

Please ask for Democratic Services

Phone (01283) 595722/ 595848

Typetalk 18001

DX 23912 Swadlincote

Democratic.services@southderbyshire.gov.uk

Our Ref

Your Ref

Date: 23rd May 2022

Dear Councillor,

Planning Committee

A Meeting of the **Planning Committee** will be held at **Council Chamber**, Civic offices, Civic Way, Swadlincote on **Tuesday, 31 May 2022 at 18:00**. You are requested to attend.

Yours faithfully,

Chief Executive

To:- **Labour Group**

Councillor Tilley (Chair), Councillor Shepherd (Vice-Chair) and
Councillors Dunn, Gee, Pearson and Southerd.

Conservative Group

Councillors Bridgen, Brown, Dawson, Haines, Redfern and Smith.

Non-Grouped

Councillor Wheelton

AGENDA

Open to Public and Press

- 1 Apologies and to note any substitutes appointed for the Meeting.
- 2 To note any declarations of interest arising from any items on the Agenda
- 3 To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 4 REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY) **3 - 92**
- 5 NSIP CONSULTATION FOR OAKLANDS SOLAR FARM **93 - 94**
- 6 CONSULTATION FROM THE COUNTY COUNCIL ON APPLICATION REF. CD9-0222-34 **95 - 103**
- 7 DEED OF VARIATION – LAND TO THE EAST OF ACRESFORD ROAD, OVERSEAL **104 - 105**
- 8 DEED OF VARIATION – LAND ATSK3430 7732 DEEP DALE LANE, BARROW ON TRENT **106 - 108**

Exclusion of the Public and Press:

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

Report of the Strategic Director (Service Delivery)

Section 1: Planning Applications

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

1. Planning Applications

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

Reference	Item	Place	Ward	Page
DMPA/2021/1277	1.1	Hilton	Hilton	6
DMOT/2021/1694	1.2	Hilton	Hilton	21
DMPA/2021/1342	1.3	Swadlincote	Newhall and Stanton	27
DMPA/2021/0467	1.4	Foston	Hilton	36
DMPA/2022/0269	1.5	Melbourne	Melbourne	45
DMPA/2022/0112	1.6	Swadlincote	Swadlincote	49
DMPA/2021/1850	1.7	Thulston	Aston	53
DMPA/2021/0983	1.8	Hartshorne	Woodville	59
DMPA/2021/1709	1.9	Midway	Midway	69
DMPA/2021/0090	1.10	Newhall	Newhall and Stanton	73
DMPA/2021/1883	1.11	Thurvaston	Etwall	81
DMPA/2022/0089	1.12	Woodville	Woodville	88

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

1. The issues of fact raised by the report of the Strategic Director (Service Delivery) or offered in explanation at the Committee meeting require further clarification by a demonstration of condition of site.
2. Further issues of principle, other than those specified in the report of the Strategic Director (Service Delivery), arise from a Member's personal knowledge of circumstances on the ground that lead to the need for clarification that may be achieved by a site visit.
3. Implications that may be demonstrated on site arise for consistency of decision making in other similar cases.

Glossary of terms

The following reports will often abbreviate commonly used terms. For ease of reference, the most common are listed below:

LP1	Local Plan Part 1
LP2	Local Plan Part 2
NP	Neighbourhood Plan
SPD	Supplementary Planning Document
SPG	Supplementary Planning Guidance
PPG	Planning Practice Guidance
NPPF	National Planning Policy Framework
NDG	National Design Guide
SHMA	Strategic Housing Market Assessment
SHELAA	Strategic Housing and Employment Land Availability Assessment
s106	Section 106 (Agreement)
CIL	Community Infrastructure Levy
EIA	Environmental Impact Assessment
AA	Appropriate Assessment (under the Habitat Regulations)
CPO	Compulsory Purchase Order
CACS	Conservation Area Character Statement
HER	Historic Environment Record
LCA	Landscape Character Area
LCT	Landscape Character Type
LNR	Local Nature Reserve
LWS	Local Wildlife Site (pLWS = Potential LWS)
SAC	Special Area of Conservation
SSSI	Site of Special Scientific Interest
TPO	Tree Preservation Order
PRoW	Public Right of Way
POS	Public Open Space
LAP	Local Area for Play
LEAP	Local Equipped Area for Play
NEAP	Neighbourhood Equipped Area for Play
SuDS	Sustainable Drainage System
LRN	Local Road Network (County Council controlled roads)
SRN	Strategic Road Network (Trunk roads and motorways)
DAS	Design and Access Statement
ES	Environmental Statement (under the EIA Regulations)
FRA	Flood Risk Assessment
GCN	Great Crested Newt(s)
LVIA	Landscape and Visual Impact Assessment
TA	Transport Assessment
CCG	(NHS) Clinical Commissioning Group
CHA	County Highway Authority
DCC	Derbyshire County Council
DWT	Derbyshire Wildlife Trust
EA	Environment Agency
EHO	Environmental Health Officer
LEP	(D2N2) Local Enterprise Partnership
LLFA	Lead Local Flood Authority
NFC	National Forest Company
STW	Severn Trent Water Ltd

Item No. 1.1

Ref. No. [DMPA/2021/1277](#)

Valid date: 06/09/2021

Applicant: Morris Homes Ltd **Agent:** n/a

Proposal: **Approval of reserved matters (layout, scale, appearance and landscaping) pursuant to outline permission ref. DMPA/2019/1143 on Land at SK2531 3702, Lucas Lane, Hilton**

Ward: Hilton

Reason for committee determination

The application was called in by Councillor Peter Smith for a decision by Planning Committee as he considers that unusual site circumstances exist which should be considered by the committee.

Site description

The site is a greenfield site which is relatively flat and is bounded by residential properties to the west and south of the site, on Normandy Road, and Pegasus Way, Lucas Lane, plus Derby Road, with the A5132 and A50 roundabout junction to the north. The site is located within the village boundary as defined by the Local Plan and outline consent was granted under application DMPA/2019/1143 for the erection of up to 57 dwellings in September 2020. The oak tree on the Lucas Lane frontage is protected by Tree Preservation Order. Hilton Bridleway 18 runs north to south to the east of the site linking Lucas Lane to the A5132/A516.

