefully reviewed and considered.

The site under consideration has varying topography with some steep slopes, the highest part of the site being in the south-east corner, and the lowest part in the north-west corner. It is acknowledged this would present some constraints to how development may be laid out on site. It is considered that the proposal presents a good site design, providing good opportunity for pedestrian infrastructure and encouraging healthier lifestyles. Alterations are proposed with the scheme under consideration facilitating an increased provision of tree planting is proposed including within the amenity area of plots, within open areas across the site, to the across the north of the site, and to the south of the site including surrounding the detention basins. Re-design access pathways from parking areas to dwellings with most paved areas now more tightly positioned between the parking areas and built form of the dwellings. It is proposed to revise the finished floor levels within 15 plots to aid the achievement of the accessibility standards and improve external levels locally to the affected plots and simplify, reduce, or remove the need for external retaining structures.

Overall, the design and layout are considered to present an acceptable provision of landscaping, planting, and boundary treatments. The enhanced planting will aid in softening the appearance of frontage/ side parking and aid in successful placemaking in line with guidance and policy.

The Design Guide SPD states that where frontage parking is proposed this should be limited in number and sensitively located within the development away from primary streets and frontages and softened with landscaping that equals or exceeds that of hard landscaping. The Design Guide goes on to say that off-plot frontage parking for linked units/ terraces should be softened and broken up with street trees. It is also encouraged that there is street parking for unallocated visitors and that residents should be able to see their car from their homes. The landscaping provisions as proposed have been carefully considered. It is considered that sufficient proportions of hard/ soft landscaping are proposed, with mostly side driveways behind the frontage building lines.

The submitted details are not considered to result in any unacceptable design or visual intrusion. The architectural style for the dwellings as proposed is considered to be acceptable for a development proposal of this nature. In line with the National Forest guidance, it will also be sought that wooden porches/canopies/cladding be provided.

Noting the varying topography of the site that declines rather steeply from southeast to northwest, the external amenity areas or rear gardens are of a suitable size appropriate to the size of the property they will be associated with. Considering the Affordable Housing SPD, the sizes of the gardens are also comparable with surrounding private residential dwellings in the immediate area, assisting tenure blindness. Should planning approval be recommended, permitted development rights for extensions, alterations and outbuildings will be removed throughout the development (noting flats would not benefit from this anyway), due to the need to maintain the level of external amenity space, parking spaces and overall character of the development. In regard to land levels it is proposed to revise the finished floor levels within 15 plots to aid the achievement of the accessibility standards and improve external levels locally to the affected plots and simplify, reduce, or remove the need for external retaining structures. Most of the finished floor level changes are minor. The most notable of the finished floor level changes affects Plots 65 to 68 to the south-west of the site and associated ground levels within the locality. On balance it is considered that these changes would not significantly affect the design, character and appearance related merits of the scheme of development or impact on the surrounding locality.

The design, character and appearance merits associated with alterations proposed under these conditions as part of this variation of condition submission are considered to not present any significant detrimental impacts on the site or surrounding area due to the relatively minor nature of the changes proposed. The proposed scheme is acceptable on these grounds.

Residential amenity

The most applicable policies and guidance to consider are SD1 and BNE1 of the LP1 and H23J, Design Guide SPD and Affordable Housing SPD. Between them these policies seek to support

development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments. New development should not have an undue adverse effect on privacy and amenity of existing nearby occupiers. Similarly, the occupiers of new development should not be unduly affected by neighbouring land uses.

In line with the Design Guide SPD, within new housing schemes where minimum distances between dwellings are not fully met, the Council will expect such an approach to be justified by a high standard of design incorporating an imaginative use of space, and the provision of attractive areas of open space, to create a feeling of place for future residents. Where new development abuts existing development, the Council will seek to ensure that the privacy and amenity of existing occupiers are respected. The following guidelines will be used as a basis for ensuring this is maintained and will be applied where existing occupiers are affected by proposed development. The guidelines aim to retain a reasonable level of privacy for existing occupiers in terms of both direct overlooking and overbearing.

In respect of the layout currently under consideration under this variation of condition submission, and the surrounding existing neighbouring residential properties, due to the distances, provision of rear gardens and orientation it is acknowledged that there would be some impact on neighbouring residential properties however the changes proposed are considered to not present significant detrimental impacts on levels of residential amenity presently enjoyed due to distances between existing and proposed properties. Details of levels and sections have been submitted for consideration to inform this assessment. The provision of boundary treatments and landscaping as proposed further helps to overcome potential detrimental implications on residential amenity grounds.

To ensure amenity is protected for the lifetime of the development, permitted development rights will be removed accordingly for extensions, alterations, outbuildings, accesses and means of enclosure. During the construction of development construction and delivery hours will be restricted to non-sensitive construction hours for development adjacent to existing residential developments and Construction Management Plan/ Method Statement will be attached to any approval of the development, to ensure amenity protection for neighbouring development during the construction period.

Access and highway safety

The most applicable policies to consider are S1, S6, BNE1 and INF2 of the LP1 and H23(j) of the LP2 and the guidance with the South Derbyshire Design Guide Supplementary Planning Document, Affordable Housing Supplementary Planning Document and Cycle Strategy SPD.

Regarding access and highway related changes, it is proposed to re-design access pathways from parking areas to dwellings with most paved areas now more tightly positioned between the parking areas and built form of the dwellings. A provision of 140 parking spaces is proposed to serve the 70 units as previous permitted. Amongst other minor layout changes, alterations to the layout of the pathways running through the public open space to the south of the site are also proposed.

The site will be accessed via a new connecting spinal road serving the various cul-de-sacs proposed for the development from Oak Close which itself is accessed via Cedar Road which leads onto Bass's Crescent or Arthur Street both leading onto Linton Road providing access to the wider area, all of which are adopted highways. Each road within the development is to have pedestrian pavement. No issue has been raised in respect of the impact on the surrounding highways network as a result of the development.

The variation of condition submission currently under consideration incorporates new revised/ amended details regarding condition 9 (External Land Levels and Retaining Walls), 11 (Electric Vehicle Charging), 28 (Construction Dust and Noise), 35 (Construction Method Statement), 36 (Highway Details in Surface Water), 39 (Surface Water form Highway), 42 (Highway Future Maintenance), 43 (Car Ports/Parking), and 47 (Hard and Soft Landscaping). The Highways team at Derbyshire County Council have been consulted with regards to the variation of condition submission currently under consideration. Following a review of the submission a formal consultation response has since been

provided with the County Highways team outlining no objections on highway grounds. The proposed scheme of development is therefore considered to be acceptable on highway related grounds.

