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**Chief Executive**

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Date: 15 June 2015

Dear Councillor,

**Planning Committee**

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, on **Tuesday, 23 June 2015 at 18:00**. You are requested to attend.

Yours faithfully,



Chief Executive

To:- **Conservative Group**

Councillor Roberts (Chairman), Councillor Mrs. Brown (Vice-Chairman) and Councillors Atkin, Mrs. Farrington, Ford, Grant, Mrs. Hall, Stanton and Watson.

**Labour Group**

Councillors Dunn, Pearson, Shepherd and Southerd.

## **AGENDA**

### **Open to Public and Press**

- 1** Apologies and to note any substitutes appointed for the Meeting.
- 2** To note any declarations of interest arising from any items on the Agenda
- 3** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 4** Report of the Director of Community and Planning Services **3 - 48**
- 5** Proposed Tree Preservation Order 392 at Newton Road, Newton Solney **49 - 51**

### **Exclusion of the Public and Press:**

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

# **REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**

## **SECTION 1: Planning Applications**

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

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## **1. PLANNING APPLICATIONS**

**This section also includes reports on applications for: approvals of reserved matters, listed building consent, work to trees in tree preservation orders and conservation areas, conservation area consent, hedgerows work, advertisement consent, notices for permitted development under the General Permitted Development Order 1995 (as amended) responses to County Matters and strategic submissions to the Secretary of State.**

| <b>Reference</b> | <b>Item</b> | <b>Place</b> | <b>Ward</b>          | <b>Page</b> |
|------------------|-------------|--------------|----------------------|-------------|
| 9/2015/0063      | 1.1         | Swadlincote  | Swadlincote          | 5           |
| 9/2015/0200      | 1.2         | Findern      | Willington & Findern | 13          |
| 9/2015/0256      | 1.3         | Drakelow     | Seales               | 17          |
| 9/2015/0129      | 2.1         | Linton       | Linton               | 32          |

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 Director of Community and Planning Services' report 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 Director of Community and Planning Services, 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.

**Item** 1.1

**Reg. No.** 9/2015/0063/FO

**Applicant:**  
Mr G Frost  
70 Smisby Road  
Ashby de la Zouch  
LE65 2JL

**Agent:**  
N Astle  
24 The City  
Woodville  
Swadlincote  
DE11 7DH

**Proposal:** OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE ERECTION OF PAIR OF SEMI-DETACHED DWELLINGS ON LAND ADJACENT TO 44 VALLEY RISE SWADLINCOTE

**Ward:** SWADLINCOTE

**Valid Date:** 05/02/2015

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

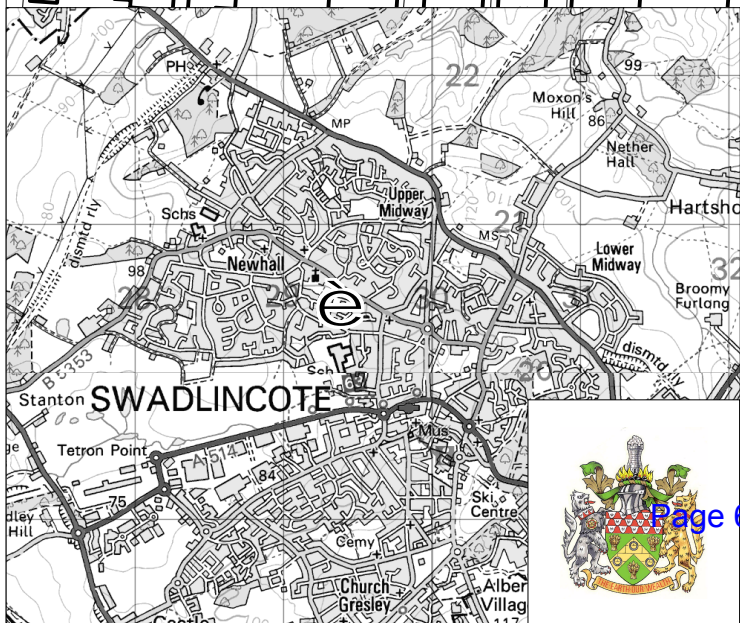
The application is reported to Committee at the request of Councillor Tilley because local concern has been expressed about a particular issue and unusual site circumstances should be considered by the committee.

#### **Site Description**

The site is garden land to the rear of 42 and 43 Valley Rise which is located on a bend in the road. 44 Valley Rise is to the north west, with properties on Union Road to the north and Darklands Road to the east. An area of garden land of a similar size would be immediately adjacent to the northern boundary. The land level of the site is approximately 1.5m higher than that of the road level which is similar to the floor level of 42 and 43 Valley Rise. No. 44 to the north west has a similar land level to the application site and No's 42 and 43 and properties are stepped down along the street to the west. The site is not maintained and buildings materials are evident.

#### **Proposal**

Outline planning permission is sought for a pair of semi-detached dwellings. All matters are reserved apart from access. The indicative layout shows one parking space for each dwelling located on the bend in the road. The dwellings would be set back 6.5-8.5m from the road frontage. The proposed dwellings are shown on the indicative plan to be about 1.5-2m from the rear boundaries of No's 42 and 43 and 12m from their rear elevations. Rear garden lengths are indicated at 8 and 9 metres.



## **Applicants' supporting information**

None

## **Planning History**

None

## **Responses to Consultations**

The County Highways Authority comments that one parking space per dwelling is not ideal but has no objection subject to conditions relating to a relocation of a lighting column, access, parking and informatives.

The Council's Contaminated Land Officer has no objection subject to a condition for a scheme of ground gas prevention.

The Coal Authority has no objection subject to a site investigation condition.

Severn Trent Water has no objection subject to a drainage condition.

## **Responses to Publicity**

Four letters of objection have been received and are summarised as follows:-

- a) The access is unsuitable as it is restricted by a lamppost, steep slope and on a bend.
- b) The applicant would have to use No.43's access which has happened previously.
- c) There is no drainage capacity for two dwellings.
- d) The height of the dwellings would be too high for the street.
- e) The properties would overlook No. 43.
- f) A previous application for a garage on the site was refused.
- g) Drains are frequently blocked.
- h) Overlooking of existing properties on Darklands Road.
- i) An existing hedgerow is not shown and would have to be removed.
- j) The rear access paths are blocked by parking for plot 2.
- k) The dwellings would prevent access to boundary of 14 Union Road and overshadow its garden.
- l) The heights and design of the dwellings is not shown and the application should not be determined without this detail.
- m) The house wall would be on the boundary and could not be maintained and footings may encroach over the boundary.

## **Development Plan Policies**

The relevant policies are:

Local Plan: Saved Housing Policies 4 & 11 and Transport Policy 6.

Emerging Local Plan S2, H1, SD4, BNE1

Supplementary Planning Guidance on the Design and Layout of New Housing

## National Guidance

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)  
Paras 11-14 (The presumption in favour of sustainable development)  
Para 17 (Core principles)  
Chapter 4 (Promoting sustainable transport)  
Chapter 6 (Delivering a wide choice of quality homes)  
Chapter 7 (Design)  
Chapter 11 (Conserving and enhancing the natural environment)  
Paras 186 & 187 (Decision-taking)  
Para 193 (Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.)  
Para 196 & 197 (Determining applications)  
Paras 203-206 (Planning conditions and obligations)  
Annex 1 (Implementation)

- National Planning Practice Guidance (NPPG) ID33 (Contamination) ID45 (Land stability)

## Planning Considerations

The main issues central to the determination of this application are:

- The principle of development
- Highways Issues
- Residential Amenity

## Planning Assessment

The site is located within the urban area of Swadlincote and as such is considered a sustainable location for residential development. The site is substantially surrounded by development and is overgrown and unsightly. It is therefore not considered to make a valuable contribution to the character of the area. In principle residential development would be in accordance with Local Plan Saved Housing Policy 4.

The Highway Authority considers the parking and access to be adequate in terms of Highways safety in accordance with Transport Policy 6.

The indicative plans show a pair of semi-detached dwellings that are two storeys and positioned 12 m from the rear elevations of 42 and 43 Valley Rise. This relationship is considered acceptable when tested against the Council's supplementary planning guidance. Indeed, the site level information has confirmed that the proposed dwellings would have a similar land level to that of adjoining properties. The proposal is considered to conform to the requirements of Saved Housing Policy 11 and the core principle in Paragraph 17 of the NPPF as good standards of amenity for all existing and future occupants of land and buildings could be achieved.

The plan confirms that the dwellings can be accommodated on site with sufficient parking and garden areas. A more detailed assessment of window relationships would be made at reserved matters stage.



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.

## **Recommendation**

**GRANT** permission subject to the following conditions:

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

(b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.

2. Approval of the details of the layout, scale, appearance and the landscaping shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

3. No development work involving the construction of the dwellings shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: In the interests of flood protecting and pollution control.

4. Prior to being incorporated in the development precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: To safeguard the appearance of the building(s) and the locality generally.

5. Before any works involving the construction of any dwelling commences a suitable scheme for the prevention of ground gas ingress has been submitted to and approved in writing by the Local Planning Authority (LPA). Alternatively, the site shall be monitored for the presence of ground gas and a subsequent risk assessment completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Upon completion of either, verification of the correct installation of gas prevention measures (if any) shall be submitted to and approved in writing by the LPA prior to the occupation of the development hereby permitted.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by

development of it and recognising the Council's opinion that this element of the development could lead to unacceptable impacts even at the initial stages of works on site because of the nature of the associated potential hazards in the ground this needs to be undertaken before development begins.

6. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), the development shall not be occupied until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, none of the dwellings hereby permitted shall be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene.

8. The finished floor levels of the dwellings hereby approved shall generally be in accordance with plan no's NA/GFVRS/1b and NA/GFVRS/2.

Reason: To protect the amenities of adjoining properties and the locality generally.

9. Before any works involving the construction of any dwelling commences, street lighting column 77277 shall be relocated in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety, specifically to ensure that pedestrians are not placed at undue risk during the construction phase and recognising the Council's opinion that this element of the development could lead to unacceptable impacts even at the initial stages of works on site..

10. Before any works involving the construction of any dwelling commences a new vehicle access shall be formed to Valley Rise in accordance with the application drawing NA/GFVRS/1a and provided with visibility sightlines extending from a point 2.4m from the carriageway edge, measured along the centreline of the access, to the extremities of the site frontage abutting the highway in each direction. The land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) [above ground level in case of junction] relative to adjoining nearside carriageway channel level.

Reason: In the interests of highway safety, specifically to ensure that safe access can be achieved throughout the construction phase and recognising the Council's opinion that this element of the development could lead to unacceptable impacts even at the initial stages of works on site.

11. Prior to the occupation of any of the dwellings space shall be laid out within the site in accordance with drawing No. NA/GFVRS/1a for two cars to be parked; or

in any alternative location as may be agreed in writing with the local planning authority.

Reason: In the interests of highway safety.

12. The car parking spaces 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 (England) 2015, the parking spaces to be provided in connection with the development shall not be used other than for the above stated purpose except with the prior permission of the Local Planning Authority granted on an application made in that regard.

Reason: To ensure that adequate parking provision is available.

13. The development shall be implemented in accordance with the recommendations of the submitted Coal Mining Risk Assessment, in particular with regard to intrusive site investigation works (which shall be undertaken before any works involving the construction of any dwelling commences ) and any resultant remedial works identified by the site investigation.

Reason: To ensure the stability and safety of the development, having regard to the Coal Mining Risk Assessment undertaken and recognising the Council's opinion that this element of the development could lead to unacceptable impacts even at the initial stages of works on site.

#### Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy Transport & Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website

[http://www.derbyshire.gov.uk/transport\\_roads/roads\\_traffic/development\\_control/vehicular\\_access/default.asp](http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp) , email [ETENetmanadmin@derbyshire.gov.uk](mailto:ETENetmanadmin@derbyshire.gov.uk) or telephone Call Derbyshire on 01629 533190.