The proposal

The application seeks approval of the reserved matters of layout, scale, appearance, and landscaping for the erection of 57 dwellings and associated infrastructure such as roads, parking, areas of open space and a surface water attenuation pond. The application relates to outline permission approved for up to 57 dwellings and which is subject to a S106 Agreement. The proposed dwellings are mostly of two storey scale arranged in terraces, as semi-detached, or detached dwellings, although there are two properties which would be two and a half storeys utilising the roofspace for second floor accommodation, as well as two bungalows. The proposed dwellings would be laid out to front on to Lucas Lane as well as the main internal roads, with parking provided generally on plot or close to the dwelling to which they relate. Vehicular access to the development would be from Lucas Lane at two points, one on the western side of Lucas and a second at the northern end of Lucas Lane, all as approved when the outline planning permission was granted permission, which included means of access.

Applicant's supporting information

Landscape and Ecology Management Plan (LEMP) – This document examines the habitats at the site and calculates their value in a matrix. The plan concludes that the proposals will result in 0.06 Habitat Biodiversity Units gain.

Biodiversity Impact Assessment (BIA) – This assessment calculates that with the use of 0.32ha of off-site land (ACROSS Lucas Lane, and mixed scrub land), as well as areas within the proposed development, this results in a net gain of 0.47 habitat units, which would equate to a net gain of 10.23%.

DMOT/2021/1694 - Land at SK2531 3702, Lucas Lane, Hilton, Derby



THE SITE



MAPS ARE NOT TO SCALE
This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.
South Derbyshire District Council, LA 100019481, 2020

Arboricultural Assessment – This assessment categorises the trees and hedgerows on site and concludes that only two trees within their survey area were Category A (High Quality/Value), and of this only one, the English Oak on Lucas Lane, is on site and affected by the development. Eight individual trees and five groups of trees Category B trees were also identified. The report provides details of shading, as well as tree protection measures.

Design and Access Statement – This report looks at the context of the site and surroundings including physical, social and economic characteristics of the site as well as. It explores how the information gathered from the Assessment and Involvement Stages provides options and opportunities for the proposals. In terms of design it explains how the design has been guided and developed following the Evaluation Stages, in particular the core issues including: Use – what the development will be used for and how it is justified; Amount – the amount and density of development applied for and how this fits with its surroundings; Layout – the location of buildings and their built form; Scale – the size of buildings and spaces; Landscaping – how both hard and soft features will inform the development; Appearance – how the buildings will appear in terms of materials; and Access – why the vehicular access points and routes have been chosen and how the proposals respond to road layout. Also, how everyone regardless of age, disability, ethnicity or social grouping can move through the place. It concludes that the proposal represents a robust design solution, that will deliver an inviting, functional and aesthetically pleasing new residential development for Hilton.

Oak Tree Protection Statement – This statement looks at the impact of the development specifically on the oak tree to Lucas Lane, and states that the development proposed fully respects and will implement the road layout that is already approved to the north of Lucas Lane. The exact geometry of the plan approved at outline stage will be delivered in the reserved matters scheme. The health of the existing oak tree has been fully and professionally assessed and a plan put in place to ensure the tree can co-exist with the approved development.

Noise Assessment - The assessment establishes existing sound levels at the site, and determines mitigation requirements. It used a combination of noise survey, and Cadna-A (Computer Aided Noise Abatement) noise modelling software and the results show that that mitigation will be required to achieve recommended internal noise level criteria in certain areas of the proposed development. This could include the installation of up to 3m high acoustically sound garden fencing for certain plots; and the selection of glazing, acoustically attenuated ventilation. The assessment confirms that a good standard of acoustic design, in accordance with the latest guidance, can be achieved using reasonable and practicable design measures.

Construction and Environmental Management Plan (CEMP) – Sets out how the site operations will be managed during the construction period having identified issues and including matters such as implementation controls and monitoring strategies/arrangements for: noise; vibration; dust; waste; maintenance of drainage systems; Movement Statement; and access requirements. Construction traffic would use the norther access at the end of Lucas Lane, with the site compound and storage area, plus contractors parking in the south-western corner of the site.

Landscape Works – Guidance for Ground Workers – Provides guidance to ground workers who will be preparing the site for landscaping.

Landscape Works – Guidance for Site Agents – Provides guidance to site agents who will be oversee the landscaping proposals.

Landscape Works – Guidance for Planting Teams – Provides guidance to site workers who will be implementing the landscaping proposals.

Relevant planning history

DMPA/2019/1143 - Outline application (matters of access to be considered now with matters of layout, scale, appearance and landscaping reserved for later consideration) for the residential development of

up to 57 dwellings with associated landscaping, parking and sustainable drainage – Approved 22/10/19.

Responses to consultations and publicity

The Environmental Health Officer has raised no objections to the application.

The Environment Agency has raised no objection to the application.

The Force Designing Out Crime Officer raised concerns in regard to the original proposals, stating that changing from a crescent to a linear block was a backward step; there was some remote parking off-plot and out of view; parking under a linked roof is a waste of land; secure shared rear accesses should be provided, and inter-plot boundaries should be 1.2m high.

The Strategic Housing Manager commenting on the original plans, stated that the overall percentage of affordable homes expected is correct, as is the tenure split, however, the current proposals are not in line with the S106, which is quite prescriptive, on what we expect this site to deliver, in particular:

- The 1 beds as maisonettes should be houses.
- The site layout refers to Affordable Rent, yet these need to be Social Rent.
- There is no. 4 bed house, there should be one.
- The bungalows do not show how they comply with M4(3) – Wheelchair accessible - Building Regulations.
- The properties do not meet NDSS space standards.
- One of the 3 bed houses should be a 2 bed house.

The Lead Local Flood Authority (LLFA) object, requesting calculations for the surface water drainage to include an allowance for urban creep, as well as the 40% allowance for climate change; as well as the Development Enquiry Request from Severn Trent Water in which the discharge rate was agreed.

The Landscape Architect states that there should be a Biodiversity Net Gain; fruit trees should be planted in all rear gardens; replace *Prunus lusitanica* with a native species; the quantity of trees to be planted to be added; consideration to improving local biodiversity including hedgehogs, birds, bats, and bees etc.

The Derbyshire Wildlife Trust raised objections to the submission based on the method and content for the calculations for Biodiversity Net Gain as well as the off-site mitigation, and the lack of information regarding great crested newts on the site.