This variation of condition submission is considered on balance to accord with the relevant policies and guidance covering highways safety and parking subject to the use of planning conditions/ legal agreements and informatives.

Trees, hedgerows, and landscape character

The most applicable policies and guidance to consider in respect of trees, hedgerows and landscape character are policies S1, BNE1, BNE4, INF1, INF7, INF8 and INF9 of the LP1, policies H23J, BNE5 and BNE7 and the Design SPD, Affordable Housing SPD and Trees and Development SPD. Between them these policies seek that for new development adequate assessment works are undertaken to establish the character and quality of trees and landscape and that where detrimental effects on either or removal of tree life is proposed that consideration is given as to appropriate mitigation on site through landscaping or replanting schemes (including management schemes to ensure long term maturity) or in exceptional circumstances financial contributions. Where there are detrimental impacts that cannot be adequately mitigated or where impacts can be avoided refusal may be recommended.

The variation of condition submission currently under consideration incorporates new revised/ amended details regarding condition 9 (External Land Levels and Retaining Walls), 16 (Invasive Weeds), 17 (Ecology CEMP), 20 (Biodiversity Enhancement), 46 (Soft Landscaping), 47 (Hard and Soft Landscaping), 48 (LEAP), and 51 (Tree Protection Plan). Further to this it is also proposed to update the wording of condition 15 (Ecology) and 21 (Bird Nesting) in accordance with details previously approved under the discharge of conditions applications referenced DMOT/2022/1404 and DMOT/2023/0762.

Minor alterations to the proposed regarding the arboricultural consideration. These changes include an increased provision of tree planting including within the amenity area of plots, within open areas across the site, to the across the north of the site, and to the south of the site including surrounding the detention basins. The maintenance corridor to the eastern side of the site, which stretches the full extent of this boundary, is proposed to be increased in size and accessibility. Double gates are proposed to the rear of Plot 21 to enable sufficient access to the area to the rear of Plot 21 to Plot 31 to enable EMH to undertake landscape maintenance. The provision of landscaping and planting is not impinged upon by these alterations. The provision of trees is increased with additional trees added in the rear amenity of Plot 21 to Plot 24. Regarding Condition 51 a revised Tree Protection Plan Rev. V5 is proposed. It is proposed to update the condition wording to incorporate the revised details into this condition.

Merits regarding trees, hedgerows and landscape character have been carefully reviewed and considered in the assessment of alterations proposed under these conditions as part of this variation of condition submission. Formal consultation in this regard has been undertaken with the Derbyshire Wildlife Trust, Derbyshire Swift Conservation, Natural England, Environment Agency, and National Forest Company. These technical consultees have provided formal specialist input for consideration and have no objection. The proposed scheme of development is therefore considered to be acceptable in this regard.

Biodiversity and geodiversity

The most applicable policies guidance and legislation to consider are S1, SD1, SD2, SD3, BNE3, BNE4, INF7 and INF8 of the LP1, H23J and BNE7 of the LP2, Trees and Development SPD and the Habitat Regulations. Between them these policies state that the LPA will support development which contributes to the protection, enhancement, management and restoration of biodiversity or geodiversity and delivers net gains in biodiversity where possible. For planning proposals that could have a direct or indirect effect on sites with potential or actual ecological or geological importance they 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. Where mitigation measures, or exceptionally, compensation cannot sufficiently offset the significant harm resulting from the

development and/or where the development can potentially be located on an alternative site that would cause less or no harm, permission will be refused.

The variation of condition submission currently under consideration incorporates new revised/amended details regarding condition 16 (Invasive Weeds), 17 (Ecology CEMP), 20 (Biodiversity Enhancement), 46 (Soft Landscaping), 47 (Hard and Soft Landscaping), 48 (LEAP), and 51 (Tree Protection Plan). Further to this it is also proposed to update the wording of condition 15 (Ecology), 21 (Bird Nesting), 29 (Ground Investigation Sands), 30 (Ground Investigation Alluvium), and 31 (Ground Investigation Alluvium and Ground Gas) in accordance with details previously approved under the discharge of conditions application referenced DMOT/2023/0180.

Formal consultation in this regard has been undertaken with the Derbyshire Wildlife Trust, Derbyshire Swift Conservation, Natural England, Environment Agency, and National Forest Company. These technical consultees have provided formal specialist input for consideration and have no objection. The proposed scheme of development is therefore considered to be acceptable in this regard.

In respect of the Habitat Regulations, it is unlikely that there will be any significant effect on the River Mease Special Area of Conservation as no harmful foul or surface water from the application site will be discharged into the River Mease SAC or its tributaries.

As the variation of planning conditions application currently under consideration relates to the host permission permitted by the Planning Inspectorate on 05 September 2022 under the reference of APP/F1040/W/21/3287625, the new requirements for the delivery of 10% biodiversity net gain (BNG) are not required under this application. This therefore does not form part of the consideration of this application.

The proposed scheme of development is considered to be acceptable in this regard subject to the amended planning conditions as presented at the end of this report.

Coal mining, sub-terranean remains, land stability and pollution

The site comprises historical agricultural fields presently used as such with stream and areas of woodland etc. and within an area of contaminated land potential. The most applicable policies to consider are S1, S3, SD2, SD3 and SD4 of the LP1. SD4 is the lead policy to consider which states that 'planning permission for development on land which is known to comprise made ground or which is unstable, contaminated or potentially contaminated, will only be granted where the applicant has demonstrated through appropriate investigations, that the scheme will incorporate any necessary remediation measures to protect human health and/or the natural environment'.

The development proposal for this site is supported by several ground assessments. It is considered that overall there is low risk to a residential end receptor on this site with regards to potential elements of contamination. The risks that may be present are located to the south west of the site in respect of Alluvium and Ground Gas and subject to prior to commencement style investigatory works, recommendations and mitigation secured via use of planning condition that the development would be in compliance with the aims of the listed policies.

The site lies within a Coal Mining Low Risk Area. Both the Environmental Health team and the Coal Authority have been formally consulted with regards to the variation of condition submission currently under consideration. Formal technical consultation responses have been received to inform the consideration of this submission. The Environmental Health team have formally advised that the dust risk assessment had been previously approved, and whilst they are not standard South Derbyshire District Council working hours, the 07:30 - 18:00 Monday to Friday timings were also previously agreed so happy to discharge Condition 28. The Coal Authority have advised that the site falls within the Coal Authority's defined Development Low Risk Area, and on this basis there are no specific comments to make.