The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

Where development is proposed over areas of coal and past coal workings at shallow depth, The Coal Authority is of the opinion that applicants should consider wherever possible removing the remnant shallow coal. This will enable the land to be stabilised and treated by a more sustainable method; rather than by attempting to grout fill any voids and consequently unnecessarily sterilising the nation's asset.

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: [www.coal.gov.uk/services/permissions/index.cfm](http://www.coal.gov.uk/services/permissions/index.cfm).

**Item**            **1.2**

**Reg. No.**        **9/2015/0200/U**

**Applicant:**  
**Alan Walker**  
**South Derbyshire District Council**  
**Civic Offices**  
**Civic Way**  
**Swadlincote**  
**DE11 0AH**

**Agent:**  
**Alan Walker**  
**South Derbyshire District Council**  
**Civic Offices**  
**Civic Way**  
**Swadlincote**  
**DE11 0AH**

**Proposal:**        **CHANGE OF USE OF AGRICULTURAL LAND TO  
PROVIDE AN EXTENSION TO THE CEMETERY  
COMMON PIECE LANE FINDERN DERBY**

**Ward:**            **WILLINGTON & FINDERN**

**Valid Date:**     **10/03/2015**

**Reason for committee determination**

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

**Site Description**

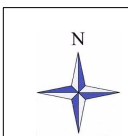
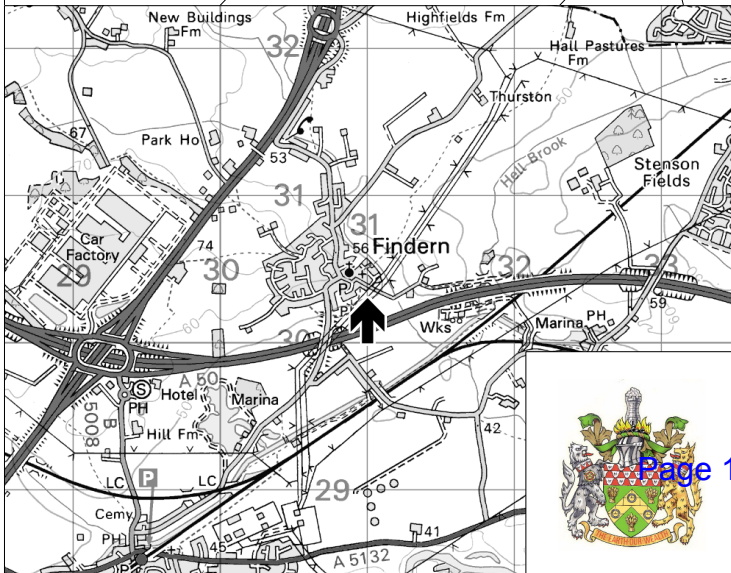
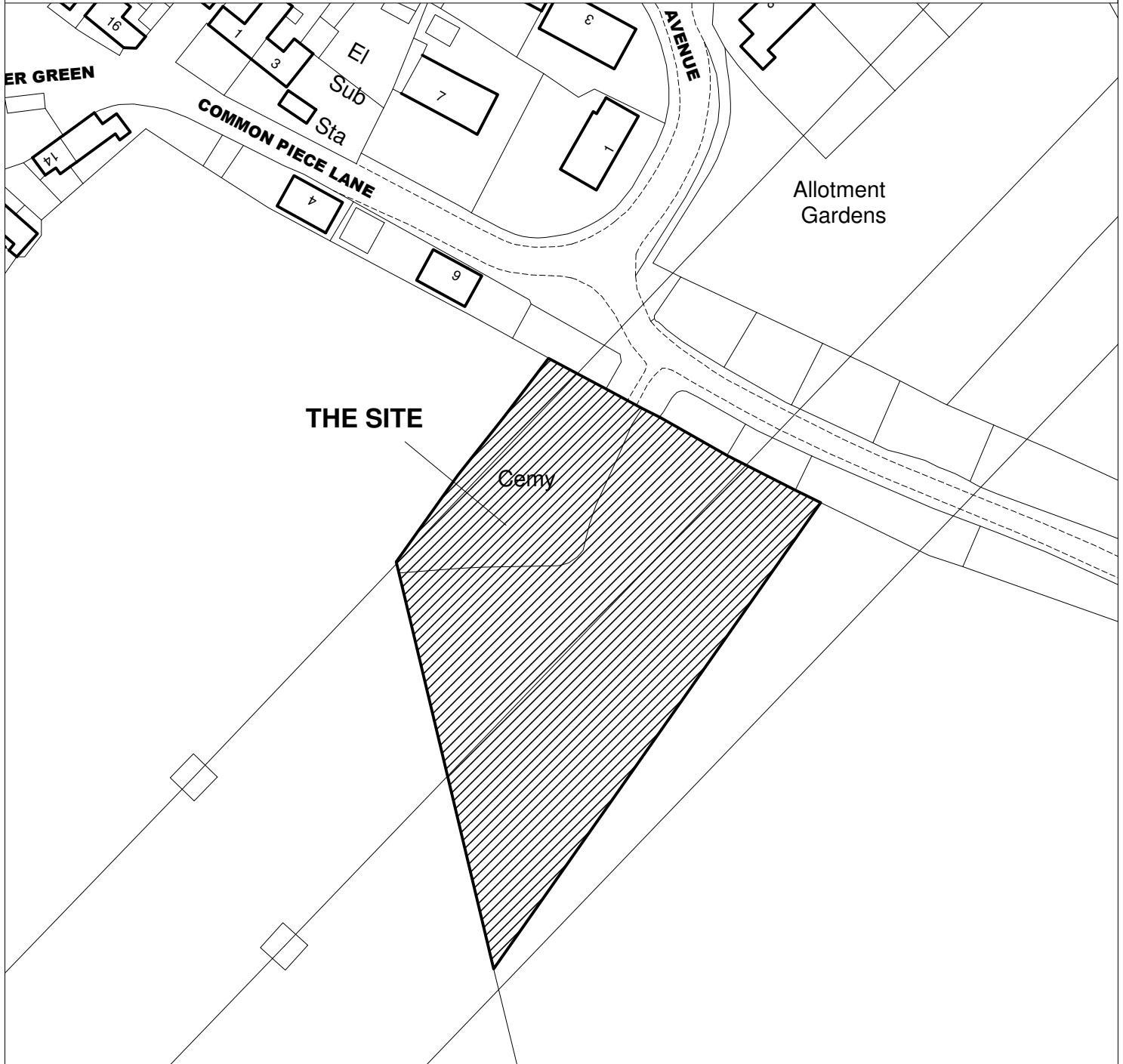
The site in total extends some 0.4 hectares and used as, in part, an existing cemetery with the remainder used for the grazing of horses/agriculture. The existing cemetery is bounded by substantial hedgerows, with the remainder of the site left open to the south. The site is accessed via a predominantly pedestrian gateway from Common Piece Lane, with 2m high wrought iron gates erected at the entrance.

**Proposal**

Consent is sought to extend the existing cemetery onto the grazing land to the south east, with the erection of post and rail fencing around the new perimeter of the site supplemented by hedgerow planting.

**Applicant's supporting information**

The application is accompanied by a Design and Access Statement which briefly outlines the history of the site and the overall design of the proposed cemetery extension, i.e. the layout of pathways, the erection of 1.2m high post and rail fencing and the removal/planting of hedgerow.



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South Derbyshire District Council. LA 100019461. 2014

## **Planning History**

None relevant.

## **Responses to Consultations**

The County Highway Authority raises no objections.

The Environment Agency raises no objection but recommends an informative be added.

## **Responses to Publicity**

No comments have been received.

## **Development Plan Policies**

The relevant policies are:

- Saved Local Plan 1998:  
Community Facilities Policy (CF1), Environment Policy 1 (EV1) and Transport Policy 6 (T6).

## **Emerging Development Plan Policies**

The relevant policies are:

- Submission Local Plan Part 1:  
S2 (Presumption in favour of Sustainable Development),  
SD1 (Amenity and Environmental Quality), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport)

## **National Guidance**

- National Planning Policy Framework (NPPF), in particular paragraphs 6 to 9, 14, 17, 32, 56, 109 and 118.
- National Planning Practice Guidance (NPPG)

## **Planning Considerations**

The main issues central to the determination of this application are:

- The impact on the countryside
- Other issues

## **Planning Assessment**

The site falls outside of the settlement boundary for the village of Findern but close to its confines. The proposed development benefits from support under saved policy EV1 given it requires this location and the use would not detract from the openness of the



landscape and creates as little impact as practicable on the countryside given its limited extent and appearance in the landscape.

The retention of the hedgerow to the north and west of the site ensures that the cemetery will be substantially screened from the neighbouring residential properties, and the erection of 1.2m high post and rail fencing around the new perimeter of the site includes the planting of hedgerow which would, in time, create a substantial hedgerow to offset the loss of the central hedgerow that would be removed in order to open up the site.

With acceptable highway safety, geo-environmental and amenity impacts, and the community benefits arising from the proposal, the benefits of the proposal are considered to outweigh the limited harm arising.

## **Recommendation**

**GRANT** permission under Regulation 3 subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, prior to the first use of the cemetery hereby permitted a 1.2m high wooden post and rail fence supplemented by a hedge of native species mix shall be erected/planted along the south-west and south-east boundaries. All planting shall be carried out in the first planting season following the completion of the development; and any plants which within a period of five years 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.  
Reason: In the interests of the appearance of the area.

## **Informatives:**

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through quickly determining the application and agreeing the conditions attached. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

All burials in the cemetery must be:

- a minimum of 50m from a potable groundwater supply source;
- a minimum of 30m from a water course or spring;
- a minimum of 10m distance from field drains;
- no burial into standing water and the base of the grave must be above the local water table.



**Item**            **1.3**

**Reg. No.**        **9/2015/0256/MAF**

**Applicant:**  
**KS SPV 49 Ltd**  
**c/o Agent**

**Agent:**  
**James Lee**  
**Laurence Associates**  
**Lander House**  
**May Court**  
**Threemilestone Business Park**  
**Truro**  
**Cornwall**  
**TR4 9LD**

**Proposal:**        **PROPOSED SOLAR PARK LAND AT FORMER**  
                         **DRAKELOW POWER STATION LAND AT SK2220 7725**  
                         **WALTON ROAD DRAKELOW SWADLINCOTE**

**Ward:**            **SEALES**

**Valid Date:**     **08/04/2015**

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

The application is brought to committee because it is a major development which the Planning Services Manager considers the Members should determine.