Commenting on the original plans, the County Highway Authority raised an objection, stating that the junction shown at plots 24-30 needs redesigning as a bend; that plots 21-22 and 17-18 need to be served via a 2m footway linking to the nearest 2m footway for pedestrian safety reasons; and the rumble strip/ramp outside plot 23 needs removing and redesigning to be flush with the main carriageway.

The Planning Policy Officer raises no objection in principle, but requests that a dropped kerb to the carriageway be provided where the cycle route meets the turning point at the end of Lucas Lane.

National Highways have stated that the matters seeking approval will not impact on the Strategic Road Network and as such it has no further comments to make.

Hilton Parish Council object to the proposal, stating that the proposal is not compliant with the Neighbourhood Plan (NP), and some of the conditions imposed on the outline do not reflect NP policies. The parish wish to see the housing mix change to include 12 more bungalows, in line with Housing Mix Policy H2 of the NP. They also state that the parking proposed does not comply with NP policy H3, parking standards with 142 spaces shown, whilst 152 are needed (80% provision). They state that the scheme does not provide details of energy efficiency requirements contrary to NP policy

H4 and that gardens sizes do not reflect the requirements of NP Policy H5. They state that the proposal does not meet NP Policy T1 relating to active travel as it does not contribute to the creation and improvement of a safe, direct, and convenient cycle route network between homes and local destinations, such as schools and shops and to the wider cycle network. The parish council do not agree that the biodiversity gain put forward is adequate and the report does not account for the changes to Lucas Lane and their calculations suggest that additional land of between 0.42 and 0.46 hectares is required to meet the 10% increase, but this is only realised if the land is held free from further development for many years if not decades, and the to ensure the safe custodianship of the land, it is suggested that the ownership of the land be transferred to the Parish Council. In terms of noise the parish council consider that the perimeter block, not acoustic fences, should be utilised – the layout opens up gaps, and the report does not take account of the height of the A50 as well as questioning the position of the microphones. They state that to achieve suitable noise levels internally windows will need to be kept closed and this will lead to overheating, which has not been addressed. The parish council also note that there are ongoing issues with sewers backing up on Normandy Road and this needs to be addressed before connections are made, and that there will be overlooking/overbearing impact on residents, contrary to the council's standards.

The Tree Officer recommends that the tree removal to facilitate the proposed development is acceptable; that an engineering solution to reduce root damage and compaction within the RPA of T1 during and post construction of the road and footpath is necessary to avoid the foreseeable damage to long-term tree health of this lovely Oak tree; that cellular confinement systems are required where there's any encroachment with RPAs of retained trees, and approval of a Landscaping Plan, inclusive of trees is required.

There have been 4 letters of objection received in relation to the plans/information originally submitted which have been superseded, which raised the following points:

- a) People will not use garages to park cars.
- b) People will not park in tandem, nose to tail.
- c) The Neighbourhood Plan requires parking to be adjacent, next to or adjoining the property.
- d) The EV charging arrangements will lead to the need for long cables, some of which will need to be across roads or pavements.
- e) Where are the plans to update Lucas Lane footpaths, lighting and drainage?
- f) The biodiversity calculator does not take account of the lost highway verge.
- g) Great Crested Newts have not been accommodated.
- h) The SUDs is less attractive to amphibians and not linked to other habitat – a wildlife pond could be created.
- i) Pedestrian access could be created to Normandy Road.
- j) Lucas Lane's amenity value will be lost due to traffic and green character, wildlife etc.
- k) It will double the number of dwellings on Lucas Lane.
- l) The hedges to Normandy Road need to be retained, but a further fence will be erected, cutting off the hedge, and will they look to traditional hedge laying and pleaching methods to get things back to a good structural condition and healthy wildlife habitat?
- m) The property adjacent no.19 Normandy Road should be moved further away -
- n) Properties located at 134a Derby Road and 19 Normandy. Plots 33 and 40 on the proposed development are each approx. 6m away from the respective existing houses. These plots need to be either removed or located at least 12m and maybe 21m from the affected properties to comply with the South Derbyshire Design Guide policy.

There have been 5 letters of objection received in relation to the latest, revised plans, which raise the following points:

- a) We object to the proposed site management. i.e., large compound, store area, and contractors parking and it is not clear what they will be and they will be next to our property, leading to loss of privacy, loss of light, and noise during the whole construction period.
- b) The compound should be elsewhere – there is plenty of room.
- c) The garages to plots 20 and 21 will affect our light.
- d) Plot 20 will affect our privacy.

- e) The plans are confusing as some of the supporting documents have different numbers of dwellings in different locations.
- f) We have had insufficient time to consider the changes.
- g) Great crested newts have not been considered.
- h) The proposal doesn't comply with Neighbourhood Plan Policy H2 (Housing mix) for 1 or 2, and 4 or 5 bedroom properties., as well as the percentage for bungalows.
- i) The proposal doesn't comply with Neighbourhood Plan Policy H3 (Parking) as plots 3, 16, 17, 18, 28, 29, 30, 31, 42, 43, 51 and 52 have inadequate parking and many rely on garages which will not be used, leading to on-street parking, and plots 30, 54, 56, and 57 have remote parking.
- j) The proposal doesn't comply with Neighbourhood Plan Policy H4 (Energy efficiency) as there is no mention of on-site renewable energy, especially with approx. 36 properties with south facing roofs.
- k) Electrical Car Charging Is flawed in terms of charging posts as its design may not accommodate chargers which may change and not fit.
- l) No crossing is made to access the bridleway.
- m) The road should be moved 1m east.
- n) A 5m road is not wide enough for a car and refuse lorry to pass.
- o) Supporting documents need updating to latest layout.
- p) The "Oak Tree Detail Plan" are out of scale and misleading – it doesn't show what is being chopped off.
- q) The increase in the size of the biodiversity off-setting area is welcome.
- r) I feel the value of the verge and wildflowers in the fields have been underestimated.
- s) The ditch links to the Hilton Gravel Pits SSSI and is a wildlife corridor. For great crested newts and toads and may explain why one newt was found.
- t) Since the site has become vacant its ecological value has increased.
- u) The biodiversity off-setting area issued by a variety of ground-foraging birds in flocks, particularly in winter, including redwing and starling. These will be displaced by conversion of the open grassland.