The site lies within an area of subterranean historical environment record potential noted perhaps as having medieval Ridge and furrow earthworks. The most applicable policies in respect of archaeology

and sub-terranean remains are S1 and BNE2 of the LP1 and H23J and BNE10 of the LP2. It is suggested that the site is of low archaeological potential. The variation of condition submission has also been formally reviewed and considered by the Derbyshire County Council Archaeologist and it has formally been advised that there will be no archaeological impacts from the application and no further consultation is required for this application. There is therefore no need to place further archaeological conditions should the development be recommended for approval. The development is considered to be in compliance with the aforementioned policies covering archaeology without the need for planning conditions.

Flood risk and water management

The most applicable policies to consider are S1, S2, S3, S4, SD2 and SD3 of the LP1, and BNE5 and H23 of the LP2. As the site is located in Flood Zone 1 a Sequential or Exception Test is not required. The application is supported by several flood risk and water management documents/ assessments including a Surface Water Drainage Scheme for the development and an Off-Site Drainage Scheme.

Alterations are proposed including to the shape of the storm water detention basins. The shape of the northern basin has been amended to provide a more natural shape and better fit within the surrounding topography. The revised basin design exceeds the storage volume of the approved basin. The detailed design of the southern basin, providing off-site land drainage, has also been developed to take into account additional topographical survey. The proposed revised basin layout better respects the existing topography and would be safer and easier to maintain. The revised basin design exceeds the storage volume of the approved basin.

The variation of condition submission currently under consideration incorporates new revised/ amended details regarding Condition 36 (Highway Details in Surface Water), 39 (Surface Water form Highway), 53 (Surface Water management), 54 (Construction Water Management), and 56 (Foul Water Drainage). Formal consultation in this regard has been undertaken with the Lead Local Flood Authority, the Environment Agency, and the County Highways team. These technical consultees have outlined a formal stance of no objection. Further to this Severn Trent Water have also been formally consulted and no response has since been forthcoming.

The proposed scheme of development is therefore considered to be acceptable in this regard.

Unilateral Undertaking

The principle of the proposed scheme of development for the erection of a 100% affordable x70 unit residential scheme with associated works on Land at SK2817 5619 off Oak Close, Castle Gresley, Swadlincote has already been established by the host planning permission to which this variation of condition application relates. Approval was granted by the planning inspectorate on 05 September 2022 under the reference of APP/F1040/W/21/3287625.

A Unilateral Undertaking was attached to this decision. Within the report by the Planning Inspectorate it was outlined that the financial contributions requested by the Council are found to meet the relevant tests. The submitted Unilateral Undertaking includes obligations to provide affordable housing and delivery and maintenance. Should this variation of condition submission be approved this Unilateral Undertaking shall be updated and attached to any approval notice.

Planning Balance

The principle of the proposed scheme of development is firstly considered to be acceptable. An acceptable form of design is presented and further to this the proposal is considered to not have a significant adverse impact on the residential amenity of the nearest neighbouring properties. In addition to this the scheme of development as proposed is considered to be acceptable on technical grounds with support achieved from relevant technical consultees. Subject to relevant planning conditions, the development proposal is considered to be acceptable when considered against the aims and objectives of the South Derbyshire District Local Plan, Supplementary Planning Documentation, and the National

Planning Policy Framework. There are no material considerations that would warrant refusal of planning permission in this instance.

Other considerations

No other matters to be considered.

Recommendation

Approve with 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.

Proposed conditions

The formal decision notice for the scheme of development permitted by the Planning Inspectorate on 05 September 2022 under the reference of APP/F1040/W/21/3287625 can be found under planning application reference [DMPA/2019/1176](#). The updated version of planning conditions as recommended, for this variation of condition submission, is **presented below**:

Please note the conditions which have been amended are presented in [Blue](#).

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| 1 | The development hereby approved shall be begun before the expiration of three years from the date of the planning permission ref. DMPA/2019/1176 . |
| 2 | <p>The development shall not be carried out otherwise than in complete accordance with the approved plans and details unless otherwise required pursuant to any conditions hereby attached, or unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The approved plans and details are:</p> <ul style="list-style-type: none"> -2494-02 B - Location Plan -1916-PL1-2-14 - POS and Forestry Planting -E106 1018-P02 - Boundary Details -2494-20 H House Type A – 2 Bed 4 Person Plans and Elevations -2494-21 F House Type B – 3 Bed 5 Person Plans and Elevations -2494-22 D House Type C – 2 Bed 4 Person Plans and Elevations -2494-30 D House Type D – 3 Bed 5 Person Plans and Elevations -2494-24 F House Type E – 4 Bed 6 Person Plans and Elevations -2494-25 F House Type F – 3 Bed 5 Person (split level) Plans and Elevations -2494-26 H House Type G – 1 Bed 2 Person (flats) Plans and Elevations -2494-27 G House Type H – 2 Bed 3 Person (Cat 2 Bungalow) Plans and Elevations -2494-28 E House Type J – 4 Bed 7 Person (Cat 3 Bungalow) Plans and Elevations -2494-34 B House Type K – 4 Bed 6 Person (Plots 65 & 66) Plans and Elevations -E106 1012-P03 - Site Sections A to D -E106 1013-P03 - Site Sections E to G -E106 1014-P04 - Site Section H -E106 1000-P04 - Site Layout as Proposed -E106 1023-P01 - Car Parking Layout -E106 1015-P03 - Site Sections J & K -E106 1016-P03 - Site Sections L, M & N |
| 3 | <p>The development hereby permitted shall be carried out in full accordance with the following details and samples of the facing materials as permitted under the Approval of Conditions request referenced DMOT/2023/0180:</p> <ul style="list-style-type: none"> -E106 7100-P02 - Materials Schedule - Dated: 08 June 2023 (issued 22 June 2023) -E106 4003A-P01 - Housetype A(v4) - Elevations - Dated: 21 June 2023 (issued 22 June 2023) -E106 4004A-P01 - Housetype B - Elevations - Dated: 21 June 2023 (issued 22 June 2023) |

