

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

**SECTION 1: Planning Applications
SECTION 2: Appeals**

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

1. PLANNING APPLICATIONS

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

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

1. The issues of fact raised by the 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.

18/10/2016

Item **1.1**

Reg. No. **9/2015/1127/OM**

Applicant:
A Thompson & Mr M J Holland
c/o 86 School Street
Church Gresley
Swadlincote
DE11 9QZ

Agent:
Mr Barry Singleton
Gino Lombardo Associates
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DE1 1DA

Proposal: **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF 14 DWELLINGS AND CONSTRUCTION OF NEW ACCESS ROAD ON LAND TO THE REAR OF 30 & 32 COMMON SIDE CHURCH GRESLEY SWADLINCOTE**

Ward: **Church Gresley**

Valid Date: **18/12/2015**

Reason for committee determination

This major application is brought before the Committee as it is a major application where more than two objections have been received.

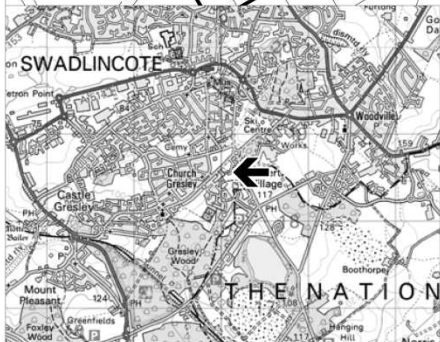
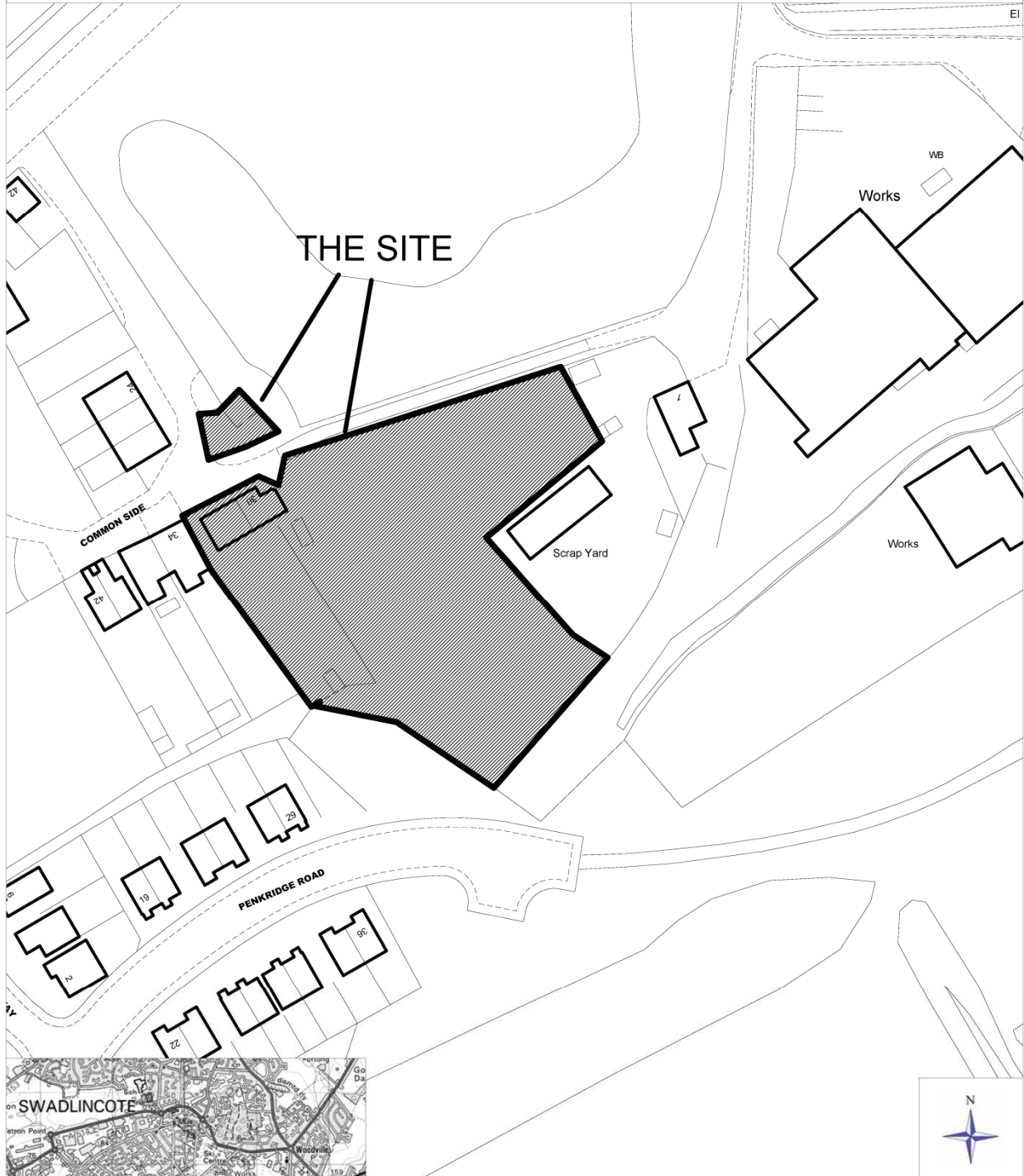
Site Description

The 0.39 hectare site is located on Common Side, Church Gresley, opposite Maurice Lea Memorial Park on Common Road. The site is at the end of an unmade road with common land to the north and screened from Common Road by existing woodland on this land. It is located to the east of existing dwellings and appears overgrown and unmaintained, fronting onto a track linked to Robin Hood Place which is also Swadlincote Public Footpath 8.