Relevant policy, guidance and/or legislation

The relevant policies are:

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development); S6 (Sustainable Access); SD1 (Amenity and Environmental Quality); SD2 (Flood Risk); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); BNE1 (Design Excellence); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness); INF2 (Sustainable Transport); INF7 (Green Infrastructure); INF9 (Open Space, Sport and Recreation).

2017 Local Plan Part 2:

BNE7 (Trees, Woodland and Hedgerows)

Hilton, Marston on Dove & Hoon Neighbourhood Development Plan

N1 (Noise mitigation); H1B (Lucas Lane housing development site); H2 (Housing mix); H3 (Requirements of housing: Residential car parking); H4 (Requirements of housing: homes designed for energy efficiency); H5 (Gardens); H6 (Housing design); T1 (Active Travel), T2 (Access to schools); E4 (Nature conservation); E5 (Biodiversity); L1 (Recreational facilities); L2 (Healthcare facilities); B4 (Broadband).

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)
South Derbyshire Tree and Development Supplementary Planning Guidance (SPG)

The relevant national policy and guidance is:

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

Planning considerations

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

- Compliance with the outline permission,
- Highway safety,
- Design and residential amenity,
- Ecology,
- Surface water drainage, and
- Other matters.

Compliance with the outline permission.

This proposed reserved matters scheme provides for 57 dwellings on the site with vehicular access from two points on Lucas Lane as approved at outline stage. Lucas Lane runs southwards to where it meets the A5132 Egginton Road, providing access to the centre of Hilton to the west, and ultimately the A38 and Willington to the east. With the exception of the surface water attenuation pond now being proposed in the south-west of the site rather than on the Lucas Lane frontage as was shown on the masterplan at outline stage, the reserved matters broadly respect the masterplan approved at outline stage, although not slavishly repeating it, as required by condition 3 of the outline. A play area, which will include a locally equipped area of play (LEAP), is provided on the Lucas Lane frontage.

Condition 3 of the outline requires the reserved matters application to be take account of/ be accompanied by the following:

- Retained trees and hedges be incorporated into open spaces/infrastructure
- Provision of a shading analysis from trees
- Measures to protect trees from hard surfaces.
- Provision of evidence of capacity of ponds/swales are of sufficient capacity.
- Provision of at least 2 bungalows.
- Layout to “6C’s Design Guide.
- Provision of bin collection points.
- Parking provided at the ratio of 2 spaces for 1, 2, or 3 bedroom homes, and 3 for homes with 4 or more spaces.
- Submission of a Landscape and Ecological Management Plan (LEMP) for habitats.
- A Biodiversity Metric Calculation to show a biodiversity net gain (ideally 10%).
- Provision of evidence of efforts to improve connectivity for walking and cycling to existing residential areas.
- The development must start within 2 years from final RM approval.

Condition 4 of the outline requires that if the Biodiversity Metric Calculation submitted does not show a 10% on-site biodiversity net gain, then a scheme to provide off-setting is required. As this is the case the application identifies an area of off-site land to the east to provide that necessary gain. Whilst requiring formal submission and approval against that condition, the quantum, and nature of that land is in generally considered appropriate.

The necessary supporting information has been submitted as part of the reserved matters application and with the above in mind, notwithstanding the comments received, it is considered that the approach to delivering the development put forward as part of this reserved matters application is compliant with the requirements of the outline planning permission and conditions specified therein.

Highway safety

The safety of the vehicular accesses from Lucas Lane was considered when outline permission was granted permission and the two access points from the western and northern sides of Lucas Lane are,

therefore, already approved. The proposed internal site layout has been designed to make use of those vehicular accesses and the accesses and majority of the development's roads would be adopted, except for the small. Mews court to the southern end of the site which would be a private drive. The comment of the Planning Policy Officer in respect of connecting the site to the bridleway to the east with the inclusion of dropped kerb crossings, a point also raised in the letters of objection, is considered to be reasonable request that will help to ensure that the occupiers of the development have quick and easy access to that public right of way and surrounding area. Accordingly, a condition to secure that feature is recommended in the interests of sustainability.

Commenting on the original plans, the County Highway Authority originally raised an objection on the basis that the junction shown at plots 24-30 needed to be redesigned as a bend and that plots 21-22 and 17-18 need to be served via a 2m footway linking to the nearest 2m footway for pedestrian safety reasons. They also requested that a rumble strip/ramp outside plot 23 should be omitted. Discussions have been on-going with the applicant to address those residual concerns and these matters have been addressed in the revised plans and the County Highway Authority have been reconsulted on them. However, to date no formal reply has been received but it is understood that the latest plans address their concerns. An update on these matters will be reported to members at the meeting. The safety of the proposed internal road layout for the development is generally considered to be acceptable. Off-street parking is mostly provided on plot, and these arrangements are considered to be acceptable. Whilst the comments in respect of compliance with the Neighbourhood Plan in terms of the number of parking spaces, and their location, are noted, the parking levels are controlled through condition 3(i) of the outline permission. Since that is a requirement of the planning permission, it is not possible to require additional provision at this reserved matters stage. Notwithstanding the requirements of Policy H3 of the Neighbourhood Plan, the location of the parking for plots 30, 54, 56, and 57 are remote but are not too far as to be an issue in terms of safety to justify refusal. In light of the above, notwithstanding the concerns raised in the representations, the proposals are considered to be policy compliant and generally acceptable in highway safety terms.

Design and residential amenity

Negotiations have taken place between officers and the applicant to ensure an appropriate design and layout is achieved. These included alterations to the elevational treatment of the houses, as well as their layout, to ensure an appropriately designed scheme is achieved, bearing in mind the outline permission in place, and the need to broadly comply with the outline masterplan. The layout of the proposed housing is considered to be acceptable and appropriate for the site. The design of the proposed dwellings has been influenced by the houses which can be found in the wider area, being generally of two storey scale, save for two properties which have accommodation within the roofspace, and two bungalows, with pitched roofs, gabled to the front or sides and with brick and tile construction. The layout provides frontage development to Lucas Lane as well as the proposed new road network with parking areas punctuated by landscaping, as well as an interesting mews style street within it. It is considered that the density of layout of the proposal would not have an adverse impact upon the character or appearance of the surrounding area. It is noted that the wider surrounding area is characterised by a mixture of housing designs and ages, and in light of this it is considered that the proposed dwellings are, subject to further refinement of the housetype details, of an acceptable design and appearance, as well as being appropriately laid out. It is also considered that the layout would result in an acceptable built form that would create a good sense of place for future occupiers, and which sits reasonably harmoniously with the existing built form.