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| | <p>-E106 4006A-P01 - Housetype C(v2) - Elevations - Dated: 21 June 2023 (issued 22 June 2023) -E106 4007A-P01 - Housetype C(v3) - Elevations - Dated: 21 June 2023 (issued 22 June 2023) -E106 4019A-P01 - Housetype G - Elevations (1 of 2) - Dated: 21 June 2023 (issued 22 June 2023) -E106 4020A-P01 - Housetype G - Elevations (2 of 2) - Dated: 21 June 2023 (issued 22 June 2023) -E106 1010-P02 - Site Plan 1_500 Materials Legend - Dated 08 December 2022 (issued 23 October 2023)</p> <p>The development shall thereafter be constructed using the approved facing materials. 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.</p> |
| 4 | <p>The development hereby permitted shall be carried out in full accordance with the following details and samples of the details of the door, window frame and fascia colours as permitted under the Approval of Conditions request referenced DMOT/2023/0180: -E106 7100-P02 - Materials Schedule - Dated: 08 June 2023 (issued 22 June 2023) -E106 4003A-P01 - Housetype A(v4) - Elevations - Dated: 21 June 2023 (issued 22 June 2023) -E106 4004A-P01 - Housetype B - Elevations - Dated: 21 June 2023 (issued 22 June 2023) -E106 4006A-P01 - Housetype C(v2) - Elevations - Dated: 21 June 2023 (issued 22 June 2023) -E106 4007A-P01 - Housetype C(v3) - Elevations - Dated: 21 June 2023 (issued 22 June 2023) -E106 4019A-P01 - Housetype G - Elevations (1 of 2) - Dated: 21 June 2023 (issued 22 June 2023) -E106 4020A-P01 - Housetype G - Elevations (2 of 2) - Dated: 21 June 2023 (issued 22 June 2023) -E106 1010-P02 - Site Plan 1_500 Materials Legend - Dated 08 December 2022 (issued 23 October 2023)</p> <p>The door, window frame and fascia colours shall be installed in 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.</p> |
| 5 | <p>The development hereby permitted shall be carried out in full accordance with the following details of the eaves, verges, cills, lintels, chimneys, canopies and porches: -E106 5002-P01 - Construction Details Sheet 3 - Window, Door & First Floor Details. -E106 5003-P01 - Construction Details Sheet 4 - Bay Windows. -E106 5004-P02 - Construction Details Sheet 5 - Porch Canopies. -E106 5005-P01 - Construction Details Sheet 6 - Roof Eaves Details. -E106 5006-P01 - Construction Details Sheet 7 - Roof Details.</p> <p>The approved scheme of development shall be constructed in accordance with these details unless otherwise agree in writing by the Local Planning Authority.</p> |
| 6 | <p>All verges shall be finished in a mortar finish i.e., wet verges. There shall be no use of dry verge (cloaking tile) systems.</p> |
| 7 | <p>Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.</p> |
| 8 | <p>Prior to the construction of a car port details of the finish of the inside surface of the walls shall be submitted to and approved in writing by the Local Planning Authority. The approved finish shall then be applied prior to first use of the car port and thereafter maintained as such.</p> |
| 9 | <p>The development hereby permitted shall be carried out in full accordance with the following details of the external land levels and retaining walls/features: -25371-SK11(1) C - External Levels Strategy (S73 Scheme) Sheet 1 -25371-SK11(2) C - External Levels Strategy (S73 Scheme) Sheet 2</p> <p>These approved details shall be implemented on site on a prior to first occupation basis and retained thereafter for the lifetime of the development unless otherwise agree in writing by the Local Planning Authority.</p> |
| 10 | <p>Prior to the first occupation of the development hereby approved a scheme for the provision of 1no. secure cycle parking facility per dwelling (including flats) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a plan showing where the secure cycle parking facility will be located and the specification including dimension, material and colour of the secure cycle store. The approved details shall be implemented on site on a prior to first occupation of the dwelling the secure cycle parking would serve and retained thereafter for the lifetime of the development and maintained in good working order.</p> |
| 11 | <p>The development hereby permitted shall be carried out in full accordance with the following details of the provision of 1no. electric vehicle charging point (EVCP) per dwelling: -Evolo EV Charging Technical Information</p> <p>The approved scheme shall be implemented on site on a prior to first occupation of the dwelling that each charging point will serve basis and be retained thereafter for the lifetime of the development and maintained in good working order.</p> |
| 12 | <p>Prior to the first occupation of the development hereby approved a scheme for bin storage within each plot (3no. bins per dwelling) shall be submitted to and approved by the Local Planning Authority. The scheme shall include details of secure storage within the plot of each dwelling, or in the case of flats</p> |

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| | the shared amenity space. The approved scheme shall be implemented on site and the space made available on a prior to first occupation of the respective dwelling basis and retained thereafter. |
| 13 | Prior to the first occupation of the development hereby approved a scheme for dedicated bin collection points for areas for dwellings not served by adoptable highway shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a plan showing the location of each collection points and the bin collection points shall be provided within private land at the entrance to shared private accesses and/or courtyards, sufficient to accommodate two bins per dwelling served. The bin collection points shall be provided prior to the first occupation of a dwelling to which they serve and shall be retained thereafter free from any impediment to their designated use as such. |
| 14 | Prior to the installation of any external lighting a detailed lighting strategy (designed in accordance with the guidelines issued by the Institute of Lighting Engineers, or any equivalent guidelines which may supersede such guidelines) which shall include precise details of the position, height, intensity, angling and shielding of lighting, as well as the area of spread/spill of such lighting, shall be submitted to and approved in writing by the Local Planning Authority. All lighting shall be installed in accordance with the approved strategy and thereafter retained in conformity with them. |
| 15 | The development hereby permitted shall be carried out in full accordance with the following updated walkover, to ensure that there have been no setts created within the site since the date of the badger survey, as permitted under the Approval of Conditions request referenced DMOT/2022/1404: -Badger Assessment undertaken by RammSanderson Ref: RSE_3151_L1_V1 (dated 05/10/2022) Mitigation measures must be implemented and retained in accordance with the approved timetable. |
| 16 | The development hereby permitted shall be carried out in full accordance with the Invasive Non-Native Species Protocol (INNSP) details contained within the: -RSE_3151b_R1-V3_CEMP - Construction and Ecological Management Plan (1 part). The measures identified shall be carried out strictly in accordance with the approved scheme. |
| 17 | The development hereby permitted shall be carried out in full accordance with the following Construction Environmental Management Plan (CEMP; Biodiversity): - RSE_3151b_R1-V3_CEMP - Construction and Ecological Management Plan (1 part) The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise subsequently agreed by the Local Planning Authority. |
| 18 | Prior to the first occupation of the development hereby approved a five year Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following: • Description and evaluation of features to be managed; • Ecological trends and constraints on site that might influence management; • Aims and objectives of management; • Appropriate management options for achieving aims and objectives; • Prescriptions for management actions; • Preparation of a work schedule (including an annual work plan capable of being rolled forward over a fifteen-year period); • Details of the body or organisation responsible for implementation of the plan, along with funding mechanism(s) for that body or organisation; and • Ongoing monitoring and remedial measures, including where monitoring shows that conservation aims and objectives of the LEMP are not being met. The approved plan shall be implemented in accordance with the approved details. |
| 19 | The development shall be carried out in strict accordance with the precautionary measures for roosting and hibernating bats set out in section 5.4.1 of the Ecological Impact Assessment prepared by Ramm Sanderson dated July 2020 Rev 2 8th January 2021 as received by the Local Planning Authority on 8th January 2021. |
| 20 | The development hereby permitted shall be carried out in full accordance with the following scheme of biodiversity enhancement based upon the recommendations in section 7 of the Ecological Impact Assessment (EclA) prepared by Ramm Sanderson dated July 2020: -RSE_3151_R5_V2 - Biodiversity Enhancement Scheme. 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. |
| 21 | The development hereby permitted shall be carried out in full accordance with the following survey, to assess the nesting bird activity on the site, as permitted under the Approval of Conditions request referenced DMOT/2023/0762: -Ramm Sanderson Letter - Ref: RSE_3151_L2_V1 - Received by the LPA: 14 June 2023. No trees, hedges, shrubs, buildings or structures shall be removed between 1st March and 31st August inclusive other than in accordance with the approved bird nesting protection scheme. |
| 22 | 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 0730 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 Public Holidays. |
| 23 | Each dwelling shall be constructed and fitted out so that the estimated consumption of wholesome water by persons occupying the dwelling will not exceed 110 litres per person per day, consistent with |