#### **Site Description**

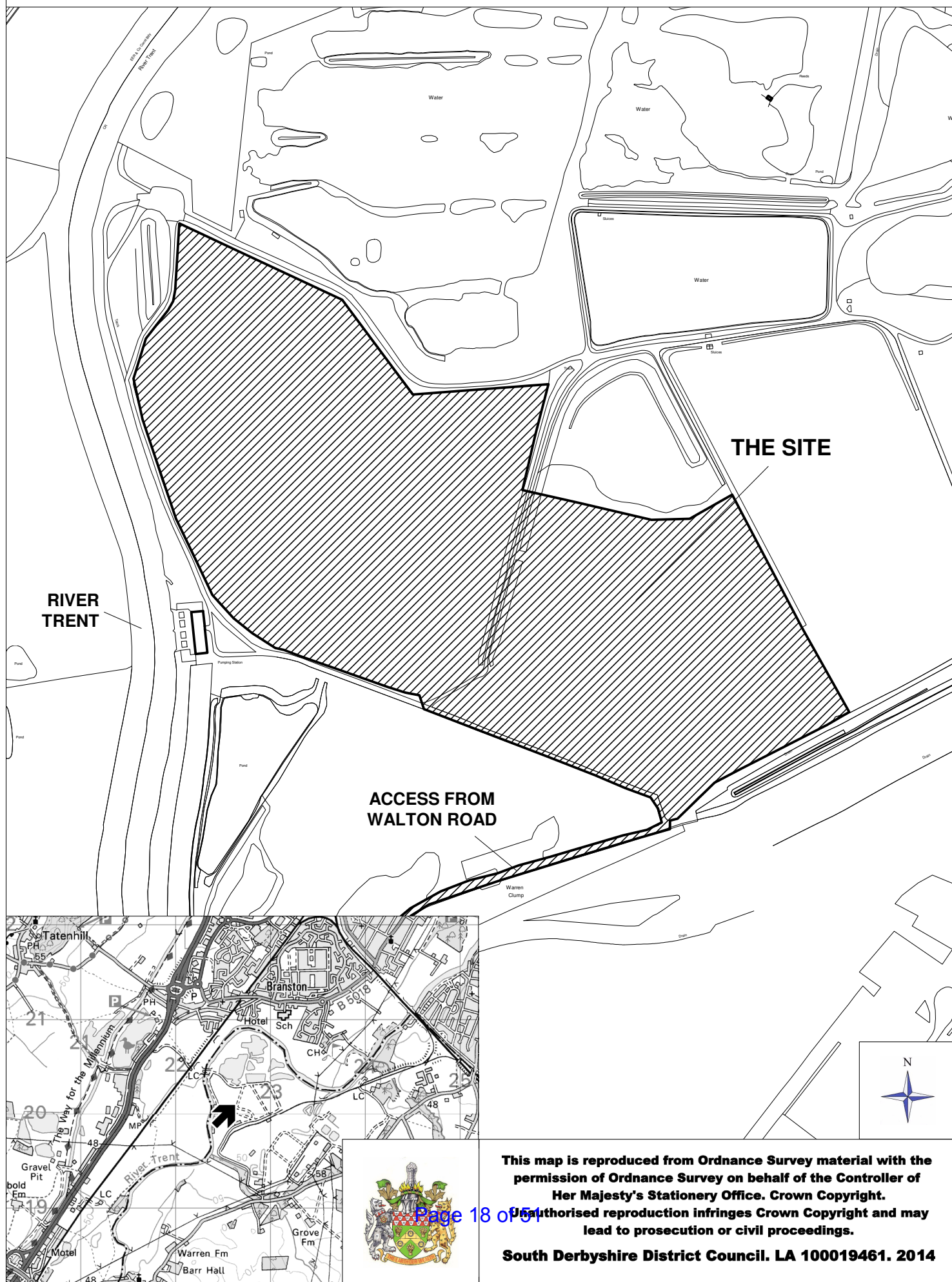
The application site comprises a large area of open scrub land, measuring approximately 11 hectares, which is dissected by an existing hedgerow interspersed with trees. The site is accessed via an existing narrow, winding track of approximately 2.9km in length, which also serves the local nature reserve and a private fishing lake. The majority of the access runs adjacent to Drakelow Power Station land which is served by the same access off Walton Road.

There is a vacant brick and tile Pumping Station building to the west of the site beyond which is the River Trent and beyond that the route of the Burton to Birmingham railway line. Drakelow Lodge is located approximately 140m to the east of the access.

The site has a gently undulating character and tends to slope downwards to the north before rising up again beyond the site boundary. The site is within Flood Zones 1, 2 and 3. An existing single-stemmed Hawthorn hedge marks the northern boundary. The Nature Reserve car park is located outside the northwest corner of the site.

The site was once used for gravel extraction with some of the gravel pits being backfilled with ash from the power station. Other pits to the north of the site have been

**9/2015/0256 - Land at former Drakelow Power Station, Land at SK2220 7725  
Walton Road, Drakelow, Swadlincote (Site Access = DE15 9TY)**



flooded and now form lagoons attracting wading birds and other wildlife as part of the nature reserve. Since the infilling of the gravel pits and eventual closure of the power station some years ago, the site has been overtaken by vegetation and its character now is one of rough grassland.

## **Proposal**

The proposal is for the installation of a solar photovoltaic (PV) park with attendant infrastructure, comprising:

- Several rows of PV module racks across the site on an east/west axis mounted on arrays with a maximum height of 2.5m and a minimum ground clearance of 0.8m to allow sheep grazing, and each with a south-facing aspect to maximise available irradiation levels;
- A centre station comprising a transformer, switch gear and DNO cabinet located in the eastern corner of the site;
- Four inverter stations each comprising 1 transformer and 1-2 inverters;
- Seventeen security cameras, each mounted on a 3m high (max) pole and positioned at intervals around the perimeter of the site;

The entire site would be enclosed by 2.1m high perimeter “deer proof” mesh fencing. The plans also show root protection areas for the hedgerows along the northern boundaries, the hedgerow that dissects the site and mature trees within the southern part of the site. A central area of existing open mosaic habitat is to be retained and maintained, together with an existing rough grassland area on the western boundary, which is within the River Trent floodplain. The existing hedgerows along the northern and north-western boundaries would be reinforced as part of the proposal. New screen planting is proposed along parts of the western and southern boundaries. The 3.5m wide access and maintenance roads would be re-surfaced using a Geotextile, rough gravel base and a Type 1 Ecomix permeable surface.

The proposed solar panels would be located within Flood Zones 2 and 3; however the inverter stations and switch gear units would be located within Flood Zone 1.

A Screening Opinion was provided by the District Council on 18<sup>th</sup> November 2014 which confirmed the proposal was not considered to be EIA development.

## **Applicants’ supporting information**

The application is supported by the following documents, all of which are available to view on the Council’s website:

- Design, Accessibility and Planning Appraisal
- Construction Management Plan
- Flood Risk Assessment and Sustainable Drainage Strategy
- Extended Phase 1 Habitat Survey
- Historic Environment Assessment
- Floor Plan with PV Layout
- Analysis of Scenic Interests
- Landscape & Visual Impact Assessment, Report and Appendices
- Photomontage

- Tree Survey

### Design, Accessibility & Planning Appraisal

This concludes by stating that there are no site specific concerns about the proposal and this is supported by national and local policies, through the NPPF, NPPG and the adopted Local Plan and that the presumption is entirely in favour of developments of this nature.

### Construction Management Plan

This document describes the intended route of the construction vehicles from Liverpool, southwards along the M6, M6 Toll and the A5148 and A38 towards Burton, through Stapenhill and finally onto Walton Road. A maximum of 50 construction workers would be on site at peak times, with all arriving by minibus and parking within a designated temporary contractor's compound. The construction of the Solar Farm would result in a total of 468 HGV traffic movements (arrivals and departures), equating to an average of 6 HGV movements per day (3 arrivals and 3 departures). It is anticipated that it would result in no material impact on the local highway network.

### Flood Risk Assessment and Sustainable Drainage Strategy

This concludes by stating the proposed development would likely have a vulnerability classification of 'less vulnerable' in accordance with Table 2 of the Planning Practice Guide and that 'less vulnerable' development with Flood Zone 3a or lower risk zones are deemed to be appropriate. Sustainability is an important aspect when granting approval; however the risk of flooding should not be overlooked but should be mitigated to a safe level if possible. Mitigation proposals include:

- Panels to be positioned a minimum of 1100mm above ground level so above any anticipated flood level;
- Inverter stations and other vulnerable infrastructure located within Flood Zone 1;
- Sufficient spacing between the piles supporting the panels to minimise flow disruption during a flood event;
- Security fencing mesh sizing made as large as reasonably practicable to reduce the chance of blockage and obstruction of flow routes.

The conceptual SuDS scheme proposed will effectively reduce the runoff rate to less than the undeveloped (current) runoff rates, as storage and infiltration on site will be improved. A swale system is proposed to allow the interception, redistribution and infiltration of the flows from across the site. Whilst it is clear there are a number of potential flood risks at the site, provided appropriate mitigation measures are considered and implemented it is anticipated that the flood risks can be suitably mitigated. The SuDS scheme would ensure that flood risk is not increased to downstream properties by providing sufficient storage for any increased runoff and compensatory flood plain storage should ensure that the site infrastructure is made suitably flood resilient.

### Extended Phase 1 Habitat Survey

This study sets out a list of recommendations regarding the proposed works being carried out in accordance with a Working Method Statement intended to minimise the risk of adverse impacts on existing habitats, birds, herpetofauna and invertebrates, which should be drawn up and agreed with the Local Planning Authority prior to the commencement of works. During the operational phase it recommends the site is managed according to a Habitat Management and Monitoring Plan to be drawn up and also agreed with the Local Planning Authority prior to works commencing.

### Historic Environment Assessment

This concludes by stating that there are no designated heritage assets within the application area, although there are four within the wider study area, all of which are Grade II Listed Buildings. However, the site is well-screened and the proposed development would not be visible within views of any of the designated assets and consequently their settings would not be affected. Similarly, no significant artefacts have been recorded following several studies being undertaken for developments at Drakelow Power Station and the Drakelow to Edingale gas pipeline. Overall, it is considered that the part of the application area which has not been truncated has a moderate potential for the survival of known, and the presence of, previously unrecorded heritage assets. The presence of possible Romano-British settlement/military activity to the south may indicate a low to moderate potential for heritage assets of this date to be present in the undisturbed part of the site.

### Analysis of Scenic Interests

This document provides photographs to show the site in the context of theoretical visual receptors, public footpaths, flood zones, scenic interests (AONBs, ancient woodlands etc.), heritage assets and nature reserves.

### Landscape & Visual Impact Assessment, Report and Appendices

This concludes by recognising that the site is situated within the largest brownfield site in South Derbyshire and that there are few designations that directly affect it and few receptors that will be significantly affected. The topography is relatively flat and there is no high ground of vantage points from where the site is easily viewed. The proposed mitigation planting would serve to increase the screening effects further and completely visually enclose the site from view. There are proposals for solar farms at Rolleston and Marchington (both in Staffordshire) and Coton Park; however all of these sites are geographically distant from the site. As such, there would be no cumulative visual or landscape effects resulting from the same type of development in the region. Given that the site is not currently visible from all but one of the viewpoints assessed (within the LVIA) and with mitigation measures in place, the proposal would not be visible and there would be no cumulative visual effect.

### Photomontage

The proposed solar farm will only be seen from the Burton to Birmingham railway line and a public footpath. The submitted photomontage shows the existing view, the view at year 0 and again at year 10. Whilst at year 0 a limited amount of the panels would be visible by year 10 these would be completely screened by existing and proposed planting.

## Tree Survey

This concludes that the proposed development would not impact on the most important trees on the site, which are predominantly alder and willow on the wet ground and oak, beech and birch favouring the drier areas. The small size of the trees and the lack of public access mean that all the trees are categorised as grade C as the visual benefits they provide are limited and could be replaced by further planting or the management of natural regeneration in other parts of the site. As a consequence it is considered that there would be no conflict with Saved Environment Policy 11.

## **Planning History**

There is no relevant planning history for this site.

## **Responses to Consultations**

The County Highway Authority requires visibility sightlines of 2.4m x 160m in each direction and that, whilst this is achievable at the access to the site over controlled land, it may be necessary to remove some vegetation to ensure that the sightlines are clear of obstruction. As this matter can be controlled by condition there are no objections subject to conditions in respect of the access and HGV routing to the site being in accordance with the Construction Management Plan and observed throughout the construction period; and the provision of the visibility sightlines as outlined above.

The Crime Prevention Adviser states that large-scale thefts of solar panels are an increasing problem with more isolated locations being targeted. This, combined with the isolated access route, places the application site at a higher risk. The suggested security provision of deer fencing and CCTV needs to be improved to form an active perimeter intruder detection system, as well as off-site CCTV monitoring. The vehicular access from Walton Road should remain secure at all times other than to allow construction traffic through, and remain in place once construction is complete.

The National Forest Company agrees with the recommendations of the Ecological Survey (Phase 1 Survey) and requires the submission of a Working Method Statement and Management Plan as a condition. The NFC understands that Derbyshire Wildlife Trust may be interested in maintaining the site as an extension to the adjacent nature reserve and this would be encouraged.