The proposed landscaping scheme will ensure that the development is provided with comprehensive and diverse landscaping that will result in an appropriately designed development. Notwithstanding the comments received the number and species are considered to be acceptable for this location. Whilst tree protection details have been submitted, these need to be submitted and agreed against condition 5 of the outline planning permission. Alternative landscaping including trees as suggested for the LEAP is reasonable request from the council's Landscape Architect, but notwithstanding the other comments, the proposed landscaping scheme is otherwise considered to be acceptable.

The details of the play area and equipment have been provided and these will be overlooked by plots 1, 2, and 3, as well as the existing property, Mile End Bungalow, Lucas Lane, which is located to the south of that area of the site, close that boundary. It is considered that adequate space is available to ensure that the occupiers of those properties would not be unduly affected by the use of the play area and equipment.

Details of the proposed materials as well as building details have been put forward as part of the reserved matters application and these are considered acceptable. Boundary treatments have also been submitted and these are also considered to be acceptable.

In terms of residential amenity, the proposed layout respects the existing residential properties adjacent to the site and would not lead to any undue impacts on the amenity that the occupiers of those properties could reasonably expect to enjoy by way of loss of light, overshadowing, overbearing impact, loss of privacy or overlooking. The proposed layout generally accords with the standards set out in the council's adopted Design SPD, albeit that within the site between proposed dwellings the back-to-back distances are, in a small number of places, approximately 19m, and 20m rather than the 21m specified in the council's adopted Design Guide SPD, and a front to side distance of approximately 9m rather than the 12m specified in the council's adopted Design Guide SPD. Concerns expressed in the representations in regard to plot 19's relationship to 19 Normandy Road are noted, however that plot is set away from the boundary and does not break the 40-degree rule measured from principal windows serving the habitable rooms of 19 Normandy Road. It is noted that some of the properties adjoining the site have side windows serving what appear to be kitchen/dining rooms facing the site, including 19 Normandy Road. However, the council's adopted Design SPD specifically states that the guidelines will not be applied to side windows. In terms of the impact on 134a Derby Road, that property has a first-floor window facing the side elevation of plot 25. However, the council's adopted Design SPD does not specify a minimum distance in those situations and the impact of plot 25 on the other windows in that property are also compliant. The comments received in the representations received are noted, however, notwithstanding this, it is considered that the proposed development would create satisfactory living environments for the future occupiers of the proposed dwellings and provides an appropriate balance between the amenity of future occupiers, the delivery of the number of dwellings approved at outline stage, and design matters. It is, however, recommended that permitted development rights are removed so that no further extensions can be added in light of the compromises made. The proposals would see the floor levels of the proposed dwellings raised relative to Lucas Lane, but this arrangement will not adversely affect the amenity of neighbours. Overall, in design terms and in terms of residential amenity, the proposed development is considered to be acceptable.

Ecology

As required by the outline planning permission, the application is accompanied with a Landscape and Ecology Management Plan (LEMP) and Biodiversity Impact Assessment (BIA). The LEMP demonstrate that there will be a 0.06 Habitat Biodiversity Units gain on site, but some way short of 10% Biodiversity Net Gain. As a result, the applicant is providing an area of land to the east across Lucas Lane to ensure there is a net biodiversity gain. The Biodiversity Impact Assessment (BIA) accompanying the application calculates that with the use of that 0.32ha of off-site land across Lucas Lane, as well as areas within the proposed development, there would be an overall net gain of 0.47 habitat units, which equates to a net gain of 10.23%. Derbyshire Wildlife Trust were consulted on the application and raised concerns in regard to the methodology used in the calculations for the off-site mitigation, and that no information in regard to great crested newts was provided. Comments were also received which noted that the verge to Lucas Lane was not included in the calculations and that would be lost. The applicant has amended the submission to overcome these concerns and DWT have been consulted on the revised details. The council relies on DWT for ecological advice, and they are understood to now be generally content with the submission as well as the conclusions and recommendations made in those reports. The comments raised by the council's Landscape Architect as well as those made in the representations, however, notwithstanding those concerns, there is no evidence to demonstrate that the current submission in terms of biodiversity net gain is not fit for purpose, does not consider the appropriate aspects of ecological interests at the site, or come to unsound conclusions. An update will

be provided at the meeting in regard to the impact of the development on great crested newts and biodiversity net gain to address the concerns of Derbyshire Wildlife Trust.

Surface water drainage

As required by condition 3(d), a surface water drainage strategy to demonstrate that the pond is designed to provide sufficient capacity to drain the site has been submitted. The site will split into two gravity piped networks (Network A & B), following the natural topography of the site. Site investigations showed that ground conditions are not suitable for infiltration therefore in accordance with the hierarchy of surface water discharge, Network A is to discharge into the existing open watercourse adjacent to Lucas Lane at a restricted discharge but due to the natural topography of the site, Network B cannot outfall into an open watercourse via gravity so will outfall into an existing Severn Trent Water surface water sewer within Normandy Road, at a restricted discharge rate. It states that both Network A & B have been designed in accordance with the approved FRA and have capacity to accommodate storm events up to the 100-year + a 40% allowance for climate change. Network A utilises an underground cellular storage tank to attenuate storm events whilst Network B utilises an above ground attenuation basin as well as underground cellular storage to attenuate storm events. Both Networks A & B are to be adopted by Severn Trent Water and management and maintenance of the pipe gravity networks will be transferred to Severn Trent Water as part of that process. However, Network A & B's cellular storage tank & Network B's attenuation basin will be managed and maintained by a private management company.

In terms of this reserved matters application adequate information has been submitted to support the proposed development which complies with the requires of condition 3 (d) of the outline permission. Condition 6 of the outline requires further details to be submitted to address surface water during construction, condition 13 requires the applicant to demonstrate that the surface water discharge accords with the hierarchy in paragraph 80 of the planning practice guidance, condition 15 requires full detailed calculations of the surface water drainage for the site, and condition 16 requires the surface water drainage system to be independently surveyed to ensure it has been installed in accordance with the approved details that will ultimately be submitted and approved through those outline conditions.