A pair of semis are located in the north western corner of the site and the remaining site is overgrown garden area with trees and shrubs. Land levels slope down to the south east with a fall in level of approximately 3.5 metres. Existing residential development is adjacent to the west, a small scrapyards bounds the site to the east and the southernmost corner of the site is visible from Penkridge Road, part of the Thorpe Downs Road residential estate.

Six to eight metre high Silver Birch trees are adjacent to the south eastern and eastern boundaries and an individual Norway Spruce tree is opposite the front elevation of 30. These trees are in the process of being covered by a tree preservation order.

9/2015/1127 - 30/32 COMMON SIDE, CHURCH GRESLEY, DE11 9NN



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Proposal

Outline planning permission is sought for 14 dwellings with access to be agreed at this stage. All other matters such as appearance, landscaping, layout and scale would be considered at reserve matters stage. The proposal involves the demolition of No. 30 and 32 Common Side. The proposed access would be from Common side and would be located in the north western corner where No.32 is currently located. The access would link to a turning area and private drive for the properties. A 3-5m wide planting buffer is shown adjacent to the gable end and garden area of 34 Common Side. The indicative layout shows properties with front elevations adjacent to the northern and western boundaries with the garages and parking adjacent to the rear gardens. A 3m wide wildlife corridor is shown adjacent to the south eastern and eastern boundaries with the protected trees retained.

Applicants' supporting information

The Design and Access Statement describes the site and its context. It outlines the pre-applications discussions and investigations such as highways, noise and ecology. General statements are made on design, layout, scale and landscaping.

The Arboricultural Survey Report and Method Statement outlines the general methodology employed and conformity with BS5837:2012. It categories all trees on site and includes their RPA calculations. The majority of category B trees would be retained with the category C group on the Robin Hood Place frontage removed.

The Coal Mining Risk Assessment identifies the site as within a coal mining area where shallow coal and potential mineworkings exist beneath the site.

The Noise Impact Assessment relates to the adjacent scrapyards and noise surveys were undertaken. Consultation with both the occupiers of 30 & 32 Common Side (the nearest existing residential dwellings) and staff indicated that the scrap yard is generally quiet, except for occasional periods when scrap is moved by means of a mechanical grab. It is understood that there is no history of complaints associated with the business. Staff at the premises commented that the mechanical grab operates for a maximum of 30 minutes per day. Recommended noise mitigation is enhanced double glazing rated at least 38dB Rw and a 3.5m high acoustic fence on the boundary. This is considered adequate to provide a good level of amenity for future occupiers and would not unreasonably restrict the workings of the existing business.

Preliminary Ecological Appraisals dated October 2015, July 2016 and August 2016 were submitted. Protected species surveys have been carried out and have concluded that Great Crested Newts and reptiles are not considered to pose a constraint to development; however, other protected species require further surveys prior to any works on site.

Planning History

None

Responses to Consultations

The Highway Authority states that the development would be subject to the provisions of the Advanced Payments Code and confirm they have no intention of adopting any part of the development as publicly maintainable highway. They consider that the Local Authority should be satisfied that the applicant has (and subsequent future owners of the properties will have) a right of access to the site and that any necessary remedial works can be carried out to Common Side should they be necessary during/following construction works. The access to Common Road and parking and turning is acceptable and thus they do not consider that an objection to the proposal on highway safety grounds could be sustained. Conditions are recommended in respect of submission of a construction management statement, wheel washing, internal layout in accordance with the 6 C's guidance and parking for two vehicles per plot and informatives relating to adoption and the public right of way.

The Environmental Health Officer states that as a result of the submitted Noise Assessment and his discussions with the developer, he has agreed to the inclusion of a 3.5m boundary acoustic fence; a revision of the layout of the dwellings to increase the distance from the noise source; the installation of enhanced double glazing to all the new dwellings which offer an extra 8dBA of noise attenuation above standard double glazing. As such he considers the scheme to be acceptable and is satisfied that the mitigation recommended would minimise the adverse impacts on the amenity of future occupiers to an acceptable level and would not unreasonably restrict the existing business.

The County Education Authority advises that proposed development falls within, and directly relates to, the normal areas of Church Gresley Infant & Nursery School, Pennine Way Junior Academy and The Pingle School. The Infant and Junior school would not have sufficient capacity to accommodate the additional pupils generated by the development, however, there is sufficient capacity at The Pingle School. A financial contribution is therefore requested of £11,399.01 towards the provision of 1 infant place at Church Gresley Infant & Nursery School via Project A: Classroom adaptations; and a financial contribution of £22,798.02 towards the provision of 2 junior places at Pennine Way Junior Academy via Project A: Additional teaching accommodation and toilet provision; totalling £ 34,197.03.

The Coal Authority has no objection subject to an intrusive site investigations condition.

Derbyshire Constabulary's Crime Prevention Design Advisor considers that the layout does not provide good internal surveillance of communal car parking with a strongly defined outer boundary [see further comment on this aspect below].

The Contaminated Land Officer recommends a phased contamination condition.

Southern Derbyshire CCG requires a contribution of £5,326 towards meeting the additional patient capacity at Gresleydale Heathcare Centre.

The National Forest Company has confirmed that the scheme is below the threshold for National Forest woodland planting and landscaping and would therefore not seek a contribution.

The County Flood Management Team recommends ground investigation and SUDS conditions.

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

Derbyshire Wildlife Trust recommends conditions in respect of protected species, Biodiversity Management Plan, bat and bird mitigation, Japanese Knotweed control and Construction Environmental Management Plan.

Responses to Publicity

Three letters of objection have been received raising the following concerns/points:

- a) There is a concern with the use of Common Side as it is not wide enough and not maintained to sustain the increased traffic.
- b) There is no mention of bringing Common Side up to adoptable standard.
- c) Their driveway uses the proposed access shown.
- d) The access is an established right of way and is totally unsuitable to take additional traffic.
- e) The road is not suitable for two way traffic and there is no pavement except for the public footpath which runs along the boundary of the common.