Natural England has no objections as the proposal is unlikely to affect any statutorily protected species, sites or landscapes and recommends its standing advice be applied to the proposal.

The Environment Agency has no objection to the proposed development, as submitted, but makes comments in respect of Fluvial Flood Risk and mitigation. A revised Flood Risk Assessment has been submitted by the applicants, which satisfactorily addresses the matters initially raised by the EA. No further objections have been raised and no conditions have been requested.

Derbyshire County Council's Flood Risk Management Team has assessed the application in terms of surface water, fluvial data, water environment data and groundwater data. The Team has no particular concerns but makes recommendations with regard to surface water drainage, potentially hidden watercourses and that a site



specific ground investigation is undertaken based on the review of the British Geological Survey data.

The County Archaeologist comments that the site has been subject to heavy disturbance (made ground infill in excess of 1.5m in all areas and typically in excess of 4 – 5m). The unevenness of the western part of the site therefore probably derives from infilled former gravel workings rather than medieval ridge and furrow as per the heritage report. He recommends that there is no archaeological potential and consequently there is no requirement for an archaeological condition.

The Environmental Protection Officer requests conditions and advisory notes in respect of contaminated land and is keen to discuss the approach to be taken for any site investigation/preliminary risk assessment with the applicant or the consultant.

Derbyshire Wildlife Trust comments that it has been involved in detailed discussions with the ecologist to inform the layout of the proposal, having taken expert knowledge of the site into consideration at pre-submission stage, and considers that sufficient ecological information has been provided. DWT is satisfied that the proposed layout would retain sufficient areas of suitable habitat for amphibians, reptiles and notable butterfly species post installation. It recommends that the works be carried out in strict accordance with the recommendations outlined in Section 5.0 of the report, including the need for the submission and approval of a Construction Environmental Management Plan and a Habitat Management & Monitoring Plan prior to the commencement of work on site.

The neighbouring authority, East Staffordshire Borough Council, has no objections to the proposal as submitted.

## **Responses to Publicity**

None received

## **Development Plan Policies**

The relevant policies are:

- Local Plan: Saved Environment Policies 1, 9, 10, 11,14; Transport Policy 6

The emerging policies are:

- Local Plan Part 1 (Submission Version): S1, S2, S3, S6, SD1, SD2, SD4, SD6, BNE1, BNE3, BNE4, INF2, INF7, INF8

## **National Guidance**

- National Planning Policy Framework (NPPF) paragraphs 7, 8, 14, 17, 93, 98, 100, 103, 109, 111, 118, 121, 134, 186, 187, 206
- National Planning Practice Guidance (NPPF) paragraphs ID 5-001-20140306, ID 5-013-200140306

## **Planning Considerations**

The main issues central to the determination of this application are:

- The Development Plan
- The need to encourage renewable energy projects and the impact on the countryside
- Impact on neighbours
- Impact on ecology
- Impact on heritage assets and archaeology
- Highway matters
- Flood risk

## **Planning Assessment**

### The Development Plan

‘Solar farms’ are a relatively recent phenomenon and there is no reference in the Local Plan to where they are best located. However, it is clear from cases across the country that they will invariably be outside settlements. As such it is considered that a solar farm of this particular scale would be unavoidable in the countryside and thus would be in accord with the primary test of Saved Environment Policy 1. The qualitative tests, and conformity with Saved Environment Policies 9, 10, 11 and 14 (landscaping, National Forest, natural history and archaeology) are addressed in the relevant sections below.

### The need to encourage renewable energy projects and the impact on the countryside

One of the core principles of the NPPF is to support the transition to a low carbon future in a changing climate and encourage the use of renewable resources (for example, by the development of renewable energy). Paragraph 93 of the NPPF states local planning authorities should support the delivery of renewable and low carbon energy and associated infrastructure and that this is central to the economic, social and environmental dimensions of sustainable development. Paragraph 98 states that when determining planning applications, local planning authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions and approve the application if its impacts are (or can be made) acceptable.

The above general supportive advice is underpinned by the NPPF, in particular paragraph ED 5-013-20140306, which lists the particular factors that the local planning authority will need to consider when determining applications for renewable energy projects. These include:

- Encouraging the effective use of land by focussing large-scale solar farms on previously-developed and non-agricultural land, provided that it is not of high environmental value;
- Where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for



continued agricultural use where applicable and/or encourages biodiversity improvements around arrays;

- That solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;
- The proposal's visual impact, the effect on landscape of glint and glare and on neighbouring uses and aircraft safety;
- The extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;
- The need for, and impact of, security measures such as lights and fencing;
- Great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large-scale solar farms on such assets. Depending on their scale, design and prominence, a large-scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset;
- The potential to mitigate landscape and visual impacts through, for example, screening with native hedges;
- The energy generating potential, which can vary for a number of reasons, including latitude and aspect.

The approach to assessing cumulative landscape and visual impact of large-scale solar farms is likely to be the same as assessing the impact on wind turbines. However, in the case of ground-mounted solar panels it should be noted that with effective screening and appropriate land topography the area of a zone of visual influence could be zero.

The application site, which extends to some 10.84 hectares, has an historic use as gravel pits which have subsequently been infilled. Since then it has been used in connection with the Drakelow Power Station, probably for coal storage. However, the site has not been in active use for some years and has since been colonised by vegetation. There is an existing pond used by a private fishing club to the south and outside the site boundary. A local nature reserve and associated car park, which is attended by Derbyshire Wildlife Trust, lies to the north and is, again, outside the site. The access to the application site would utilise the existing access to the nature reserve.

The proposed development is for a photovoltaic solar farm which would be capable to generating 5MW, which is equivalent to providing electricity to 1,330 local households and would contribute to a CO<sub>2</sub> avoidance of more than 3,000 tons per year. The height of the highest part of the panels above ground would vary between 2.3m and 2.5m and the lowest part would be between 0.8m and 1.1m above ground. Distances between the rows of panels would range between 4.6m and 5.3m. Further hedge planting is proposed in order to augment the existing northern boundary, which is quite sparse in places. The submitted tree survey confirms that the most important trees on the site would not be affected by the proposed development subject to tree protection measure being in place during the construction period.

Owing to the distance between the site and Walton Road no part of the site is visible from the road. It is likely that the solar panels would be glimpsed by passengers using the Burton to Birmingham railway line and also from walkers using the public footpath

(1a Branston) that runs parallel to the railway line, both of which lie within the administrative area of East Staffordshire Borough Council, with the River Trent forming the boundary between the two districts. However, glimpses from the train would be brief and only a very short stretch of public footpath would be affected. There are no public footpaths within the site itself. Access to the local nature reserve is by appointment only as it is not manned on a permanent basis. The existing vegetation associated with the reserve and the additional proposed boundary planting would assist in reducing the impact of the development. The Landscape and Visual Impact Assessment (LVIA) provides photographs of the internal views of the site. As there are no views that would be affected by the proposal, other than a limited view from the Branston public footpath, no photomontages were produced. However, in the interests of thoroughness the applicant has been requested to produce a photomontage of this view showing mitigation planting at 1 year and at 10 years. It is considered that a small part of the development would be visible at 1 year with the view completely hidden by year 10.

Taking the local and national policies in account and given the low impact on the surrounding area that would ensue, it is considered that the benefits that would arise from the creation of this renewable energy project would outweigh the minimal impact the development is likely to have on the character and appearance of the countryside and the views from outside the site.

#### Impact on neighbours

There are no neighbours that abut or are within the application site, the closest domestic property (The Lodge) being some 150m east of the access off Walton Road. The applicants undertook publicity events, with a public meeting being held at Branston Village Hall on 27<sup>th</sup> January 2015 which was attended by 10 people. A Site Notice was displayed at the entrance to the site on 14<sup>th</sup> April 2015. No objections have been received in response to the publicity that has been undertaken. Given the existing dense screening of the site, it is unlikely that the proposed development would have a detrimental impact on residents within the wider area.

#### Impact on ecology

Derbyshire Wildlife Trust is satisfied that the nature of the development is such that any disturbance to wildlife habitats would be minimal and of short duration. The site does not extend into the local nature reserve and the development is therefore unlikely to have an adverse impact on any species that inhabit the reserve. The use of suitably-worded conditions would ensure the future management of the site in terms of ecology.

#### Impact on heritage assets and archaeology

There are no designated or undesignated heritage assets within the site, with the closest listed structure within SDDC District being the walls and gate piers to Drakelow Lodge. However, there would be no intervisibility between the proposed development and the listed structures and therefore they would remain unaffected.

With regard to archaeology the County Archaeologist is satisfied that the proposed development would not impact on any archaeological potential and, consequently, there is no requirement for the submission of a Written Scheme of Investigation. As such the

development would accord with Saved Environment Policy 14 of the adopted Local Plan.

### Highway matters

The proposed development would utilise an existing access, which also serves the adjacent Power Station as well as the local nature reserve. There are no requirements to alter the access and there is sufficient visibility for vehicles when leaving the site. The Highway Authority has requested a condition in respect of maintaining the sightlines by the removal of vegetation and any obstruction between 1m and 2m in height. It has also requested a condition in respect of the submitted HGV routing plan, as, until such time as the Walton Bypass has been constructed, access to the site through Walton on Trent would not be possible, owing to the restricted width and less-than-robust construction of the Bailey bridge. In view of the above, the proposed development would not conflict with Saved Transport Policy 6 of the adopted Local Plan.

### Flood Risk

The Environment Agency has confirmed that there are no objections to the proposal, particularly as there are no arrays proposed for the part of the site that is closest to the River Trent and therefore likely to be affected by flooding. The Agency has highlighted some inconsistencies within the Flood Risk Assessment which have since been addressed.

### Tree Survey

The area of woodland to the north of the application site is to be retained and protection measures put in place while the solar panels are being installed. As the solar panels would be facing south for obvious maximum benefit, the trees within the woodland would not shade the development and therefore they would not be in danger of being felled and it is considered, therefore, that a woodland tree preservation order would not be required for its protection. The proposal is considered, therefore, to accord with Saved Environment Policy 9 of the adopted Local Plan

### Overall Conclusion

The proposal accords with the development plan and the advice in the NPPF and NPPG in relation to encouraging the effective use of land by focussing large-scale solar farms on previously-developed land, such as the application site. The proposed development would be highly beneficial and provide a sustainable use of a brownfield site. The majority of the site is well screened by mature and dense woodland. The natural topography of the area and the existing screening of the site would mean that the area over which the development would be visible is relatively limited, particularly following the implementation of the proposed landscape mitigation measures. The visual effects would be contained within the existing landforms, woodland and hedgerows. Planting of native species would be undertaken within areas of the site boundary in order to bulk out existing hedgerows. A good part of the site would be left undeveloped to allow continued colonisation by natural vegetation and foraging habitat for wildlife. The impact of the proposed development on the heritage assets (walls and gate piers at Drakelow Lodge) would be minimal owing to the lack of intervisibility between the application and those assets. Safe access for construction vehicles can be

achieved with little by way of alterations to the existing access. There would be a low risk of flooding and the proposal would not contribute to an increased risk of flooding elsewhere.

Overall, the proposed development would contribute towards the aims and objections of national and local policies, as set out in the NPPF and the adopted Local Plan.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

## **Recommendation**

**GRANT** permission subject to the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. A) Prior to development involving the construction of any solar array commencing a scheme to identify and control any contamination of land, or pollution of controlled waters shall be submitted to, and approved in writing by, the Local Planning Authority (LPA); and the measures approved in that scheme shall be implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.

B) Prior to the development (or parts thereof) being brought into use an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

C) 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'.

D) Prior to development involving the construction of any solar array commencing monitoring of the site for the presence of ground/landfill gas and a subsequent risk assessment shall be completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

3. The inverter stations and switch gear units shall be set at a level of at least 600mm above the 100 year plus 20% for climate change flood event level

(irrelevant of which flood zone they are located in) and shall be constructed on concrete bases at least 300mm above ground level.