Adequate information has either been submitted with this reserved matters application or will be submitted when discharge of conditions applications are submitted against the outline permission, to be satisfied that the site can be appropriately drained without causing surface water flooding issues. In view of this, notwithstanding the comments of the LLFA, surface water mitigation controls are already in place through the outline permission which the applicant will need to address separately. It is s clear that in terms of surface water drainage and flood risk the scheme presents a suitable way to develop the site.

In terms of impact on trees

In terms of impact on trees, the turning head at the western end of the northern access road would result in the loss of trees in the group on that northern edge. The council's Tree Officer has examined the proposals and supporting information and has advised that the tree removal to facilitate the proposed development is acceptable. It is considered that whilst some trees are to be removed, these are not a significant loss, though some replacement planting would be appropriate. The council's Tree Officer recommends a Landscape Plan be submitted to include new trees, though these are already provided for within the submitted landscaping plans. Whilst approval of the landscaping plans is sought as part of this reserved matters application, and those submitted are generally considered acceptable, it would be appropriate to provide the additional replacement trees requested, and since additional trees are needed within the LEAP, that location would seem appropriate. The Tree Officer raises concerns in respect of works within the root protection areas (RPAs) of some of the retained trees within the development, most importantly, the oak tree on Lucas Lane at the northern access pint. The application refers to the use of conventional construction techniques within the RPAs of trees T1 (the oak on Lucas Lane), T12, T14 and the main spine road intruding within the RPA of G7, however, he considers that the use of more sensitive methods would be more appropriate. The Tree Officer also advises that there should be an engineering solution to reduce root damage and compaction within the

RPA of T1 (the oak on Lucas Lane), during and post construction of the road and footpath is necessary to avoid the foreseeable damage and that cellular confinement systems should be used where there is any encroachment with RPAs of those trees.

The tree which makes the most significant contribution to the visual amenity of the area is T1, the oak tree on Lucas Lane, where the northern access road enters the site from Lucas Lane and constraints for construction are considered to only be necessary for that particularly important tree. However, the location of that access has already been approved when outline planning permission was granted. That northern road would need to be adopted by the County Highway Authority due to the number of dwellings it serves, and whilst the construction method could reasonably be controlled, the requirement for the use of cellular confinement systems requested by the Tree Officer is unlikely to be an acceptable method of road construction that would be suitable for adoption. In light of the above it is considered that a condition to require the submission of a Method Statement for the provision of the surfaces within the RPA of the oak tree to Lucas Lane would be a prudent way to try and reduce the impact of the works on that tree and allow all options to be fully explored for it. With that provision, it is considered that the impact of the development on trees would be acceptable.

Other matters

The comments of the Police Force Designing Out Crime Officer regarding preference for the previous crescent is noted, however, the proposed layout still presents a strong frontage that overlooks the public area adequately and is considered appropriate; there is only a very small number of off-plot parking spaces, and these are suitably overlooked; the link roof and rear parking court has been removed; and the boundary treatments are considered appropriate. Secure rear access gates at the front of shared rear access points is a reasonable request and can be conditioned.

The comments of the Strategic Housing Manager on the original plans have now all been addressed through the submission of revised plans.

In terms of noise impact, the layout does not provide a total perimeter block to the northern part of the site, as was envisaged in the approved masterplan, but the gaps between the proposed houses on that northern frontage are provided with acoustic fencing that create an appropriate barrier. The applicant has submitted a new noise report which concludes that based on the plans submitted the impact on residential amenity would still be acceptable. The comments in respect of the suitability of the acoustic survey are noted, however, the council's Environmental Health Officer raises no objection to the proposal as submitted. It should also be noted that condition 11 of the outline requires the submission of details of noise mitigation to protect future occupiers from noise from the road network. On that basis it is considered that the impact of noise on the amenity of the future residents is adequately addressed.

In terms of compliance with the neighbourhood plan (NP), this needs to be considered in the context of the outline planning permission which sets out the controls that the reserved matters submission must comply with. The policies in the NP contain matters that would have had to be set out in the outline planning permission since they would have been very prescriptive matters that have a significant impact on how the development is delivered and cannot reasonably be imposed at this reserved matters stage. The NP was not sufficiently progressed to carry any significant weight at the time of the outline planning permission.

In regards to the other points raised that have not been covered above, the planning process cannot force people to park in garages or on drives, only ensure appropriate facilities are provided; appropriate EV charging points are provided for each dwelling and the requirements for them are already set out in conditions 18 of the outline; the SUDS pond is in principle acceptable; there is no right of access to Normandy Road, other than for drainage connection using drainage body powers; the normal period of time for reconsultation has been provided; the location of the access was approved at outline stage; the planning layout for approval relates to the plan, rather than any earlier iterations contained in the supporting documents; the "Oak Tree Detail Plan" tries to illustrate how the oak tree will be affected; the protection of the area of land for biodiversity off-setting lies within the control of condition 4 of the outline permission which requires the delivery of that land, as well as details of its future management

and monitoring. It would be a matter between the developer and the parish council to agree for the parish to take the land on in terms of future maintenance.

The comments in regard to the construction management plan put forward are noted and those concerns are considered to be reasonable. Condition 9 however, requires the submission and approval of those details, rather than through this submission, and alternative locations will be explored to reduce that impact when those details are formally submitted to discharge that condition.

Conclusion

Subject to formal confirmation from the County Highway Authority that their outstanding concerns in respect of the internal road layout have been addressed, and Derbyshire Wildlife Trust's concerns that the Biodiversity Net Gain has been achieved, great crested newts addressed, and suitability of the LEMP, all of which are anticipated to be finalised in advance of the meeting at which an update will be provided, then the proposed development is generally considered to be acceptable.