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| | 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. |
| 24 | 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, and no incidental buildings (except for a single garden shed and/or single greenhouse of maximum size 2.2m x 1.6m each), 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. |
| 25 | 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 surfacing (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. |
| 26 | 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 other means of access to a highway (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. |
| 27 | 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 C3 use hereby approved shall not be used as houses of multiple occupation C4 use without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard. |
| 28 | The development hereby approved shall be constructed in accordance with the Construction Management Statement and appended documentation regarding dust mitigation measures for the control of noise emanating from the development during the construction period. -Construction Management Statement (09-11-2023) These approved measures shall be implemented throughout the construction period. |
| 29 | Additional investigation to confirm density of sands beneath the site to establish the extent of cohesive deposits plus recommendations for mitigation/remediation as per the recommendations within the Site Investigation Report Revision 0: May 2019 R-SI-11282G-1-0 has been undertaken. The development hereby permitted shall be carried out in full accordance with the following details permitted under the Approval of Conditions request referenced DMOT/2023/0180: -L-GI-11282G-02-00 - Additional Ground Investigation Letter - Dated: 25 January 2023 (issued 08 February 2023) Methods of mitigation/ remediation following this investigation shall be adhered to in line with approved details during the construction of the development. |
| 30 | As per the recommendations within the Site Investigation Report R-SI-11282G-1-0 Rev O an investigation executed to the area to the south west to confirm if alluvium is present beneath the proposed plots with recommendations of additional monitoring/investigation works has been undertaken. The development hereby permitted shall be carried out in full accordance with the following details permitted under the Approval of Conditions request referenced DMOT/2023/0180: -L-GI-11282G-01-00 - Land Gas Monitoring Letter - Dated: 27 January 2023 (issued 08 February 2023) -L-GI-11282G-01-01 - Land Gas Monitoring Letter - Dated: 07 April 2023 (issued 13 October 2023) Mitigation/ remediation recommended as a result of these investigations shall be implemented on site as per the approved details. |
| 31 | Following the alluvium investigation should alluvium be found ground gas monitoring should be carried out to confirm the ground gas regime for the site. The development hereby permitted shall be carried out in full accordance with the following details permitted under the Approval of Conditions request referenced DMOT/2023/0180: -L-GI-11282G-01-00 - Land Gas Monitoring Letter - Dated: 27 January 2023 (issued 08 February 2023) -L-GI-11282G-01-01 - Land Gas Monitoring Letter - Dated: 07 April 2023 (issued 13 October 2023) Mitigation/ remediation as part of this scheme shall be executed on site in accordance with the approved details. |
| 32 | In the event that following the investigations pertaining to the other conditions within this decision notice require mitigation or remediation, a verification report confirming the details and date of the measures installed executed by a relevant professional shall be submitted to and approved in writing by the Local Planning Authority on a prior to occupation basis. The measures thereafter shall be maintained throughout the lifetime of the development. |
| 33 | If during development any contamination or evidence of likely contamination is identified that has not |

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| | previously been identified or considered, a written scheme to identify and control that contamination shall be submitted to and approved in writing by the Local Planning Authority prior to any further works taking place on the site. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA (or equivalent guidance which may subsequently update or replace it), and appropriate remediation/mitigation proposals. The approved scheme shall be implemented in accordance with the approved remediation/mitigation proposals. |
| 34 | In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'. |
| 35 | The details outlined within the following Construction Management Statement and appended documentation shall be implemented on site and retained free from any impediment to their designated use throughout the construction period of the development. -Construction Management Statement (09-11-2023) These approved measures shall be implemented throughout the construction period. |
| 36 | The residential estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) for the approved scheme of development shall be constructed in accordance with the following construction details, unless otherwise agree in writing by the Local Planning Authority: -25371-SK16 Swept Path Analysis -25371-SK18 - Adoptable Highway Layout (s73 scheme) -25371-SK15 - Kerbing Layout -25371 - 101-1 - Longitudinal Sections - Sheet 1, dated November 2022 (issued 19 December 2022) -25371 - 101-2 - Longitudinal Sections - Sheet 2, dated November 2022 (issued 19 December 2022) -25371 - 101-3 - Longitudinal Sections - Sheet 3, dated November 2022 (issued 19 December 2022) -25371 - 104-1 - Adoptable Highway Construction Details - Sheet 1, dated November 2022 (issued 19 December 2022) -25371 - 104-2 - Adoptable Highway Construction Details - Sheet 2, dated November 2022 (issued 19 December 2022) |
| 37 | The gradients on the new estate streets, ideally, should not exceed 1:20 and shall never exceed 1:12 at any point along the proposed highway. |
| 38 | The carriageways of the proposed estate roads shall be constructed in accordance with Condition 36 above up to and including at least road base level prior to the erection of any dwelling intended to take access from that road. The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surface course within twelve months (or three months in the case of a shared surface road) from the occupation of such dwelling. |
| 39 | The development hereby permitted shall be carried out in full accordance with the following details of means to prevent the discharge of water from the drives/accesses/shared drives onto the proposed adopted highway: -25371-SK13 B - Section 104 Layout - Planning Condition 53 (S73 Scheme). The approved scheme shall be undertaken and completed prior to the first use of the access and retained as such thereafter. |
| 40 | The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity. |
| 41 | The proposed access driveways to the new estate streets shall be no steeper than 1:20 for first 5 from the nearside highway boundary and never exceed 1:10. |
| 42 | The approved scheme of development, and the arrangements for future management and maintenance of the proposed streets within the development, shall be implemented in full accordance with: -25371-SK18 - Adoptable Highway Layout (s73 Scheme) The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and maintenance company has been established. |
| 43 | The car port/parking spaces as shown on the approved plans such as 'E106 1023-P01 Car Parking Layout' and 'E106 1000-P04 Site Layout' shall be kept available for the parking of motor vehicles at all times. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and/or reenacting that Order) the garage/car parking |