Reason: In order to prevent any overland flow of water from entering the units in the interests of flood protection.

4. Notwithstanding the submitted details on Drawing No. P14-EK05, prior to the construction of any of the solar panels on the site further details of the boundary security fencing shall be submitted to and approved in writing by the Local Planning Authority. The security fencing mesh sizing shall be made as large as reasonably practicable to ensure the free flow of flood water through the fence and reduce the possibility of debris built-up which could affect the flow routes. The approved scheme shall be fully implemented prior to the first use of the site as a solar farm and retained thereafter.

Reason: To protect the site from an increased risk of flooding.

5. Prior to any other operations commencing on site the visibility sightlines of 2.4m x 160m shall be provided at the access onto Walton Road. The area forward of the sightlines shall be cleared and maintained throughout the life of the development free of any obstruction between 1m and 2m in height relative to the nearside carriageway level.

Reason: The provision of the visibility sightlines prior to the commencement of development is fundamental to the provision of a safe access onto Walton Road, which is heavily trafficked throughout the day.

6. Before development for the installation of any solar panel commences a Construction Environmental Management Plan, a Working Method Statement to minimise the risk of adverse impacts on existing habitats, and a Habitat Management & Monitoring Plan to show how the habitats will be maintained during the life of the solar farm, shall be submitted to and approved in writing by the Local Planning Authority. The Working Method Statement shall include both the habitats within the fields and the hedgerows and trees which form the field boundaries. The development shall be carried out in accordance with the approved Working Method Statement and Management Plan.

Reason: In order to minimise the risk of adverse impact on existing habitats.

7. No site clearance shall take place between 1st March and 31st August inclusive unless a competent ecologist has undertaken a careful, detailed check of the site for active birds' nests immediately before work is commenced and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to protect nesting birds and their habitats.

8. Prior to the development hereby approved being brought into use and notwithstanding the details in the Tree Survey submitted in support of the application, full details of landscaping works, including a programme for implementation and measures for the protection of all trees and hedgerows to be retained, shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out as approved. Any trees or plants which, within a period of 5 years 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, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that satisfactory landscaping is provided within a reasonable period in the interests of visual amenity and biodiversity.

9. Following the decommissioning of the solar farm hereby permitted and unless it is to be replaced with an updated scheme within the same supporting structures, the arrays, the supporting structures and any electrical equipment shall be removed from the land and the land shall be restored within 3 months of the solar array being decommissioned in accordance with a scheme that has previously been approved in writing by the Local Planning Authority.

Reason: Government advice is that such installations should be removed in the event that they are no longer required, in the interests of site restoration and to prevent any detrimental impact on the countryside.

#### Informatives:

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority). Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com).

Natural England has not assessed the application and associated documents for impacts on protected species and therefore you are advised to apply their Standing Advice to the proposal.

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, by seeking to resolve planning objections and issues and suggesting amendments to improve the quality of the proposal, through meetings and negotiations and by quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirements set out in paragraphs 186 and 187 of the National Planning Policy Framework.

The phased risk assessment and potential remedial should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 2A. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance.

For further assistance in complying with planning conditions and other legal requirements applicants should consult ""Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated"". This document has been produced by local authorities in Derbyshire to assist developers, and is available from [http://www.south-derbys.gov.uk/environment/pollution/contaminated\\_land/default.asp](http://www.south-derbys.gov.uk/environment/pollution/contaminated_land/default.asp). Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is



also submitted to the Environmental Protection Officer (contaminated land) in the Environmental Health Department: [thomas.gunton@south-derbys.gov.uk](mailto:thomas.gunton@south-derbys.gov.uk).

Further guidance can be obtained from the following:

- "" CLR 11: Model Procedures for the Management of Contaminated Land
- "" CLR guidance notes on Soil Guideline Values, DEFRA and EA
- "" Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
- "" Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
- "" Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency. ISBN 0113101775.
- "" BS 8576:2013 Guidance on investigations for ground gas. Permanent gases and Volatile Organic Compounds (VOCs).

Access and HGV routing to the site should be in accordance with the Construction Traffic Management Plan dated 16th March 2015 and the details contained therein should be observed throughout the construction period.

**Item**            2.1

**Reg. No.**        9/2015/0129/OS

**Applicant:**  
Investin Properties (Jersey) Ltd  
c/o Agent

**Agent:**  
Mrs Sarah DeRenzy-Tomson  
Fisher German  
St Helen's Court  
North Street  
Ashby De La Zouch  
LE65 1HS

**Proposal:**        **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR  
ACCESS TO BE RESERVED) FOR THE RESIDENTIAL  
DEVELOPMENT OF UP TO 62 DWELLINGS AND MEANS  
OF ACCESS ON LAND OFF CAULDWELL ROAD  
LINTON SWADLINCOTE**

**Ward:**            LINTON

**Valid Date:**     03/03/2015

**Reason for committee determination**

This is a major application, which has attracted more than two letters of objection and it is not in accord with development plan.

**Site Description**

The application site comprises a roughly triangular shaped agricultural field on the south side of Cauldwell Road, Linton, to the west of No.53, which is a single storey dwelling positioned within a large plot. The site measures some 2.56 hectares in area and is enclosed by hedgerows and trees. The route of Public Footpath No.16 follows the south-eastern boundary and there is a pond in the southern corner. The site abuts the land to the south that was the subject of an appeal following a Public Inquiry in September 2014 for the erection of 110 houses on land off High Street, Linton, which was allowed. The field is not presently cultivated. There is an existing field gate access serving agricultural buildings on the opposite side of the road.

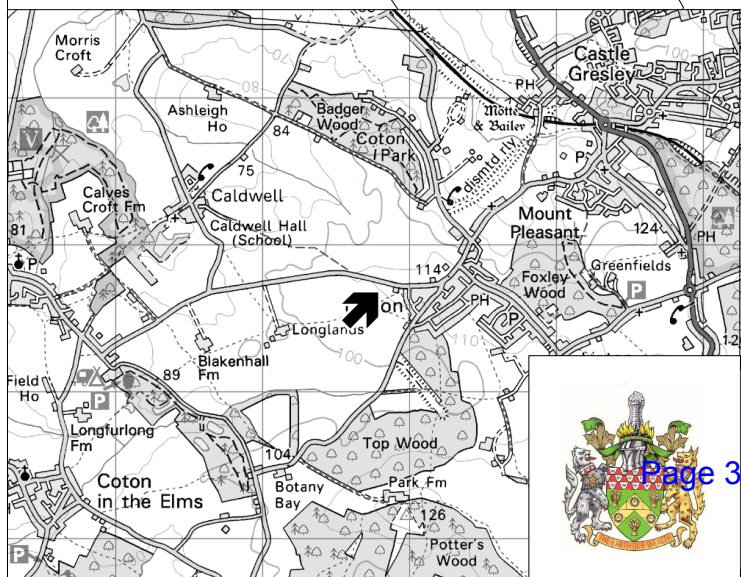
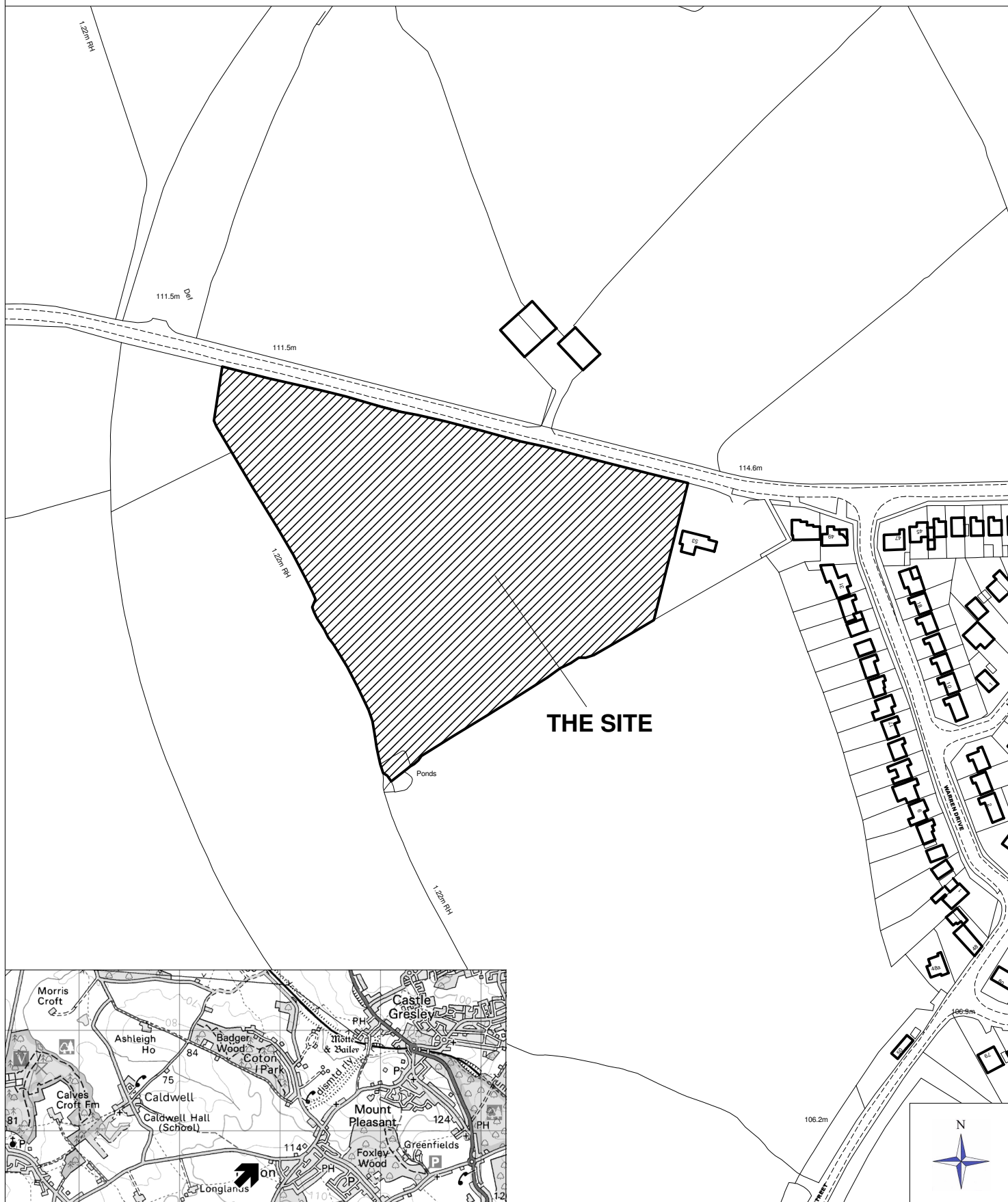
The site is within the National Forest, approximately 3km from the Heart of the Forest, which is an area located between Swadlincote, Ashby de la Zouch and Measham.

**Proposal**

The application is in outline, with all matters other than access reserved for future approval, for the erection of up to 62 dwellings (amended from 75), which would be



9/2015/0129 - Land off Cauldwell Road, Linton, Swadlincote (DE12 6RX)



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South Derbyshire District Council. LA 100019461. 2014

served by a single point of access, measuring 5.5m wide, off Cauldwell Road. Visibility sightlines of 2.4m x 160m would be provided in each direction. The indicative layout shows that the dwellings would be accessed via internal estate roads with the main internal road ending at a turning head at the southern end of the site. Drainage would be via swales and a balancing pond located in the southern corner. An area indicated as a LEAP would be provided adjacent to the balancing pond. A series of internal footways would link the development to the wider public footpath system at the southern corner of the site.

## **Applicants' supporting information**

The application is supported by the following documents, all of which are available to view on the Council's website. For ease of reference, however, each document has been summarised in turn.