Development Plan Policies

The relevant policies are:

2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF8 (The National Forest) and INF9 (Open Space, Sport and Recreation)

1998 Local Plan (saved policies): EV9 (Protection of Trees and Woodland)

Emerging Development Plan Policies

The relevant policies are:

Draft Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE8 (Trees, Woodland and Hedgerows) and INF12 (Provision of Education Facilities)

National Guidance

National Planning Policy Framework (NPPF) 7, 11, 14, 17, 32, 49, 56, 58, 109, 118, 119, 121, 123

National Planning Practice Guidance (PPG)

Local Guidance

SPG Housing design and Layout

Planning Considerations

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

- Principle of Development
- Highway Issues
- Residential Amenity
- Ecology and Trees
- Noise
- S106 Contributions
- Planning Balance

Planning Assessment

Principle of development

The site is located within the urban area of Church Gresley with residential development to the north west, west and south west and existing industrial premises to the east. Local Plan Policy H1 considers all sizes of development within the settlement boundary to be appropriate. The site is located within walking distance of Swadlincote and its services and facilities and is accessible by all modes of transport. Residential development in this location is considered sustainable development in principle. Local Plan Policy S2 requires a positive approach to development that reflects a presumption in favour of sustainable development.

The scale of development is considered to be in keeping with the character of the area as shown on the indicative layout. Properties face the northern and western boundaries which improve the streetscene. The protected trees incorporated within the layout would be retained for their amenity value and act as a buffer. The proposal therefore accords with Local Plan Policies H1 and S2.

Highway Issues

Local Plan Policy INF2 states that planning permission will be granted for development where travel generated by development should have no undue detrimental impact upon local amenity, the environment, highway safety and the efficiency of the transport infrastructure and availability of public transport services. It requires that appropriate provision is made for safe and convenient access to and within the development and car travel generated is minimised. NPPF paragraph 32 requires that safe and suitable access to the site can be achieved for all people.

This outline application requires determination of the proposed access which is off Common Side, involving the demolition of an existing pair of semi-detached dwellings. The ownership of the unadopted road Common Side is not known. The

access from Common Road to the site is within the red outline of the application site and certificate D completed under Section 66 with the requisite notice no. 2 advertised in the local paper with no owner coming forward. A previous application for 3 terraced properties at 37 Common Side was granted in 2014 when a similar exercise was undertaken and the dwellings are now occupied. The 6 C's Design Guide allows for 25 dwellings to be served off a private road. Eight properties are currently served and a further 14 would mean a total of 22 dwellings therefore within this tolerance.

The right of access is a legal matter which is not overridden by planning permission and as such would have to be proven on the sale of the land and in conveyance to future occupiers. The highway authority is not responsible for maintaining an unadopted road although it can intervene under existing legislation (Highways Act 1980 S230) to repair it. The Highway Authority has stated they have no intention of adopting any part of the development as publicly maintainable highway. Responsibility for the cost of maintenance of a private road rests with the frontagers; that is, the owners of properties with frontages on such roads. It is not uncommon for the owner of a private road to be unknown and in this case land registry searches have not identified an owner. Responsibility for the road's upkeep therefore lies with the frontagers of which No.30 and 32 Common Side are included as the properties face the road. Thus, any necessary remedial works can be carried out to Common Side should they be necessary during/following construction works. On this basis, the Highway Authority does not consider that an objection to the proposal on highway safety grounds could be sustained as the visibility at the access with Common Road is considered adequate and parking and turning proposed is acceptable.

It is therefore concluded that as the proposal would not exceed the number of dwellings allowed access from a private drive and safe and suitable access can be achieved it accords with Local Plan Policy INF2 and NPPF paragraph 32.

Residential Amenity

Local Plan Policy BNE1 relates to design excellence and outlines specific criteria that are required when designing new developments. Criterion e), f), g) and h) are relevant to this proposal and require developments to: create places with a locally inspired character that respond to their context, reflect the national forest context, be visually attractive and respect important landscape, townscape and historic views and vistas and should not have an undue adverse affect on the privacy and amenity of existing nearby occupiers.

NPPF paragraph 58 requires that developments: function well and add to the overall quality of the area over the lifetime of the development, establish a strong sense of place, optimise the potential incorporating green spaces, respond to local character and reflect the identity of local surroundings, create safe and accessible environments and are visually attractive.

Local Plan Policy SD1 supports development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers. NPPF paragraph 17 requires a good standard of amenity for all existing and future occupants.

The proposal is in outline with matters of layout and scale reserved, therefore, only general comments regarding the layout are considered appropriate. The indicative layout shows a continuance of the street facing the track to Robin Hood Place which follows the existing pattern of development and would improve the appearance of the area and natural surveillance. Dwellings in the western part of the site would also have their front elevations adjacent to the boundary and would provide a further streetscene with parking and garages to the rear. The retained trees adjacent to the eastern boundaries would provide a natural screen to the industrial premises and would add to the visual amenity of the development. Provision of a planting area adjacent to No.34 would reduce the impact on the amenity of this property as the access road would not be immediately adjacent to its gable and rear garden. The layout indicates that the relationships between existing and proposed dwellings would exceed the Council's minimum space standards and thus it is considered that development can be accommodated without significant amenity impacts on existing properties. The proposal is thus considered to accord with Local Plan policies BNE1, SD2 and NPPF paragraphs 17 and 58.

Noise

Local Plan Policy SD1 states that the Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments. It states that the need for a strategic buffer between conflicting land uses should be considered. Paragraph 123 of the NPPF states that planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life, mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions and recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.