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| | space(s) hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority. The parking spaces throughout the development shall be implemented and available for use prior to the first use of the dwelling they are associated with. |
| 44 | Prior to the first occupation of the development hereby approved an amended Travel Plan, which sets out actions and measures with quantifiable outputs and outcome targets has been submitted to and agreed in writing by the Local Planning Authority. Thereafter the agreed Travel Plan shall be implemented in accordance with the approved details. |
| 45 | There shall be no gates or barriers within 5m of the highway boundary and any such gates shall open inwards only. |
| 46 | <p>The development hereby permitted shall be carried out in full accordance with the following details of hard and soft landscaping:</p> <ul style="list-style-type: none"> -E106 1000-P04 - Site Layout as Proposed -1916-PL1-2--02 G - Landscape Masterplan -1916-PL1-2--15 A - Soft Landscape Proposals -1916-PL1-2--16 A - Soft Landscape Proposals -1916-PL1-2--17 A - Soft Landscape Proposals -1916-PL1-2--18 A - Soft Landscape Proposals -1916-PL1-2--19 A - Soft Landscape Proposals -1916-PL1-2--20 A - Soft Landscape Proposals -1916-PL1-2--21 A - Soft Landscape Proposals -1916-PL1-2--22 A - Soft Landscape Proposals <p>All hard landscaping shall be carried out in accordance with the approved details prior to the first occupation of the development, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of each respective dwelling or the completion of the development, whichever is the sooner; 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.</p> |
| 47 | <p>Prior to the first occupation of the development hereby approved, the hard and soft landscaping shall be implemented in full accordance with the following details:</p> <ul style="list-style-type: none"> -1916-PL1-2-14 - Forestry and POS Drawing -1916-PL1-2-15A - Soft Landscape Proposals -1916-PL1-2-16A - Soft Landscape Proposals -1916-PL1-2-17A - Soft Landscape Proposals -1916-PL1-2-18A - Soft Landscape Proposals -1916-PL1-2-19A - Soft Landscape Proposals -1916-PL1-2-20A - Soft Landscape Proposals -1916-PL1-2-21A - Soft Landscape Proposals -1916-PL1-2-22A - Soft Landscape Proposals <p>All hard landscaping shall be carried out in accordance with the approved details prior to occupation of development, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of development or the completion of the development, whichever is the sooner; 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.</p> |
| 48 | <p>Prior to the first occupation of the development hereby approved, the LEAP shall be implemented in full accordance with the following details:</p> <ul style="list-style-type: none"> -1916-PL1-2-15A - Soft Landscape Proposals -1916-PL1-2-16A - Soft Landscape Proposals -1916-PL1-2-17A - Soft Landscape Proposals -1916-PL1-2-18A - Soft Landscape Proposals -1916-PL1-2-19A - Soft Landscape Proposals -1916-PL1-2-20A - Soft Landscape Proposals -1916-PL1-2-21A - Soft Landscape Proposals -1916-PL1-2-22A - Soft Landscape Proposals <p>The LEAP shall be implemented on site prior to the first occupation of the development in accordance with the approved details and shall be retained thereafter for the lifetime of the development in good working order.</p> |
| 49 | Prior to the first occupation of the development hereby approved a detailed Management and |

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| | Maintenance Strategy for Public Open Space and National Forest planting areas shall be submitted to and approved in writing by the Local Planning Authority. This strategy shall also cover the management of footpaths and boundary treatments within these areas. The development shall be managed and maintained in accordance with the approved scheme. |
| 50 | Prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwellings to which they serve are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority. |
| 51 | The approved scheme of development shall be implemented in full accordance with details outlined within the Tree Protection Plan no. RSE-3151-TPP rev. V5. The development shall be executed in accordance with the approved details. |
| 52 | The development hereby approved shall provide accessibility standards in accordance with drawing E106 1011-P02 (Part M Compliance Overview), including a minimum of 2 No bedroomed bungalows built to Building Regulations Part M4(3) adaptable standards, to allow homes to flex and adapt easily to meet ageing and disability needs, unless otherwise first agreed and approved in writing with the Local Planning Authority. |
| 53 | <p>Prior to the commencement of the development hereby approved, the design and associated management and maintenance plan of the surface water drainage for the site shall be implemented in full accordance with the following details:</p> <ul style="list-style-type: none"> -11185-R-WA-002 A - Offsite Flooding Report, dated 12 December 2020 -R-FRA-11285R-01-C - Flood Risk Assessment Revision - C, dated March 2021 -25371-SK13 B - Section 104 Layout - Planning Condition 53 (S73 Scheme) -115 - Detention Basin Details, dated November 2022, completed by JPP -118 - Private Drainage Layout (Sheet 1), dated January 2023, completed by JPP -118 - Private Drainage Layout (Sheet 2), dated January 2023, completed by JPP -120(1) A - Private Construction Details, dated January 2023, completed by JPP -121 A - Offsite Land Drainage Layout, dated February 2023, completed by JPP -25371 - 103(1)A - Adoptable Drainage Construction Details - Sheet 1, dated 11 May 2023 (issued 21 August 2023) -25371 - 103(2)A - Adoptable Drainage Construction Details - Sheet 2, dated 11 May 2023 (issued 21 August 2023) -25371 - 120A - Private Construction Details, dated 9 March 2023(issued 21 August 2023) -25371 - SW - 1 in 1 year - FEH, dated 26 July 2023 (issued 21 August 2023) -25371 - SW - 1 in 2 year - FEH, dated 26 July 2023 (issued 21 August 2023) -25371 - SW - 1 in 30 year - FEH, dated 26 July 2023 (issued 21 August 2023) -25371 - SW - 1 in 100 year +40% CC - FEH, dated 26 July 2023 (issued 21 August 2023) -25371 - SW - FSR, dated 26 July 2023 (issued 21 August 2023) -25371 - SW - Network Details, dated 26 July 2023 (issued 21 August 2023) |
| 54 | <p>The approved scheme of development shall be carried out in conformity with the following scheme detailing how additional surface water run-off from the site will be avoided during the construction phase.</p> <ul style="list-style-type: none"> -CSWP R1 09-11-23 (002) B - Construction Surface Water Management Plan Rev B 09/11/2023 <p>The scheme shall be implemented in conformity with the approved details before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.</p> |
| 55 | The attenuation ponds should not be brought into use until such a time as it is fully designed and constructed in line with CIRIA SuDS manual C753 with associated management and maintenance plan, in line with CIRIA SuDS Manual C753 is submitted to and approved in writing by the Local Planning Authority on a prior to first use basis. |
| 56 | <p>The approved scheme of development shall be carried out in conformity with the following details approved regarding the drainage of foul water from the site including the management and maintenance plan/ strategy:</p> <ul style="list-style-type: none"> -25371-SK13 B - Section 104 Layout - Planning Condition 53 (S73 Scheme) <p>The scheme shall be implemented in conformity with the approved details prior to the first occupation of the development hereby approved.</p> |
| 57 | Prior to the first occupation of the development hereby approved, a Verification Report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed schemes (or detail any minor variations), provide the details of any management company and state the national |