### **1. Landscape and Visual Impact Assessment**

- The site is visually well-contained by established boundary hedgerows, existing built development and the prevailing topography, all of which limit visibility of the site to those from the immediate locality, such as from the adjacent public rights of way.
- The surrounding landscape is characterised by large regular field patterns which are bound by intermittent blocks of woodland that help to limit views from the middle distance viewpoints.
- Wider ranging views from the west are seen from the context of the existing settlement edge of Linton. Views of the existing residential built-up edge form a prominent feature within the surrounding visual environment and the proposals will be seen as being in keeping with what currently exists.
- The site is mostly concealed from the north, east and south and the development proposals will provide a robust green edge to the western site boundary as a key mitigation measure.
- Whilst the site lies on the summit of a ridgeline, the gradual sloping terrain would allow the proposed development to be contained by its own topography.
- The proposed development would represent a noticeable change when viewed from the west; however it is considered that the site and its setting have the capacity to accommodate the change.
- The retention of much of the existing hedgerows and treescape will maintain the character of the site's setting and ensure that the degree of separation and containment currently afforded to the site is maintained and enhanced.
- Strategic tree planting within the development would assist in mitigating the impact and a 'plant ahead' strategy is an option to be considered which would give time for the boundary reinforcements to become established before construction commences.

- Key views to the west should be incorporated into the scheme; however views from the south would be contained by the new development for 110 dwellings off High Street.
- Overall, the development would have a significance of effect of moderate to moderate/minor on the visual environment and those effects would be limited to the immediate setting of the site.

## 2. Design & Access Statement

This document discusses the site's context, policy, and sustainability as well as design and the Building for Life criteria. It concludes by stating that the proposed development would provide an immediately deliverable contribution to the Council's supply and assist in meeting the current shortfall against the five year housing land supply. A sensitive development could be achieved which would be integrated into the surrounding landscape.

## 3. Transport Statement

Overall, the Statement concludes that the proposed development would not have a material adverse impact on the safety or operation of the adjacent highway network and that the development is in full accordance with the transport policy tests for new developments, as set out in paragraph 32 of the NPPF.

## 4. Cultural Heritage Assessment

There are no recorded heritage assets within the proposed development site although there is some potential for buried archaeological deposits dating to the medieval and post-medieval periods, most likely relating to agricultural activity. It is anticipated that some further work may be required in relation to the potential buried archaeological resource and a programme of investigation and mitigation would be agreed with the County Archaeologist to determine the scope and timing of such works. No impacts are predicted to the setting of any surrounding designated asset.

## 5. Flood Risk Assessment

It is concluded that the risk of flooding to the proposed development is considered to be low and, as the development would be restricted to Flood Zone 1 it would not displace floodwater in the 1 in 100 year event. No floodwater storage mitigation measures are therefore proposed. The implementation of a sustainable surface water drainage strategy would ensure there is no increase in flood risk to surrounding areas resulting from surface water run-off. A safe, dry route of access/egress would be available from the proposed development.

## 6. Statement of Community Involvement

A public consultation event was held on 2<sup>nd</sup> December 2014 at Linton Village Hall and leaflets distributed to a wide area surrounding the site. A total of 32 residents attended the event with 19 comments being received with 4 in support, 2 not sure and 13 against. The comments centred mainly on the access with many expressing the view that Cauldwell Road would be a more appropriate access point to serve the High Street scheme as well as the scheme subject of this application. Other

comments related to the impact on Linton Primary School and housing mix, with bungalows being more favourable.

## 7. Planning Statement

This can be summarised as follows:

- The development plan is out of date and little weight can be attached to the housing supply policies.
- The emerging Plan has not been found to be 'sound' and little weight can be attached to housing policies within it.
- The Council cannot demonstrate a five year housing land supply.
- Therefore the presumption in favour of sustainable development applies in such a policy vacuum, as detailed in the NPPF.
- The benefits of granting planning permission are considerable and there would be no adverse impacts which would significantly or demonstrably outweigh those benefits.

## 8. Extended Phase 1 Habitat Survey

The site is not designed for its nature conservation interest. An earlier (2013) survey of the pond indicated that GCN were not present although they were found within 500m of the site. Some of the trees have bat roost potential and the trees and hedgerows have potential for nesting birds. Badgers likely use the site for foraging; however no setts were found within the survey area. The survey provides a list of implications and recommendations.

## 9. Draft Heads of Terms

The applicants have offered to include the following obligations as part of any legal agreement:

- Public Open Space and Landscaping – on-site, together with maintenance and management arrangements;
- Education Contribution;
- Affordable Housing (if not dealt with by condition);
- Footpath Improvements along Cauldwell Road
- National Forest contribution towards off-site planting (20%)
- Others that may arise as part of the consultation process, provided they meet the appropriate tests of relevance, necessity and reasonableness.

## **Planning History**

None

## **Responses to Consultations**

NHS England confirms it will require Section 106 contributions, although it is unable to specify where any contribution would be spent until all options have been assessed; however there is an undertaking to ensure that the solution provides the best value for money for all parties.

The County Archaeologist confirms that in light of the negative results from the adjoining site and the small size of the current application site, along with the lack of any firm archaeological indicators other than very diffuse ridge and furrow, on balance the archaeological potential of the site is very low and consequently there is no requirement for an archaeological condition.

Natural England considers that the proposal is unlikely to affect any statutorily protected sites or landscapes. It also draws attention to the provision of green infrastructure, local wildlife sites, biodiversity enhancements, landscape enhancements and impact zones for SSSIs.

The Environment Agency considers the proposed development would be acceptable provided a condition is included which requires the submission of a surface water drainage scheme for its approval.

The National Forest Company considers that further standard trees should be planted into the hedgerow in order to mitigate the loss of hedgerow removed to allow the access to be created. Properties along the south-east boundary should front the hedgerow, not back onto it as this would not be in the best interests of its long-term integrity. All boundary hedgerows, trees and the existing pond should be adequately protected during the period of construction. The NFC would expect to see 0.51ha of the site planted as woodland and landscaping but that this would be met by an off-site contribution. This is considered acceptable and, at £20,000 per hectare, a contribution of £10,200 would be required. Any reserved matters submission should secure a development with a National Forest character to include a tree-lined principal road up to the feature square at the central road junction, which should also include tree planting from mature stock for instant impact. Further tree planting should be incorporated around the balancing pond. Footpath connections to the adjoining residential site should be provided.

Derbyshire County Council requests financial contributions towards the following:

£1,773.82 (£28.61 x 62 dwellings) towards the provision of a new HWRC  
£148,187.13 towards the provision of 13 primary school places via the adaption of a classroom (Classroom Project A) at Linton Primary School.

DCC also requires access to high speed broadband and the design of the new dwellings to be to Lifetime Homes' standards.

The County Highway Authority confirms there are no objections from the highway point of view subject to conditions and advisory notes.

The County Council has also provided strategic planning comments on the proposal which can be summarised as follows:

- The proposed development would have extensive negative environmental and social sustainability impacts, particularly that it would not be well related to the existing settlement framework of Linton;
- It would not be reasonably accessible to public transport or services and facilities in the area;

- It would be disproportionately large in comparison with the existing scale, role and function of Linton, when considered cumulatively with the recently approved housing development to the south; and
- It would have an adverse impact on the landscape and landscape character of the area.

These negative impacts would outweigh a number of positive impacts of the development in meeting some of the District's overall future housing requirements and five year housing land supply shortfall.

The Crime Prevention Design Adviser has no objections in principle as the indicative layout presents no major concerns.

Severn Trent Water has no objections subject to a condition in respect of drainage.

Derbyshire Wildlife Trust confirms that the Extended Phase 1 Habitat Survey was undertaken at an appropriate time of year and concludes by stating that the proposed development would have a slightly negative impact on biodiversity owing to the loss of a small part of hedgerow and the loss of an improved field. Ideally the development should provide a net gain for biodiversity, which could be achieved if the green space created around the site includes measures designed to provide habitats for wildlife. The loss of part of hedgerow 1 needs to be compensated for by planting a similar length of hedgerow elsewhere within the site. If additional lengths of hedgerow are directly affected for any reason further compensatory planting would be required. There is also an opportunity to enhance the existing pond for wildlife as part of the overall management of the green space and as such it is possible that the pond could become suitable for amphibians in the future.

The inclusion of 5 conditions are requested should planning permission be granted.

The Environmental Protection Officer recommends a condition relating to contaminated land.

The Strategic Housing Manager has requested the provision a total of 19 affordable units comprising 13 rent-based units and 6 shared-ownership based units as follows:

Rent-based

- 4 x 1 bed/2 person flat/house/bungalow
- 5 x 2 bed/4 person house/bungalow
- 3 x 3 bed/5 person house/bungalow
- 1 x 4 bed/7 person house/bungalow

Shared ownership

- 4 x 2 bed/4 person house/bungalow
- 2 x 3 bed/5 person house/bungalow

## **Responses to Publicity**

County Councillor Mrs Lauro has raised concerns about the proposed development in this location, the impact on the villages of Cauldwell and Rosliston and environmental impacts. She has also raised concerns regarding road safety, which have been forwarded to the County Highway Authority. With regard to infrastructure, there is a shortage of school places and limited local facilities and contributions should be sought to mitigate impact on school place provision, health facilities, waste, highways and



recreation, and that the developer is encouraged to provide homes to Lifetime Homes Standard and access to high-speed broadband services.

A total of 8 emails of objection have been received which can be summarised as follows:

- a. If approved Linton will have nearly 200 new houses in a village with few facilities;
- b. Primary school is full;
- c. Fields around the village should be safeguarded;
- d. Intrusion into open countryside, contrary to Saved Environment Policy 1 of the Local Plan;
- e. Application rides on the back of recent appeal decisions;
- f. No benefits for local people;
- g. Development not needed by local people;
- h. Highly speculative and greedy proposal;
- i. Village is bursting at the seams;
- j. Impact on drainage and resultant flooding;
- k. The approach to the village from Rosliston would change dramatically;
- l. Why should Linton suffer for the Council's lack of foresight?
- m. Linton has had its fair share of new development and will soon become a town;
- n. Impact on wildlife;
- o. Lack of effective public consultation;
- p. Build on brownfield sites – enough is enough!

One email of support has been received which considers the proposal to be an attractive development that will fit into the village, although there are concerns with regard to the existing sewerage system.

## **Development Plan Policies**

The relevant policies are:

Adopted Local Plan:

- Saved Housing Policies 5, 8, 9, 11
- Saved Environment Policies 1, 9, 10, 11, 14
- Saved Transport Policies 6, 7
- Saved Recreation & Tourism Policies 4, 8
- Saved Community Facilities Policy 1B

Emerging Local Plan:

- S2 – Presumption in favour of sustainable development
- S4 – Housing Strategy
- S6 – Sustainable Access
- H1 – Settlement Hierarchy
- H19 – Housing Balance
- H20 – Affordable Housing
- SD1 – Amenity and Environmental Quality
- SD2 – Flood Risk
- SD4 – Contaminated Land and Mining Legacy Issues
- BNE1 – Design Excellence
- BNE3 – Biodiversity

- BNE4 – Landscape Character and Local Distinctiveness
- INF1 – Infrastructure and Developer Contributions
- INF2 – Sustainable Transport
- INF6 – Community Facilities
- INF7 – Green Infrastructure
- INF8 – The National Forest
- INF9 – Open Space, Sport & recreation

## **Local Supplementary Planning Guidance**

Housing Design and Layout SPG

## **National Guidance**

National Planning Policy Framework (NPPF), paragraphs 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 28, 47, 49, 50, 55, 57, 59, 61, 69, 75, 109, 112, 118, 186, 187, 196, 197, 203, 204, 206

National Planning Practice Guidance (NPPG), sections ID 8-001-20140306 (Landscape); ID 8-007-20140306 (Biodiversity, ID 8-015-20140306 (Green Infrastructure), ID 37-001-20140306 (Open Space, Sports and Recreation facilities, public rights of way and local green space), ID 23b-001-20140306 (Planning obligations), ID 50-001-20140306 (Rural Housing), ID 21a-001-20140306 (Use of Planning Conditions)

## **Planning Considerations**

The main issues central to the determination of this application are:

- The principle of the development
- The Council's five-year housing land supply and sustainability
- Landscape and Visual Impact
- Highway and pedestrian matters
- Ecology issues

## **Planning Assessment**

### The Principle of development

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the Plan unless material considerations indicate otherwise”.