The site bounds an existing scrapyards to the east and as such the impact on this business requires detailed consideration. A noise survey has been completed and recommends mitigation measures to render the site habitable. The Environmental Health Manager has carefully analysed the proposal and considers the mitigation to provide a good level of amenity for future occupiers and would not unreasonably restrict the workings of the existing business in accordance with Local Plan Policy SD1 and NPPF paragraph 123.

Ecology and Trees

Local Plan Policy BNE3 states that planning proposals that could have a direct or indirect effect on sites with potential or actual ecological or geological importance including sites of County importance (such as Local Wildlife sites), ancient woodlands, veteran trees and hedgerows and priority habitats and species shall be accompanied by appropriate surveys to assess impacts and the mitigation proposed. Where mitigation measures cannot sufficiently offset the significant harm resulting from the development, planning permission will be refused. NPPF paragraph 109

requires impacts on biodiversity to be minimised and net gains provided and paragraph 118 states that Local Planning Authorities should aim to conserve and enhance biodiversity and if significant harm resulting from development cannot be avoided, adequately mitigated or as a last resort, compensated for, then planning permission should be refused.

Extensive surveys have been undertaken on site in order to satisfy the Wildlife Trust requirements in relation to protected species and proposed mitigation. Protected species have been found on site and the mitigation recommended in the submitted Ecology survey is accepted in respect of further surveys prior to any works and submission of a Biodiversity Management Plan. The Wildlife Trust considers the survey work to date to be adequate to enable determination of the application subject to their recommended conditions.

The Council's Tree Officer considers the majority of the trees within the site to be of low value, however, there are some Silver Birch trees on the southern and eastern boundaries that have amenity value together with creating an effective sound buffer to the adjacent scrapyards. It is considered that these trees together with an individual Norway Spruce tree on the Common Side frontage are worthy of protection by a TPO. Saved Environment Policy EV9 requires the protection of trees and woodlands and states that development will not be permitted which would lead to the loss of areas of woodland or specimen trees of value to their landscape setting. NPPF paragraph 118 states that planning permission should be refused for developments resulting in the loss of aged or veteran trees, unless the need for, and benefits of, clearly outweigh the loss.

The submitted Tree Survey and layout plan has proposed the retention of the majority of the trees on the site and their protection during construction and over the life of the development has been secured further through TPO protection.

Section 106 contributions

The proposal for 14 dwellings would generate the need for the following S106 contributions:

- A contribution of £5,326 for increasing capacity at Gresleydale Healthcare Centre (precise project yet to be agreed).
- A contribution of £30,030.60 towards open space, outdoor sports and built facilities (precise projects yet to be agreed).

A contribution of £11,399.01 towards the provision of 1 infant place at Church Gresley Infant & Nursery School, and a contribution of £ 22,798.02 towards the provision of 2 junior places at Pennine Way Junior Academy; totalling £34,197.03.

The Planning Balance

In consideration of the three dimensions of sustainable development outlined in paragraph 7 of the NPPF, in terms of the economic and social role, the proposal would provide 14 dwellings that would contribute to housing supply and provide construction jobs in the area. The site would also generate Council tax, New Homes

Bonus and contributions under S106. Swadlincote is an urban area with its resultant services and facilities. The application site is located close to main route into Swadlincote and has good links to the centre of the town and has good accessibility credentials as residents would not be solely reliant on the private car. The improvements to the visual appearance of the area and natural surveillance of an existing public footpath are considered social benefits. The benefits of the scheme set out above must be afforded weight in favour of the proposal. The retention of the higher value trees and suitable mitigation in respect of ecology ensures that the proposal would protect and enhance the natural environment. Noise concerns have been adequately addressed. The proposal is thus considered to constitute sustainable development in terms of the three strands set out in the Framework.

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

- A. That delegated authority be granted to the Planning Services Manager to secure a signed unilateral undertaking (or other agreement under Section 106 of the Act) for the provision of £30,030.60 for recreation open space, £5,326 for healthcare provision and £34,197.03 for education provision;
- B. Subject to A, **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 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
 2. Approval of the details of the appearance, landscaping, layout and scale (the Reserved Matters) shall be obtained from the Local Planning Authority in writing upon an application made in that regard 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. The access shall be laid out in accordance with plans ref: 15207A OS and ; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

4. The internal layout of the site shall be in accordance with national guidance in Manual for Streets and Derbyshire County Council's 6C's Design Guide.

Reason: In the interests of highway safety.

5. Any reserved matters submission shall include details of the intended positions and design of the bat/bird boxes and roost features for the site shall be provided, and the scheme shall be carried out in accordance with the approved details before any of the dwellings hereby approved are first occupied.

Reason: To ensure that ecological interests are protected and enhanced in accordance with paragraph 118 of the National Planning Policy Framework.

6. 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 prior to the commencement of any other development) and any resultant remedial works identified by the site investigation.

Reason: To ensure the stability and safety of the development to protect against coal mining legacy, noting that initial groundworks may pose a risk to life and/or property.

7. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been 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 occupation of the development (or parts thereof) 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) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been 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, noting that initial groundworks could create a pathway to receptors.

8. No works to construct a dwelling or hard surface 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.

9. Prior to commencement of development a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for the storage of plant and materials, site accommodation, loading, unloading of goods vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway, pedestrian and cyclist protection and any proposed temporary traffic restrictions.

Reason: In the interests of highway safety, noting that initial works to prepare the site may have an unacceptable impact.

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

Reason: In the interests of highway safety.

11. Prior to the first occupation of any dwelling, space shall be provided within the plot curtilage for the parking of two vehicles and maintained throughout the life of the development free of any impediment to its designated use. For the avoidance of doubt, where a garage is counted as a parking space, the internal dimensions should not be less than 3m x 6m.

Reason: In the interests of highway safety.