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| | grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls). |
| 58 | 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 window hereby approved serving the following House Types shall be glazed in obscure glass and either non-opening (except in an emergency) or top light opening only and permanently maintained thereafter as such: • House Type A - ground and first floor side elevation windows • House Type B - ground and first floor side elevation windows • House Type C - ground and first floor side elevation windows • House Type D - first floor side window serving secondary window to Bedroom 1 • House Type E - first floor side elevation window serving the bathroom • House Type F - ground and first floor side elevation windows • House Type J - ground floor side window serving the wet room. |

Item No. 1.5

Ref. No. [DMPA/2024/0530](#)

Valid date: 19/04/2024

Applicant: David Shepherd

Agent:

Proposal: The replacement of the front door at 11 High Street, Ticknall, Derby, DE73 7JH

Ward: Repton

Reason for committee determination

The applicant is Cllr D Shepherd.

Executive Summary

Planning permission is sought for the replacement of the front door and overlight with a new six-panelled timber door, and single glazed glass. The proposal aims to restore the building using materials similar to those existing prior to the 1980s amendments. The application has raised no objections. The Conservation Officer considers the proposed development acceptable. The proposal is considered to cause no harm to the listed building and will preserve and enhance the special character of the Conservation Area. The application is therefore recommended for approval.

Site Description

The Firs, 11 High Street, Ticknall (the site) is a two storey detached early C19 Grade II Listed dwelling, accessed to the East of High Street. The site is located within the Ticknall Conservation Area and is covered by the Ticknall Article 4 Direction. The site is within the defined settlement boundary of Ticknall and shown on the Settlement Boundary Maps under Appendix A of the Local Plan Part 2. The dwelling is white rendered brick, with a Welsh slate roof and central ridge stack. The dwelling uses details typical of classic revival architecture, including a plain first floor cill band, fascia, symmetrical bays and a central door. The doorway has a moulded wooden door case, panelled door and rectangular overlight, and glazing bar sashes.

The proposal

Planning permission is sought for the replacement of the front door and frame. The proposed door would be painted wood with six panels. Single glaze glass would be used for the glass overlight above. Planning permission is sought in order to draught proof the dwelling and reinstate the pre-1983 door design.

Applicant's supporting information

- Existing Front Door Photos
- Front Elevation Photo
- Design and Access Statement
- Existing Door Dimensions
- Heritage Impact Assessment
- Proposed Door Details

DMPA/2024/0530 – 11 High Street, Ticknall, Derby, DE73 7JH



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South Derbyshire District Council. LA 100019461.2020

Relevant planning history

- DMPA/2024/0542: Listed Building Consent for the replacement of the front door - To be determined
- DMPA/2021/0510: The rebuilding of the rear garden wall - Approved subject to conditions

Responses to consultations and publicity

The Conservation Officer provides no objection. The Conservation Officer considers that the proposal would cause no harm to the heritage asset, and it preserves and enhances the character and appearance of the Conservation Area.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

South Derbyshire Local Plan – Part 1

Policy S2 (Presumption in Favour of Sustainable Development)

Policy BNE2 (Heritage Assets)

Policy BNE4 (Landscape Character and Local Distinctiveness)

South Derbyshire Local Plan – Part 2

BNE10 (Heritage)

SDT1 (Settlement Boundaries and Development)

Relevant Local Guidance:

South Derbyshire Design Guide Supplementary Planning Document

Ticknall Conservation Area Character Statement 2013

Relevant National Guidance:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Relevant legislation includes:

Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 directs that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

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 issue(s) central to the determination of this application is/are:

- Principle of the proposed development
- Impact upon the outbuilding and the character and appearance of the area and the Conservation Area
- Residential amenity

Planning assessment

Application Site and Proposed Development

11 High Street, Ticknall (the site) is a two storey rendered brick built C19 dwelling. The site is Grade II Listed, within Ticknall Conservation Area, and covered by an Article 4 Direction. The site has off street parking within a detached garage accessed via High Street. The site is within the defined settlement boundary of Ticknall and shown on the Settlement Boundary Maps under Appendix A of the LP2. Planning permission is sought for the replacement of the existing door and overlight, with a new painted wood six panel door, and single glazed overlight.

Principle of the Proposed Development

Development plan policy SDT1 supports development in principle in locations within the defined settlement boundaries, subject to compliance with the relevant policies of the development plan. Policy H27 considers householder development and supports such undertakings if they do not harm the host property and the character and appearance of the area, and is not unduly detrimental to the amenity afforded to nearby properties. The criteria associated with policy H27 is also reflected within policy BNE1 and advice within the SPD.

Therefore it is considered that the principle of the proposed development is deemed acceptable subject to the qualifying criteria of policies H27, other relevant policies of the development plan and other material considerations.

Impact upon the building and the character and appearance of the area and the Conservation Area

The proposal replaces a front door which is currently not the original style of door, which was replaced in the 1980s. The applicants are seeking to restore traditional appearance of the host dwelling. The proposed replacement is a six panelled wooden door with four paned overlight above. The Conservation Officer notes that the existing door was brought from another site in Derby and was part of doors to a bank. The original door is available on site for the joiner to replicate details. Historic photographs have been submitted showing the historic door. The Conservation Officer considers that the proposal would cause no harm to the heritage asset and preserves and enhances the appearance of the Conservation Area. It is considered that the restoration would be an improvement to the host dwelling, in keeping with C19 classic style dwellings. High Street Ticknall has a variety of styles and details as the street developed, the classical details of the dwelling will remain, in keeping with details found within the Conservation Area. It is considered that the proposals do not cause unacceptable levels of harm to the character and appearance of the Ticknall Conservation Area, and the Conservation Officer does not object.