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

Recommendation

Further updates will be provided at the meeting in regard highway and ecology matters and subject to these matters being adequately addressed:

Approve subject to the following conditions:

Conditions and Reasons

1. The development hereby permitted shall be carried out in accordance with the following approved plans/details:
 - M037/PL/01 – Rev N – Planning Layout
 - M037/PL/02 – Rev E – Materials Layout
 - M037/PL/03 – Rev E – Car Parking Allocation Plan
 - NRS/2H/753/L2013Q/PE01 – Rev B – The Camberley Planning Layout
 - NRS/3H/1168/L2013Q/PE01 – The Melford Planning Layout
 - NRS/3H/934/L2013Q/PE01 – The Disley Planning Layout
 - NRS/3H/947/E/L2013Q/PE01 – Rev A - The Cotswold Planning Layout
 - NRS/3H/938/SEMI/L2013Q/PE01 – Rev A - The Dalton Semi Planning Layout
 - NRS/4H/1325/2/L2013Q/PE02 – The Houghton Render Planning Layout
 - NRS/4H/1326/L2013Q/PE01 – The Moreton Planning Layout
 - NRS/4H/1119/A2P/L2013Q/PE01 – Rev A - The Adlington Planning Layout
 - NRS/3H/1056/L2013Q/PE01 – The Knutsford Planning Layout
 - NRS/2H/543/L2013Q/PE01 – Rev A - The Windermere Planning Layout
 - NRS/AFF/2H/825/L2013Q/PL01 – Rev A – The Patterdale Planning Layout
 - NRS/AFF/3H/963/L2013Q/PL01 – Rev A – The Buxton Planning Layout
 - NRS/AFF/3H/986/L2013Q/PL01 – Rev A – The Bramley Planning Layout
 - HIL/AFF/4H/1140/L2013Q/PL01 – Rev A – The Caldbeck Planning Layout
 - NRS/4H/1358/L2013Q/PE01 – The Cranleigh Planning Layout
 - NRS/4H/1424/L2013Q/PE01 – The Warwick Planning Layout
 - NRS/4H/1502/L2013Q/PE01 – The Norfolk Planning Layout
 - NRS/2H/688/L2013Q/PL01 – The Derwent Planning Layout
 - NRS/3H/957/D2/L2013Q/PE01 – Rev B - The Davenham Planning Layout

- M037/PL/AFF01 – Rev D – Affordable Tenure Plan
- M037/CP/01 – Single Detached Car Port
- M037/GD/01 – Attached Garage Details (Plot 3)
- M037/GD/02 – Single Detached Plus Sized Garage
- M037/GD/03 – Double Detached Plus Sized Garage
- EN29959-Lucas Lane Play Provision – Kompan 2D Rev A
- M037/P/SEC01 – Site Sections A-A, B-B, C-C, D-D & E-E
- M037/P/SEC02 – Rev B - Site Sections F-F, G-G, H-H & J-J
- 07/011 Arched Window Guidance – Standard Details
- 05/011 Attic Truss Eaves Detail – Standard Details
- 05/002 Brick Eaves Detail – Standard Details
- 05/023 Brick Pitched Roof Dormer Details – Standard Details
- 07/031 Cast Stone Sill and Head Bedding Details – Standard Details
- 05/017 Gallows Bracket Type A Detail – Standard Details
- 05/018 Gallows Bracket Type B Detail – Standard Details
- 07/016 Head and Sill Details Soldier Course (Brick) – Standard Details
- 07/012 Head and Sill Details Stone (In Brick) – Standard Details
- 07/014 Head and Sill Details Stone (In Render) – Standard Details
- 05/003 Render Eaves Detail – Standard Details
- 05/001 Roof Tiling Guidance Details – Standard Details
- 07/022 Roof Light Details – Standard Details
- 05/021 Typical Apex Porch Details – Standard Details
- 06/003 Typical GRC Surround – Standard Details
- 07/024 Typical Splay Bay Window Detail – 1no. Front Light – Standard Details
- 07/025 Typical Splay Bay Window Detail – 2no. Front Lights – Standard Details
- 07/023 Typical Square Bay Window Detail – Standard Details
- 05/019 Verge Detail – Wet Bedded Verge – Standard Details
- BW Vers_Design and Planting Guidance_V2 Aug 16
- M3429-PA-01-V06 Landscape Structure Plan

Reason: For the avoidance of doubt.

2. The submitted boundary treatments shall be completed in accordance with the approved details before the respective dwelling to which they serve is first occupied or in the case of boundaries which do not form part of the curtilage of a dwelling, in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity.

3. Prior to the construction of a road, driveway, parking area, footpath or footway, details of surfacing materials shall be submitted to and approved in writing by the Local Planning Authority. The roads/driveways/parking areas/footpaths/footways shall be constructed in accordance with the approved details and thereafter maintained using such materials.

Reason: In the interests of the visual amenity of the area.

4. Prior to the construction of the northern access road from Lucas Lane, details of a dropped kerb pedestrian/cycle crossing linking that road to the adjacent bridleway, shall be submitted to and approved in writing by the local planning authority. The dropped kerb crossing shall be constructed in accordance with the approved details prior to the occupation of a dwelling served by that northern access road.

Reason: In the interests of the sustainable transport.

5. Notwithstanding the submitted details, prior to the installation of the play

equipment in the LEAP, details of alternative landscaping for with the LEAP to include trees and wildflowers in lieu of shrubs, as well as a timetable for their provision, and details of their management, shall be submitted to and approved in writing by the local planning authority.

Reason: In the interests of visual amenity.

6. Notwithstanding the submitted details, prior to the first occupation of the respective plot, details of secure shared rear access gates to all plots which share rear access paths shall be submitted to and approved in writing by the local planning authority. The secure shared rear access gates approved by this condition shall be provided prior to the first occupation of any of the dwellings to which they relate.

Reason: To reduce opportunities for crime and disorder.

Notwithstanding the submitted details, prior to the commencement of any works within the root protection area of the oak tree to Lucas Lane within the site, protected by tree preservation order, further details in the form of a Arboricultural Method Statement (AMS) to detail how the access road will be created including protection measures including timing of their provision retention and removal, excavation methods, arboricultural supervision, and roadway construction including services, shall be submitted to and approved in writing the local planning authority. The development shall be undertaken in accordance with the details approved by this condition.

Reason: To protect the health of the protected tree in the interests of the visual amenity of the area.

8. Notwithstanding the provisions of Parts 1 and 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order) none of the dwellings hereby permitted shall be extended or altered externally, be provided with porches, gates, walls, fences or other means of enclosure (except as authorised by this permission or allowed by any condition attached thereto), or (other than within rear garden areas) have hard surfaced areas created, without the prior grant of planning permission.

Reason: To enable the local planning authority to retain control over these matters in view of the form and layout of the development and to ensure a satisfactory standard of external appearance in the interests of the visual amenity and local distinctiveness.