12. Prior to the commencement of development of any works that may affect great crested newts or their habitats, a detailed precautionary method of works, mitigation and enhancement strategy shall be submitted to and approved by the local planning authority. All works shall then proceed in accordance with the approved strategy.

Reason: To ensure that ecological interests are protected and enhanced in accordance with paragraph 118 of the National Planning Policy Framework. This needs to be made clear before commencing to ensure that all stages of development are considered.

13. Prior to the commencement of any works on a site an updated survey for any recently excavated badger setts within the site shall be carried out and submitted to the local planning authority. Works shall only commence when a strategy for the exclusion of badger and subsequent closure of the setts under licence will be submitted to and agreed in writing by the local planning authority and thereafter the works shall be implemented in accordance with Natural England licence.

Reason: To ensure that ecological interests are protected and enhanced in accordance with paragraph 118 of the National Planning Policy Framework.

This needs to be made clear before commencing to ensure that all stages of development are considered.

14. No development or other operations shall commence, including but not limited to site clearance and site preparation, until a Biodiversity Management Plan, that shall include provisions for ecological retention, enhancement and future maintenance and management, has been submitted to and approved in writing by the local planning authority. The approved Biodiversity Management Plan shall be implemented in full and subsequently maintained in accordance with the approved Biodiversity Management Plan.

Reason: To ensure that ecological interests are protected and enhanced in accordance with paragraph 118 of the National Planning Policy Framework. This needs to be made clear before commencing to ensure that all stages of development are considered.

15. Prior to the commencement of development, an invasive non-native species protocol shall be submitted to and approved by the local planning authority, detailing the containment, control and removal of Japanese knotweed adjacent to the site. The measures shall be carried out strictly in accordance with the approved scheme.

Reason: To ensure that an adequate means of eradicating or containing the spread of the plant is considered before any works that might facilitate its spread and thereafter implemented to prevent further spread of the plant which would have a negative impact on biodiversity and existing or proposed landscape features.

16. Prior to the commencement of development a detailed Construction Environmental Management Plan (CEMP) (Biodiversity) shall be submitted and approved in writing by the Local Planning Authority. The approved CEMP shall be implemented in full.

Reason: To ensure that ecological interests are protected and enhanced in accordance with paragraph 118 of the National Planning Policy Framework. This needs to be made clear before commencing to ensure that all stages of development are considered.

17. Prior to the occupation of any of the dwellings all the windows shall be fitted with double glazing to a specification of Rw 38dBA or better (or equivalent). The provision of ventilation within these rooms shall be such that the ventilation rates for dwellings specified in Approved Document F of the Building Regulations are capable of being achieved with the windows closed (such as through the use of sound insulated trickle vents).

Reason: To protect the amenities of the future occupiers of the properties.

18. Prior to occupation of any of the dwellings a timber acoustic fence at a minimum height of 3.5m shall be erected in accordance with specific details submitted as part of a reserved matters application, based on its position as shown on plan 15207/PP/01c, and shall thereafter be maintained as such for the life of the development.

Reason: To protect the amenities of the future occupiers of the properties.

Informatives:

- a. 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. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com. The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. 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 referenced in footnotes 1-4, to the relevant conditions attached to this permission.
- b. 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/business/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 pollution control officer (contaminated land) in the environmental health department: pollution.control@south-derbys.gov.uk.
- c. Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.
- d. Pursuant to Sections 219/220 of the Highways Act 1980, relating to the Advance Payments Code, where development takes place fronting new estate streets the Highway Authority is obliged to serve notice on the developer, under the provisions of the Act, to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.
- e. The application site is affected by two Public Rights of Way (Footpaths 8 and 9, as shown on the Derbyshire Definitive Map). The routes must remain unobstructed on their legal alignment at all times and the safety of the public using them must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533190 and asking for the Rights of Way Duty Officer.

- i) Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.
 - ii) If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 01629 533190 for further information and an application form.
 - iii) If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order.
 - iv) Any development insofar as it will permanently affect a public right of way must not commence until a diversion order (obtainable from the planning authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.
 - v) To avoid delays, where there is reasonable expectation that planning permission will be forthcoming, the proposals for any permanent stopping up or diversion of a public right of way can be considered concurrently with the application for the proposed development rather than await the granting of permission.
- f. In respect of condition 11, the Wildlife Trust draw particular attention to the incorporation of amphibian-friendly off-set gully pots and sections of dropped kerbs to reduce impact upon the local amphibian population which we would expect to see included within the detailed design of the Reserved Matters application.
- g. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through suggesting amendments to improve the quality of the proposal and overcome objections. 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.

18/10/2016

Item 1.2

Reg. No. 9/2016/0732/RSD

Applicant:
Mrs Katy Falls
Barratt Homes North Midlands
2 Horizon Place
Nottingham Business Park
Nottingham
NG8 6PY

Agent:
Mrs Katy Falls
Barratt Homes North Midlands
2 Horizon Place
Nottingham Business Park
Nottingham
NG8 6PY

Proposal: **APPROVAL OF RESERVED MATTERS FOR LAYOUT, SCALE, APPEARANCE & LANDSCAPING OF PLANNING PERMISSION REF: 9/2014/1039 TO PROVIDE 100 DWELLINGS, INCLUDING PUBLIC OPEN SPACE AND ASSOCIATED SERVICE INFRASTRUCTURE ON LAND AT SK2624 5131 NEWTON ROAD NEWTON SOLNEY BURTON ON TRENT**