Paragraph 14 of the National Planning Policy Framework (NPPF) states “*at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking*”. The NPPF makes it clear that for decision-taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:



- *“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or*
- *Specific policies in the NPPF indicate development should be restricted”.*

Paragraph 2015 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework.

The site lies within defined countryside, outside, and physically detached from, the village settlement boundary, with open countryside on all boundaries. Insofar as the policies in the adopted Local Plan are concerned, the weight to be attached to those policies is dependent on their level of consistency with the NPPF (Paragraph 215). The adopted Local Plan contains numerous saved policies relating to new residential development and development within the countryside, some of which have been found to be consistent with the NPPF following various appeal decisions by the Planning Inspectorate.

The site is outside the confine boundary of Linton, as shown in Inset 16 of the Proposals Map of the adopted Local Plan. When assessing the proposal against the housing policies in the adopted Local Plan it is clear that the development would be contrary to policies 5 and 8, being located outside the settlement boundary. Consequently Saved Housing Policy 5 (Village Development) cannot be met, as this requires new housing development to be restricted to that which can be accommodated within the village confines.

Housing Policy 8 only supports new housing development in the countryside provided that it is necessary to serve a rural-based activity or that it is necessary to be in a countryside location. Again, this is not the case here.

Part A of Saved Environment Policy 1 is similar to Housing Policy 8 in that it requires new development to be either essential to a rural-based activity, or unavoidable in the countryside, and that the character of the countryside, the landscape quality, wildlife and historic features are safeguarded and protected. Part B of the policy states that: *“If development is permitted in the countryside it should be designed and located so as to create as little impact as practicable on the countryside”*. Whilst the application is in outline and therefore not sufficiently detailed to assess the finer impacts, nevertheless it is possible to assess the wider impacts and effects of the development and this is discussed in considerably more detail as part of the Landscape and Visual Impact section below.

The emerging Local Plan identifies Linton as a Key Service Village under Policy H1, which allows for developments of a range of scales up to and including small strategic sites. However, the Plan carries only limited weight as it has not completed its Examination in Public and therefore has not been found to be ‘sound’. It would be unwise, therefore, to rely on this policy to either support or refuse the proposal.

Given that the proposal does not accord with Saved Housing Policies 5 and 8 of the adopted Local Plan, it is considered that the principle of proposed development has not been met. Notwithstanding this, the decision is not as evident or transparent as the above policy considerations appear to suggest. There are other important material considerations that are fundamental to the outcome of this application, one of which is the Council’s five year housing land supply.

## The Council's five-year housing land supply and sustainability

In terms of housing supply, paragraph 47 of the NPPF requires local planning authorities to use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the housing strategy over the plan period. In addition there is a burden on the local authority to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of at least 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered to be up-to-date if the local planning authority cannot demonstrate a five year supply of housing.

In terms of paragraph 14 of the NPPF the presumption in favour of sustainable development must apply unless there are adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole. Notwithstanding recent appeal decisions, it has been made clear through other appeal decisions made since the inception of the NPPF that any negative considerations would need to be substantial in order to justify refusal of an application that makes a meaningful contribution to strategic housing need. The mere presence of less than optimal planning circumstances for any given development is not likely to outweigh the presumption.

The Council is currently unable to demonstrate that it has a five year housing land supply (the current figure is just below 4 years). Paragraph 49 of the NPPF is specific on this subject. It states: *"Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable sites"*. It follows, therefore, that as the Local Planning Authority is unable to demonstrate a five year housing supply, Members should be approving the current proposal, provided that they consider the site to be sustainable and that there would be no adverse impacts that would *significantly and demonstrably* outweigh the benefits the scheme would provide.

The issue of sustainability was discussed at length during the Public Inquiry that was held in 2014 following the refusal of the outline application for 110 dwellings on the site at High Street, Linton, to the immediate south of the current application site. The Inspector, in his appeal decision, went into great detail on the issue, assessing the appeal proposal against

- (i) the three dimensions of sustainability (economic, social and environmental);
- (ii) locational sustainability; and
- (iii) Impact on existing community facilities in the village of Linton.

On the subject of locational sustainability he opined:

*"One of the reasons for refusal was based on the Council's view that Linton was an unsustainable location in relation to the scale of the proposal, because it was a Local Service Village, with a limited range of facilities and services; such settlements had a policy restriction of a maximum of 15 dwellings. The Council's recently published Settlement Hierarchy Paper, as input to the emerging Local Plan, sets out both the*

*quantum of service provision for each level of the settlement hierarchy and the size of housing development that would be acceptable at each of those levels.*

*The settlement hierarchy has re-evaluated the number of services in Linton, resulting in its reclassification as a Key Service Village; these villages are considered to be the most sustainable settlements outside urban areas, which can accommodate a scale of growth of up to and including strategic sites (100 dwellings plus)".*

The Inspector also considered other evidence put forward at the Inquiry to show that the facilities in Linton were declining. However, he took the view that if some shops are in danger of closing and interest is dwindling in some community facilities, these are arguments for more families to move into the village. He was of the view that the appeal proposal would not be harmful to the existing community infrastructure of the village; that the proposal would be sustainable in relation to its economic and social impact; and that Linton is a sustainable location for a scheme of the size of the appeal proposal (110 dwellings).

The above appeal decision is a material planning consideration that Members should be mindful of, particularly as it is relatively recent in planning terms, and, as such, they should be approving the current proposal provided that there would be no other adverse impacts that would significantly and demonstrably outweigh the benefits.

The benefits of the development from an economic and social view include:

- Direct and indirect employment opportunities;
- Economic output as a result of the employment opportunities;
- Value of the development to the construction industry;
- Expenditure from future occupiers;
- New Homes Bonus, and
- Council tax revenue.

### Landscape and Visual Impact

The site is located within the Mease/Sense Lowlands (National Character Area 72) of the Countrywide Landscape Character Assessment, and is described as "... a gently rolling landscape with rounded clay ridges and shallow valleys, with a more undulating landform in the northwest. This is a well-ordered agricultural landscape of open views, with a relatively tranquil character".

The NCA 72 is subdivided into regional character areas, with the application site classified as being within 5A: Village Farmlands, the key characteristics of which are:

- Gently undulating lowland, dissected by stream valleys with localised steep slopes and alluvial floodplains;
- Mixed agricultural regime with localised variations but predominantly dairy or arable farming;
- Small and moderately sized broadleaved woodlands and copses with extensive new areas of planting associated with the National Forest;
- Hedgerows and frequent Oak and Ash trees along hedgelines and streams;
- Moderately sized well maintained hedged fields across rolling landform creating patchwork landscape of contrasting colours and textures;
- Extensive ridge and furrow and small historic villages linked by winding lanes;
- Localised influence of large estates.

Derbyshire County Council has subdivided local landscape character even further and classifies the site as being within the Mease/Sense Lowlands with key characteristics as follows:

- Broad scale, gently rolling lowland landscape
- Mixed farming with intensive cropping and improved pasture
- Small discrete broadleaf plantations and game coverts
- Tree-lined pastoral stream corridors
- Medium to large regular and sub-regular fields with mainly hawthorn hedges
- Winding country lanes with wide grass verges
- Small hilltop villages often with prominent church spire.

One further subdivision classifies the site as being within the Village Estate Farmlands landscape character type (LCT) which has similar key characteristics to the above.

In terms of policy the most relevant for landscape impact is Saved Environment Policy 1 of the adopted Local Plan (Development in the Countryside). This states that:

*“A. Outside settlements new development will not be permitted unless:*

- (i) It is essential to a rural based activity; or*
- (ii) Unavoidable in the countryside; and*
- (iii) The character of the countryside, the landscape quality, wildlife and historic features are safeguarded and protected.*

*B. If development is permitted in the countryside it should be designed and located so as to create as little impact as practicable on the countryside”.*

This policy has been used as a reason for refusal in many instances and has been argued successfully at appeal, although in the case of the Linton appeal the Inspector attached limited weight to the Council's concerns, as he considered that site to be well contained and that the development would not breach natural landscape boundaries, such as broad tree belts, woodland and ridges. In this instance, however, the application site is at the top of a plateau and the development would be visible from a considerable distance in the wider landscape, whereas currently there are no clear views of the settlement when approaching the site from the west until the first housing (on Warren Drive) is reached, particularly during the summer when the trees are in leaf. It is significantly masked and very few buildings or signs of a settlement are glimpsed. The application site forms a pleasant, open field which is key to the rural character of the area and the setting of the village itself and characteristic of its landscape character type. The proposed development, even in summer when hedgerows and trees would be in full leaf, would be highly visible with no actual buffer zone between open countryside and the urban settlement.

Paragraph 17 of the NPPF sets out the 12 core land-use planning principles that should be used to underpin both plan-making and decision-taking, one of which is that planning should:

*“...take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising*

*the intrinsic character and beauty of the countryside and supporting thriving communities within it”.*

Similarly, Chapter 11, paragraph 109, of the NPPF – *Conserving and enhancing the natural environment* – also emphasises the importance the planning system has on contributing towards and enhancing the natural and local environment by, amongst other things, protecting and enhancing valued landscapes, geological conservation interests and soils.

The application is supported by a Landscape and Visual Impact Assessment (LVIA), which has already been summarised elsewhere in this report. However, in order to fully assess the contents and conclusions of the LVIA, the Local Planning Authority has engaged the services of a Landscape, Architecture and Environmental Planning Consultant who has undertaken a review of the LVIA and has provided advice by way of a report setting out his findings. He starts by reviewing the Inspector’s appeal decision notice for the adjacent development (off High Street) stating that that decision was quite understandable, as the field, subject of the appeal, is not visible from the road or any other quarters, owing to the topography of the land and the very high and dense mature hedgerow along its northern boundary.

In comparison, the application site is much more visible from the public realm – it is fully visible from Cauldwell Road, as well as public footpaths – and the proposed development would result in a clear movement of the village boundary from what is currently a clearly-defined robust settlement boundary. Within the locality the small-scale fields with mature hedgerows and occasional mature trees are remnants of pre-mining industry countryside which have not been incorporated into larger, modern field patterns. These are important and are of higher quality than many other areas of open countryside in the vicinity. The application field is one of the few remaining smaller fields within this local character area.

Consequently, and contrary to the findings within the applicant’s LVIA, he is of the opinion that the proposed development would have a significant visual impact. Whilst the applicant’s LVIA asserts that the site has become a logical location for further expansion to Linton, and on paper it appears to be the case, in actual fact the existing boundary of the village provides a strong and sensible edge to the settlement and the field is firmly part of the surrounding open countryside, even if/when the land to the south is developed.

Whilst it is acknowledged the application site and surrounding countryside does not benefit from any statutory landscape designation, the review of the LVIA shows that many elements are highly subjective assessment statements and show poor judgement. The proposal would, therefore, be in conflict with Saved Environment Policy 1 of the adopted Local Plan, the core principles of the NPPF as set out in paragraph 17, the advice in paragraph 109 of the NPPF relating to the protection and enhancement of valued landscapes and the advice in section ID 8-001-20140306 of the NPPG.

#### Highway and pedestrian matters

The formation of the vehicular access would necessitate the removal of two trees and a length of frontage hedgerow measuring some 70 – 75 metres, some of which could be set back behind the visibility splays. Following initial concerns with regard to some contradictions within the Transport Assessment and the lack of information relating to



the visibility sightlines and footway provision along Cauldwell Road, on the advice of the County Highway Authority the proposal would be acceptable in highway safety terms.