Residential Amenity

It is considered that the changes would not affect residential amenity as the proposal is for a replacement door, and no new openings.

Conclusions and the Planning Balance

The proposed development is considered to cause no harm to the listed building, and will also preserve and enhance the special character of the Ticknall Conservation Area. The proposal is considered to be an overall improvement to the host dwelling, reinstating the style of the original front door. It is considered that the proposal would not have an undue adverse impact on residential amenity of neighbouring properties. There are no material considerations that would warrant refusal of planning permission in this instance.

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

Recommendation

Approval of Planning Permission.

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 Application Form and plans/drawings ref. Location Plan and Proposed New Front Door and Frame 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.

Item No. 1.6

Ref. No. [DMPA/2024/0542](#)

Valid date: 19/04/2024

Applicant: David Shepherd

Agent:

Proposal: **Listed Building Consent for the replacement of the front door at 11 High Street, Ticknall, Derby, DE73 7JH**

Ward: Repton

Reason for committee determination

The applicant is Cllr D Shepherd.

Executive Summary

Listed Building Consent is sought for the replacement of the front door and overlight with a new six-panelled timber door, and single glazed glass. The proposal aims to restore the building using materials similar to those existing prior to the 1980s amendments. The application has raised no objections. The Conservation Officer considers the proposed development acceptable. The proposal is considered to cause no harm to the listed building. The application is therefore recommended for approval.

Site Description

The Firs, 11 High Street, Ticknall (the site) is a two storey detached early C19 Grade II Listed dwelling, accessed to the East of High Street. The site is located within the Ticknall Conservation Area, and is covered by the Ticknall Article 4 Direction. The site is within the defined settlement boundary of Ticknall and shown on the Settlement Boundary Maps under Appendix A of the Local Plan Part 2. The dwelling is white rendered brick, with a Welsh slate roof and central ridge stack. The dwelling uses details typical of classic revival architecture, including a plain first floor cill band, fascia, symmetrical bays and a central door. The doorway has a moulded wooden door case, panelled door and rectangular overlight, and glazing bar sashes.

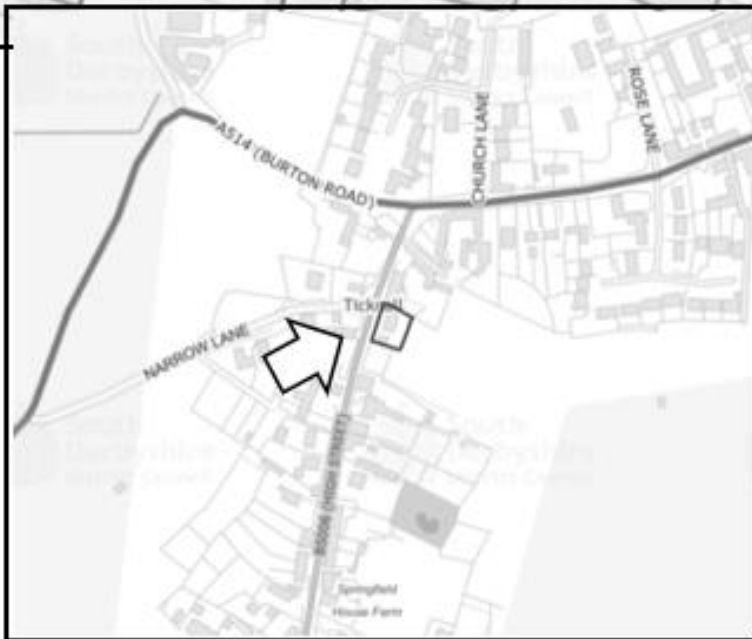
The proposal

Listed Building Consent is sought for the replacement of the front door and frame. The proposed door would be painted wood with six panels. Single glaze glass would be used for the glass overlight above. Planning permission is sought in order to draught proof the dwelling, and reinstate the pre-1983 door design.

Applicant's supporting information

- Existing Front Door Photos
- Front Elevation Photo
- Design and Access Statement
- Existing Door Dimensions
- Heritage Impact Assessment
- Proposed Door Details

DMPA/2024/0542 – 11 High Street, Ticknall, Derby, DE73 7JH



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South Derbyshire District Council. LA 100019461.2020

Relevant planning history

- DMPA/2024/0530: The replacement of the front door - To be determined
- DMPA/2021/0510: The rebuilding of the rear garden wall - Approved subject to conditions

Responses to consultations and publicity

The Conservation Officer provides no objection. The Conservation Officer considers that the proposal would cause no harm to the heritage asset.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

Local Plan Part 1

BNE2 (Heritage Assets)

Local Plan Part 2

BNE10 (Heritage)

The relevant local guidance is:

**South Derbyshire Design Guide Supplementary Planning Document (SPD)
Ticknall Conservation Area Character Statement 2013**

The relevant national policy and guidance is:

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

The relevant legislation is:

Section 16 (2) 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 issue(s) central to the determination of this application is/are:

- The impact on the historic fabric and external appearance of the listed building.

Planning assessment

Application Site and Proposed Development

11 High Street, Ticknall (the site) is a two storey rendered brick built C19 dwelling. The site is Grade II Listed, within Ticknall Conservation Area, and covered by an Article 4 Direction. The site has off street parking within a detached garage accessed via High Street. The site is within the defined settlement boundary of Ticknall and shown on the Settlement Boundary Maps under Appendix A of the LP2. Listed Building Consent is sought for the replacement of the existing door and overlight, with a new painted wood six panel door, and single glazed overlight.

Main Issues

The proposal replaces a front door which is currently not the original style of door, which was replaced in the 1980s. The applicants are seeking to restore the host dwelling. Its replacement is a six panelled wooden door with four paned overlight above. The Conservation Officer notes that the existing door was brought from another site in Derby and was part of doors to a bank. The original door is available on site for the joiner to replicate details. Historic photographs have been submitted showing the historic door. The Conservation Officer considers that the proposal would cause no harm to the

heritage asset. The classic details of the dwelling will remain, in keeping with details found with the existing dwelling, and the original features of the door will be restored. It is therefore considered that the restoration would be an improvement to the host dwelling. The Conservation Officer has not objected to the proposed development.

Conclusions and the Planning Balance

The proposed works would preserve the character of the heritage asset in accordance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, BNE2 of the Local Plan Part 1, BNE10 of the Local Plan Part 2, and is therefore considered acceptable.

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

Recommendation

Approval of Listed Building Consent.

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

Reason: To conform with Section 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 Application Form and plans/drawings ref. Location Plan and Proposed New Front Door and Frame unless as otherwise required by condition attached to this consent.

Reason: For the avoidance of doubt.