Ward: **Repton**

Valid Date: **20/07/2016**

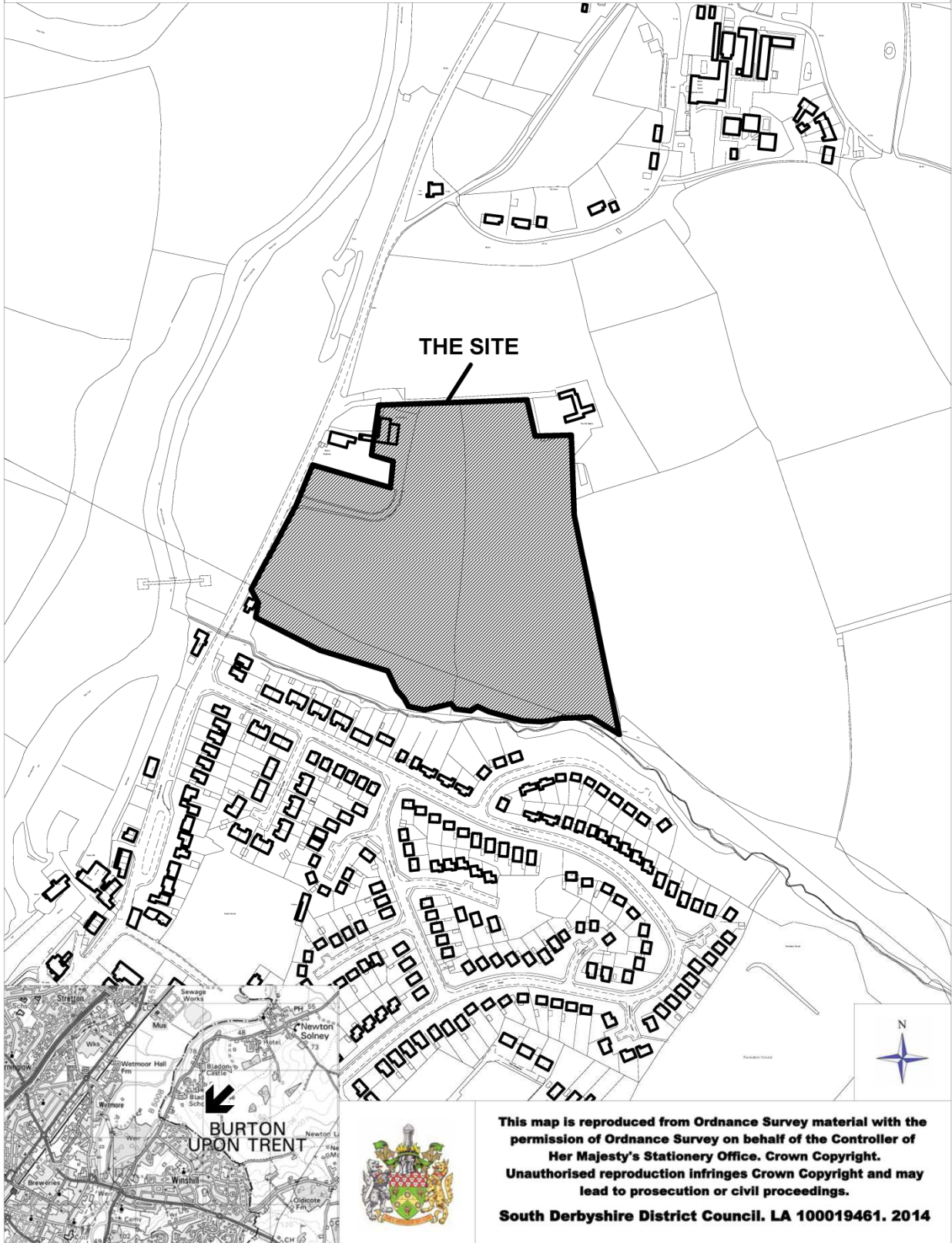
Reason for committee determination

The item is presented to Committee due to it being a major application subject to more than two objections.

Site Description

The site extends to approximately 6.3 hectares of agricultural land located to the northern edge of Winhill, Burton upon Trent. The site lies east of Newton Road (B5008) wholly within South Derbyshire and the parish of Newton Solney, yet abuts the administrative boundary of East Staffordshire and Winhill parish along the southern edge where the Dale Brook runs. This brook corridor is well vegetated with a number of mature trees within, now largely subject to a Tree Preservation Order (TPO). This TPO extends across the site protecting the existing trees of visual or ecological merit sited along hedgerow corridors. These hedgerows form the eastern, northern and western boundaries to the site, with a further hedgerow bisecting the site in a north to south direction. The land falls quite rapidly from the north-east corner to the south-west, with the ground rising particularly steeply in the north-east corner.

9/2016/0732 - LAND AT NEWTON ROAD, NEWTON SOLNEY, DE15 0TF



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Access is presently gained through a field access to Newton Road bounded by timber post and rail fencing with the track extending to a redundant pole barn and hardstanding to the northern edge of the site. Two existing dwellings sit immediately adjacent to the north-west corner of the site (Bladon Paddocks and The Old Dairy), a barn conversion sits beyond a small spinney to the north-east corner (The Stables), whilst a further single dwelling sits adjacent to the south-west corner, bordering Newton Road (Keeper's Cottage). A line of 1960s houses and bungalows, along Dalebrook and Brookside, sit just beyond the brook corridor to the southern edge with rear gardens up to this watercourse.

Proposal

Following the grant of outline permission, the reserved matters of layout, scale, appearance and landscaping require approval. The maximum number of dwellings (100) is proposed in a similar layout to that indicatively shown at the outline stage, with the access position and design 'fixed' under that permission. The layout includes a central area of public open space (POS) with a locally equipped area for play (LEAP). A wildlife corridor is provided to the southern edge of the site adjacent to Dale Brook. Dwellings would be provided as a mix of 2 and 2.5 storey detached, semi-detached and terraced houses with parking provided, in the majority, as private driveways, garages and/or bays to the front.