The amended indicative plan shows connections through the site to the land to the south thereby enhancing the permeability and accessibility of both sites. In light of the need to encourage the use of non-motorised transport modes, it is suggested that these pathways should be shared between pedestrians and cyclists and have a minimum width of 3m. The paths also connect directly to the proposed estate road, adjacent to the LEAP and further to the north, which should be designed to the same standard as the main path for shared use. There is a proposal to establish a multi-user greenway connecting the Conkers facility to Rosliston Forestry Centre, a potential alignment of which passes close to the application site. The provision of cycle infrastructure within the site would offer the opportunity to maximise accessibility to this facility.

### Ecology issues

It is clear from Derbyshire Wildlife Trust's response that the development of this site would have a slightly negative impact on biodiversity, mainly owing to the loss the field and parts of hedgerow. However, this would not be insurmountable, as it would be possible to compensate for the losses by the provision of green space and the planting of a similar length of hedgerow, with the provisions being controlled by conditions.

### Overall conclusions

The assessment identifies that all the 'technical' issues associated with the proposed development would be acceptable, subject to conditions or obligations, where necessary. The provision of up to 62 dwellings towards housing needs must be afforded significant weight given the current shortfall under the five year housing supply, and the fact that up to 30% of these would meet affordable housing needs, which also adds further weight in favour of the proposal. The provision of compensatory planting within the site would also contribute in favour to a degree. From an economic and social view, the site would bring many benefits to the village would support local services.

However, in environmental terms it is the landscape and visual impacts that cause major concern. The very character of this site and environs draws strength from the existing robust settlement boundary between rural and urban along Warren Drive. The existing approach from the west would be severely undermined, whilst the loss of existing frontage hedgerow along this part of Cauldwell Road would fundamentally alter the character of the road from a wholly rural perception to one of urban character. The overall appreciation and resulting value of the site would be adversely impacted with the strong affinity the site has with the rural area to the west and north. Whilst mitigation would go some way to alleviate the impact it is not considered sufficient to redress this loss of value. In addition, the very nature of the development, situated on a plateau, means that it would appear highly visible from the surrounding countryside to the west and north, eroding the pleasant, essentially rural approach to the village.

The Minister for State for Housing and Planning has recently written to the Planning Inspectorate stating that harm to landscape character is an important consideration and recently dismissed appeal cases serve as a reminder of one of the twelve core principles at paragraph 17 of the NPPF. It is noted that whilst statutorily designated landscapes quite rightly enjoy the highest degree of protection, outside of these

designated areas the impact of development on the landscape can be an important material consideration. It is also noted that the recent cases also reflect the wider emphasis within the NPPF on delivering sustainable outcomes, which means taking full account of the environmental as well as the economic and social dimensions of development proposals. Hence, irrespective of whether the development is unavoidable or not, the secondary 'test' under saved Environment Policy<sup>1</sup> is still of considerable relevance in this assessment whilst paragraph 109 of the NPPF also holds considerable weight.

The absence of a five year housing land supply does not mean an automatic approval must follow. It also does not mean that no regard should be had to the principle of protecting and enhancing valued landscapes. The absence of a five year supply merely affects the weight which may be afforded to the Development Plan, but the NPPF must still be considered in the round and in the eyes of sustainable development, as set out in paragraphs 6 to 8. Hence, when considering the three dimensions of sustainable development and whether there is a mutual balance reached under the proposals, it is considered the environmental dimension suffers a significant adverse impact. There is therefore reasonable doubt over the overall sustainability and in this light it is considered that the benefits of providing both market and affordable housing towards the five year supply, as well as the identified economic and social gains, are clearly and demonstrably outweighed by the adverse impacts of the proposal on the visual landscape character.

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.

## **Recommendation**

**REFUSE** permission for the following reason:

1. The character of this site is defined by its strong relationship to the rural area to the west and north and exhibits many of the typical and pleasing features of the local and national landscape character area descriptions, with hedgerows and trees and gently sloping landform from east to west, all providing a strongly appreciated value to those passing the site along public routes. In addition, Cauldwell Road holds a wholly rural character reflecting the above landscape characteristics and with long standing and potentially important hedgerows to its edges tightly framing this transport corridor and limiting its current intrusion. Furthermore, the very character of this site and environs draws strength from the robust delineation between rural and urban as the settlement is approached from the west. The necessary loss of 70 to 75m of hedgerow along the site frontage would also contribute to these negative impacts, with new and widened footways, street lighting and with replacement hedgerows set back from the carriageway, fundamentally changing the rural nature of the road. When considering the three dimensions of sustainable development and the mutual balance required, it is considered the proposal is unbalanced by way of the environmental dimension suffering disproportionately against the economic and social gains identified. It is considered thus that the benefits of providing both market and affordable housing towards the five year supply, as well as any ancillary gains, are clearly and demonstrably outweighed by the adverse impacts of the proposal. The proposal is therefore considered to be contrary to Saved Environment Policy 1 of the



adopted Local Plan, and Policy BNE1 of the emerging Local Plan Part 1 and conflicts with paragraphs 6 to 8, 17 and 109 of the National Planning Policy Framework.

**Informatives:**

Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, by seeking to resolve planning objections and issues and allowing for amendments to the proposal, by agreeing to meetings and entering into negotiations. However despite such efforts, the planning objections and issues have not been satisfactorily addressed. As such it is considered that the Local Planning Authority has implemented the requirements set out in paragraphs 186 and 187 of the National Planning Policy Framework.

|                                |   |                                 |
|--------------------------------|---|---------------------------------|
| <b>REPORT TO:</b>              | <b>PLANNING COMMITTEE</b>   | <b>AGENDA ITEM: 5</b>           |
| <b>DATE OF MEETING:</b>        | <b>23 JUNE 2014</b>   | <b>CATEGORY: DELEGATED</b>      |
| <b>REPORT FROM:</b>            | <b>DIRECTOR OF COMMUNITY AND PLANNING SERVICES</b>  | <b>OPEN</b>                     |
| <b>MEMBERS' CONTACT POINT:</b> | <b>RICHARD RODGERS (01283) 595744</b><br><a href="mailto:richard.rodgers@south-derbys.gov.uk">richard.rodgers@south-derbys.gov.uk</a> | <b>DOC:</b>                     |
| <b>SUBJECT:</b>                | <b>PROPOSED TREE PRESERVATION ORDER 392 AT NEWTON ROAD, NEWTON SOLNEY</b>   | <b>REF:</b>                     |
| <b>WARD(S) AFFECTED:</b>       | <b>REPTON</b>   | <b>TERMS OF REFERENCE: DC01</b> |

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## **1.0 Recommendations**

1.1 That this tree preservation order be confirmed.

## **2.0 Purpose of Report**

2.1 To consider confirmation of this tree preservation order (TPO).

## **3.0 Detail**

3.1 This TPO was made on 5 January 2015.

3.2 The TPO features individual trees (22 in number at present) as well as 11 groups and was made at the request of the Council's Area Planning Officer in association with the Council's Tree Officer.

3.3 The land on which the trees sit is subject to development pressure, the Council having recently refused an outline planning application in the locality (ref 9/2014/1039 considered at the committee of 2 June) for up to 100 dwellings.

3.4 The trees are seen to compliment the landscape and ecological value of the area, with the landscape best described as 'estate parkland' and can be well seen from Newton Road as well as a large number of private gardens along Dalebrook Road and Brookside.

3.5 A detailed and lengthy objection relating to the proposed Order has been received from the consultants retained by the developer and is summarised here:

- During pre-application discussion, issues surrounding trees were never raised;
- Some of the trees identified lie outside of the application site boundary;
- The groups feature trees of differing value in terms of their condition and amenity value;
- The trees are not under threat of uncontrolled felling or pruning to facilitate development and all are currently under arboricultural management;

- They have been fully considered in the design process, retaining all significant tree cover and seen as integral features of the local landscape, and the serving of the order is seen to be counterproductive.
- The reason given for the making of the order is not proper, expedient or intelligible; it is requested that the Council evidence that an officer visited site;
- The Order utilises the applicant's tree survey and is based on its content, yet assessment for TPOs uses a different methodology and should take account of other factors such as reduced public amenity;
- T17, listed as a sycamore, is in fact a holly;
- The detail in regards quantities of trees in the identified groups is limited, and as such it is difficult to determine to which trees the Order relates;
- The proposed development scheme includes extensive new tree planting of complimentary species;
- The expediency of the order is therefore questioned given recent National Planning Policy Guidance (NPPG) which states 'it is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural or silvicultural management'.
- An important determinant in regards an Order is to protect public amenity. Many of the trees would not be clearly visible to the wider public, at best seen only by a limited number of local residents. The Local Planning Authority have not articulated exceptional circumstances as to why they seek to protect trees barely if at all visible from the public realm;
- The Order should not be confirmed, rather amended or withdrawn.

The objection letter further includes details of all the identified trees and provides an individual TEMPO (Tree Evaluation Method for Preservation Orders) score for all.

- 3.6 In responding to the above objection the NPPG states Local Planning Authorities can make a TPO in the 'interests of amenity'. That amenity can be measured 'visually' but additionally can include an ecological and/or a landscape offer. The majority of the trees here can be seen from the public realm and any development would facilitate close range views. Whilst some of the current views are distant, they ultimately add to the overall parkland landscape character here. Furthermore not all the trees in the identified groups are worthy in their own right, but they offer a variety of species which can sustain wider ecological benefits.
- 3.7 Whilst the draft masterplan does indeed show a layout and preferred level of tree retention, that layout can change under the detailed stage of the application process. At present it shows an indicative layout only. The serving of this order is felt necessary at the very least to allow the Local Planning Authority greater control in regards works in proximity to the trees. A revised layout, creation of roads/footways, etc. which may come forward in any 'detailed' plan could have implications for existing root protection areas and canopies. Trees given permission to be felled or pruned through an approved planning application however would supersede any protection given by this order, and this is an important point.
- 3.8 Some of the trees do lie outside of the site boundary but most are under the control of the same land owner for which there may be future pressure for development. To enable the Council to assess the tree offer here cohesively it is considered these 'adjacent' trees be included, given that they additionally contribute to the overall landscape quality of the vicinity.

- 3.9 It is acknowledged that the numbering does indeed reflect the tree survey submitted with the application, but procedurally there is no failing here. Using the same/similar numbering system allows for consistency and attempts to reduce confusion. The Council's Tree Officer has carried out a site visit and conducted his own assessment for all trees covered by this Order.
- 3.10 It is not a requirement to list all trees in a group. In this instance the Council has listed species which are seen to contribute to the group offer and this is considered to offer enough information as to which trees the Council would wish to see retained.
- 3.11 Trees T10, T11 and T12 should not have been included in the Order and can be removed. Additionally T17 is a Holly as suggested, and the Tree Officer's report confirms this. This matter is therefore an administrative error. The TPO can be confirmed with modifications and would contain 21 individual trees and 11 groups

#### **4.0 Conclusions**

- 4.1 It is expedient in the interests of amenity and biodiversity to confirm the order with the modifications as outlined at 3.11 above. The order would not prevent or preclude ongoing management of the trees, whilst providing appropriate control over the trees for the long term.

#### **5 Financial Implications**

- 5.1 None.

#### **6. Corporate Implications**

- 6.1 Protecting visually important trees contributes towards the Corporate Plan theme of Sustainable Development.

#### **7. Community Implications**

- 7.1 Trees that are protected for their good visual amenity value enhance the environment and character of an area and therefore are of community benefit for existing and future residents helping to achieve the vision for the Vibrant Communities theme of the Sustainable Community Strategy.

#### **8.0 Background Information**

- a. 9 February 2015 – Letter from Helen Kirk (FPCR) on behalf of Barratt Homes.
- b. 5 January 2015 Tree Preservation Order 392.
- c. 1 December 2014 – Council's Tree Officer Report.