Applicant's supporting information

A Building for Life (BfL) Statement considers the design to positively integrate into the neighbourhood and create a place with distinctive character and legibility to aid movement around the site. Public and private places will be appropriately delineated and adequate parking provision made to strengthen the street scene. It is advanced the scheme scores 17.5 out of 20.

Planning History

9/2014/1039 Outline application (all matters reserved except for access) for the residential development of up to 100 dwellings including open space, access and associated service infrastructure – Refused June 2015 but allowed at appeal April 2016.

Responses to Consultations

The County Highway Authority raised comments on the initial layout which needed to be addressed by the applicant. These matters related to pedestrian inter-visibility splays from driveways, rear garden accesses, upstands in the carriageway, width of driveways and garages, and footway links to POS. Whilst amended comments are awaited, it is considered that these matters have been addressed.

Derbyshire Wildlife Trust is satisfied that the wildlife corridor is not too extensively planted with trees and species-rich grassland is to be sown. They are satisfied with the species that are proposed for the new hedgerow planting, although uncertain as to whether the quantity of existing hedgerow to be removed would be properly compensated for. Clarification is sought so to ensure there is no net loss of

hedgerow habitat which is a Habitat of Principal Importance under the provisions of NERC Act 2006. The retention of existing and creation of hedgerows adjacent/within areas of POS is welcomed, as is the retention of two trees as monolith stumps to contribute to the biodiversity value of the site in respect of deadwood habitat. The installation of bird and bat boxes as part of the scheme is welcomed.

The Environment Agency has no objection, noting flood risk mitigation conditions were imposed on the outline permission.

The Local Lead Flood Authority offers their standing advice in respect of sustainable drainage for surface water.

The Strategic Housing Manager has considered the layout, and whilst there is a cluster of affordable housing slightly above the maximum number normally accepted; it is recognised this can be acceptable to make the scheme 'work' in planning terms.

The Police Crime Prevention Design Advisor has no objections or comments to make.

Staffordshire County Council School Organisation Team has commented on the impacts arising to education services in the locality, but recognises the legal agreement with the outline permission secures appropriate mitigation.

National Grid notes the proximity of the high pressure gas pipeline crossing the southern part of the site, and advises that the developer should engage in detailed discussions.

The proposal has been assessed against the HSE's PADHI+ assessment tool with an outcome of 'Do not Advise Against' the granting of permission.

Responses to Publicity

Six objections have been received, raising the following concerns/points:

- a) continued concerns over the principle of development, including highway safety on Newton Road, wildlife, visual and landscape impacts, and pressure on existing services and facilities;
- b) who will maintain the nature corridor;
- c) height of proposed 2½ storey dwellings would appear dominant in the locality;
- d) proximity of some of the proposed dwellings to protected trees;
- e) proposed planting causing shading to adjacent property;
- f) proposed footpath increases likelihood of disturbance to adjacent occupiers;
- g) the play area seems too small for the number of dwellings which would utilise it;
- h) overlooking/loss of privacy;
- i) disturbance to elderly residents adjacent; and
- j) loss of view.

Development Plan Policies

The relevant policies are:

2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), H19 (Housing Balance), H20 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF7 (Green Infrastructure) and INF9 (Open Space, Sport and Recreation)

1998 Local Plan (saved policies): EV9 (Protection of Trees and Woodland), EV11 (Sites and Features of Natural History Interest) and EV14 (Archaeological and Heritage Features)

Emerging Development Plan Policies

The relevant policies are:

Draft Local Plan Part 2: BNE8 (Trees, Woodland and Hedgerows) and BNE11 (Heritage)

National Guidance

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

Local Guidance

The Provision of Outdoor Playing Space in New Developments (as updated by the Section 106 Guidance for Developers)
Housing Design and Layout SPG

Planning Considerations

The principle of the development is established through the extant outline permission and conditions on that permission control matters such as access provision, land contamination investigation, surface and foul water drainage, tree protection and habitat creation/management. The Section 106 agreement which accompanies the outline permission also established the parameters for affordable housing and provision of contributions towards off-site education, recreation facilities, etc. In this respect, some of the concerns raised by representations are not material considerations under this application which only seeks approval of details of appearance, landscaping, layout and scale.

Planning Assessment

The layout follows the principles set by the masterplan approved under the outline permission, with a largely outward facing development onto public spaces created under the development. The eastern boundary benefits from a stand-off to the existing hedgerow so to maintain a movement corridor for protected species. Two protected trees would be reduced to monolith stumps in line with the ecologist's recommendations at the outline stage, and this does not raise concern given this was fully anticipated when the Order was made, so to secure the ecological benefits identified at that time. The central POS with LEAP provides a welcome green corridor through the site to facilitate pedestrian movement and social benefit, with the important hedgerow largely retained and additional planting positioned so to ensure long term legibility of this historic feature. The enhancements to the brook corridor are also of merit and carry support from the Wildlife Trust. The overall level of POS well exceeds the usual minimum required.

At least 2 parking spaces per dwelling are provided as per the requirements of outline conditions, and in many cases exceeded by way of a garage or further space. The pedestrian routes through the site are well overlooked and provided to a standard to enable and encourage walking as an alternative mode of transport. The arrangement of boundary treatments, with walls and railings to the public realm, as well as a visually 'passive' treatment to the eastern edge; are supported. The delineation between public and private space is also commended.

The scale of the dwellings captures some concern by adjoining residents but the scope for 2 and 2.5 storey dwellings was considered, and supported, by the Inspector in considering the appeal. House types have been chosen to reflect the prevailing historic character within the immediate locality and include bay windows, strong gable features and symmetry across the fenestration details where appropriate. The mix of house styles and scales creates an evolving built environment that sensitively reflects the local vernacular whilst providing its own identity. Feature properties set on prominent corners in the site provide a double frontage, improving the natural surveillance of the street and interest for the viewer. Side surveillance windows to parking bays are also present. The material palette is generally acceptable although at the time of writing there is ongoing discussion as to roof tiles and eaves/verge/elevation detailing. Conditions are recommended to address these matters although it may be resolved by way of additional/amended plans by the time of the meeting, and Members will be updated on this matter verbally.

Backing and siding onto existing properties is also achieved without compromising separation distances set out in the SPG. Whilst there may be an impression of overlooking given many existing residents benefit from an open and impeded view out onto the open countryside, the principle of these changes has been considered acceptable at the outline stage and there is no concern as to separation to existing residences, nor the change in aural character from the use of the dwellings.

Conclusion

The development of this site was acknowledged have a significant effect on the sensitivity of the area by the Inspector. In the context of permission being given, considerable efforts have been made by both the applicant and officers to achieve a design which harmonises with its environs and wider vernacular as best without resulting in undue visual harm through less than high quality design.

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 approval of reserved matters subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the Drawing Schedule, as received on 4 October 2016 with the exception of plan ref: H6591/AP1 Rev A (Adoption Layout); unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, no boundary walls or fences shall erected forward of the boundary walls or fences hereby approved.

Reason: In the interests of overall design, in order to maintain the character of green and public spaces as secured under the plans hereby approved.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, no less than 2 of the parking spaces to be provided in connection with each dwelling constructed shall be used other than for the parking of vehicles except (save for plots 63 & 64 where all 3 spaces shall be retained for such purposes) without the prior permission of the Local Planning Authority granted on an application made in that regard.

Reason: To ensure adequate parking and turning provision for each dwelling.

4. There shall be no gates or other barriers within 5m of the nearside highway boundary (proposed highway boundary) at any of the private driveways or vehicular accesses within the site. Any gates beyond 5m from the highway boundary (proposed highway boundary) shall open inwards only.

Reason: In the interests of safety on the public highway.

5. Notwithstanding the approved drawings/plans, no development involving the construction of a dwelling shall commence until revised or additional details, including samples and/or drawings where necessary, of the following materials/features have been submitted to and approved in writing by the Local Planning Authority:

- a. roof tiles;
- b. chimneys, roof lights and dormers; and

c. eaves and verge, lintels and cills, and string/dentil course details; and
d. utility cupboard colours (both wall and ground mounted).

For the avoidance of doubt, no fascia boards shall be placed over corbelling and there shall be no use of cloaking tiles/dry verges. The dwellings shall be constructed in accordance with the approved details.

Reason: To ensure a good standard of design in the interest of the appearance and character of the area.

6. No dwelling shall be occupied until the proposed new estate street(s) between each respective plot and the existing public highway have been laid out in accordance with the constructional approval drawings constructed to binder course level, drained and lit in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of highway safety and to enable sustainable modes of transport for all occupants.

7. The proposed private driveways or vehicular accesses within the site shall be no steeper than 1 in 15 for the first 5m from the nearside highway boundary (proposed highway boundary).

Reason: In the interests of safety on the public highway.

8. Where dwellings are fronted by 650mm maintenance margins (rather than footways), and unless otherwise obstructed by way of dwellings or boundary treatments as shown on the approved plans, the entire frontage shall be maintained clear of any obstruction exceeding 600mm relative to road level, for a distance of 2.4m from the carriageway edge or such other distance as may be agreed in writing by the Local Planning Authority, in order to maximise visibility for emerging drivers.

Reason: In the interests of highway safety.

Informatives:

- a. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and technical issues, suggesting amendments to improve the quality of the proposal, and promptly 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.
- b. 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.
- c. 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 gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

- d. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the County Council via email - es.devconprocess@derbyshire.gov.uk. The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.
- e. Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Strategic Director of Environmental Services at County Hall, Matlock (tel: 01629 580000). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 38 Agreement.
- f. Highway surface water shall be disposed of via a positive, gravity fed system (i.e: not pumped) discharging to an approved point of outfall (e.g: existing public sewer, highway drain or watercourse) to be sanctioned by the Water Authority (or their agent), Highway Authority or Environment Agency respectively. The use of soakaways for highway purposes is generally not sanctioned.
- g. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- h. The site is constrained by an easement for a high pressure gas pipeline and you are advised to engage with National Grid as early as possible to ensure the proposed development does not conflict with their interests and the safe operation of the pipeline.

18/10/2016

Item **1.3**

Reg. No. **9/2016/0655/A**

Applicant:
Mr David Sheridan
464 Burton Road
Midway
Swadlincote
DE11 0DW

Agent:
Mr David Sheridan
464 Burton Road
Midway
Swadlincote
Derbyshire
DE11 0DW

Proposal: **RETENTION OF 1 x ADVERTISING BOARD AT 464**
 BURTON ROAD MIDWAY SWADLINCOTE

Ward: **Midway**

Valid Date: **27/06/2016**

Reason for committee determination

Councillor Wilkins (ward member) has requested that the Planning Committee determine this application as unusual site circumstances should be considered.

Site Description

The site is a residential plot which fronts onto the A511 Burton Road. The host property is of good size and affords some parking to the front. There is an existing vehicular access to and from the highway, demarked by two 2.3m tall brick built pillars, whilst the rest of the boundary here with the highway is made up with a 0.4m high brick built wall with a substantial hedge behind. The brick pillars are set slightly back from the highway edge and thus allow a modest visibility splay for users of the access.

Proposal

The proposal (as amended) is the retention of one advertising 'board'. At present there are two boards here placed to the front of the site, either side of the driveway. The applicant has requested retention of one of the boards but with some flexibility that it can be located on either side of the drive as and when. The advertisement is in colour and publicises a professional service run by the property owner from that address.