9. The development shall be implemented in accordance with the verge details contained in drawing number 05/019 Verge Detail – Wet Bedded Verge – Standard Details, and the dwelling shall be maintained throughout the lifetime of the development maintained in accordance with those details. There shall be no use of dry verge (cloaking tile) systems.

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

10. Prior to the first occupation of any dwelling hereby permitted, a plan detailing all areas of the site which will form either part of the gardens to each property, shared, communal or other management areas, or public highway, shall be submitted to and approved in writing by the local planning authority. The plan shall include details of a mechanism by which the communal or other management areas will be managed throughout the lifetime of the development. Any works

pertaining to the provisions of Parts 1 and 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order) shall relate only to the areas which form part of the gardens to the properties as identified on the plan approved by this condition.

Reason: In the interests of the visual amenity and local distinctiveness.

11. Prior to the respective dwelling being first occupied, space shall be provided for the parking of vehicles associated with that dwelling in accordance with the approved plans. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, such space shall be maintained free from any impediment to their designated use throughout the lifetime of the development.

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

12. Prior to the respective dwelling being first occupied, the access drive (and any turning space) shall be surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, such space shall be maintained free from loose aggregate throughout the lifetime of the development.

Reason: In the interests of highway safety.

13. No dwelling shall be occupied until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details or until such time as an agreement has been entered into with the local highway authority under Section 38 of the Highways Act (1980).

Reason: In the interests of highway safety.

14. There shall be no gates within 5 metres of any of the new estate streets or private drives and any other driveway gates shall open inwards only, away from the respective new estate street or private drive.

Reason: In the interests of highway safety.

Informatives:

1. The applicant is advised that Hilton Parish Council have expressed an interest in potentially being custodians of the land that forms the biodiversity net gain, across Lucas Lane from the site. Condition 4 (v) of the outline permission requires that a management and monitoring plan which needs to include for the provision and maintenance of the offsetting measures for fifteen years is needed and it would be of assistance for a dialogue to take place in order to explore the opportunity for the parish council to undertake this role.

Item No. 1.2

Ref. No. [DMOT/2021/1694](#)

Valid date: 03/11/2021

Applicant: Morris Homes (Rugby)

Agent: Wilby Tree Surgeons Ltd

Proposal: The pruning of an oak tree covered by South Derbyshire District Council Tree Preservation Order no. 533 on Land at SK2531 3702, Lucas Lane, Hilton, Derby

Ward: Hilton

Reason for committee determination

The application is returned to committee following a deferral at the meeting on 3rd May 2022.

Executive Summary

When this item was debated earlier this month, Members raised concerns over the amount of work proposed to the tree and that a crown lift up to 5.5m in height was an arbitrary measurement and not particularly required in this context or in the best interests of the tree; and that if height was needed to allow for construction vehicles, that phasing could be allowed so that construction vehicles use the other access onto the site and not the one close to this tree.

The application is being returned to Planning Committee and whilst negotiations with the developer and the Tree Surgeons have taken place, an alternate scheme of work or phasing has not been offered/agreed. Progress on those negotiations will continue however and will be reported verbally to the Planning Committee on the 31st May 2022.

The report presented to the Planning Committee back on 3rd May 2022 is attached in the appendix.

The recommendation remains to grant consent subject to the conditions in the appendix.

APPENDIX

03/05/2022

Item No. 1.3

Ref. No. [DMOT/2021/1694](#)

Valid date: 03/11/2021

Applicant: Josh Breen **Agent:** Wilby Tree Surgeons Ltd

Proposal: The pruning of an oak tree covered by South Derbyshire District Council Tree Preservation Order no. 533 on Land at SK2531 3702, Lucas Lane, Hilton, Derby

Ward: Hilton

Reason for committee determination

This item is presented to the Committee at the request of Councillors Patten and Lemmon as local concern has been expressed about a particular issue.

Site Description

The tree subject to this application is covered by Tree Preservation Order 533 and is located within a field boundary to the west of Lucas Lane. Acorn House is located to its west and beyond Lucas Lane, open fields to its east. To the north is the A516.

The proposal

The proposal is for a 5.5 metre crown lift to remove conflict between high sided vehicles and the tree. The applicant has confirmed that the works will involve the lifting of secondary and tertiary branches only to ensure a crown lift to British Standard 3998.

Applicant's supporting information

An application form detailing the proposed works and sketch plan have been submitted in support of the application.

Relevant planning history

DMPA/2019/1143: Outline application (matters of access to be considered now with matters of layout, scale, appearance and landscaping reserved for later consideration) for the residential development of up to 57 dwellings with associated landscaping, parking and sustainable drainage - Approved September 2020.

DMPA/2021/1277: Approval of reserved matters (layout, scale, appearance and landscaping) pursuant to outline permission ref. DMPA/2019/1143 - Pending consideration.

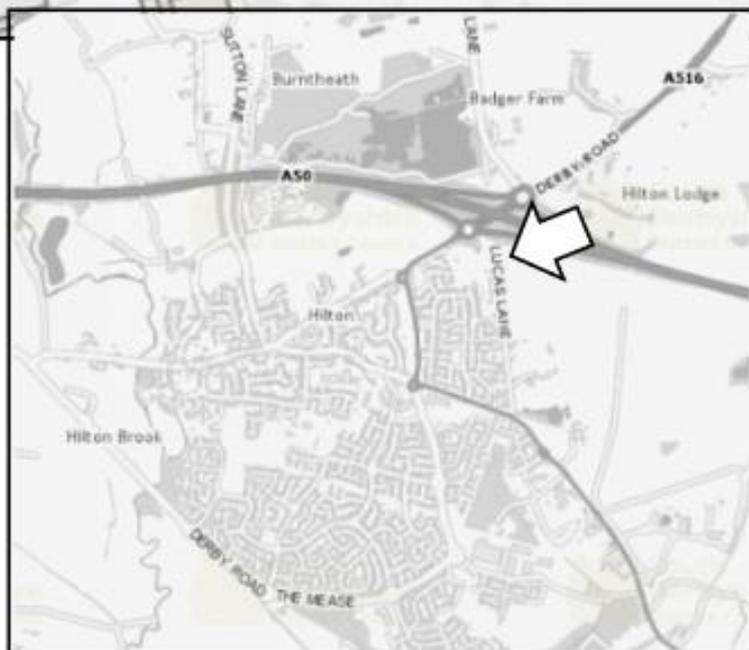
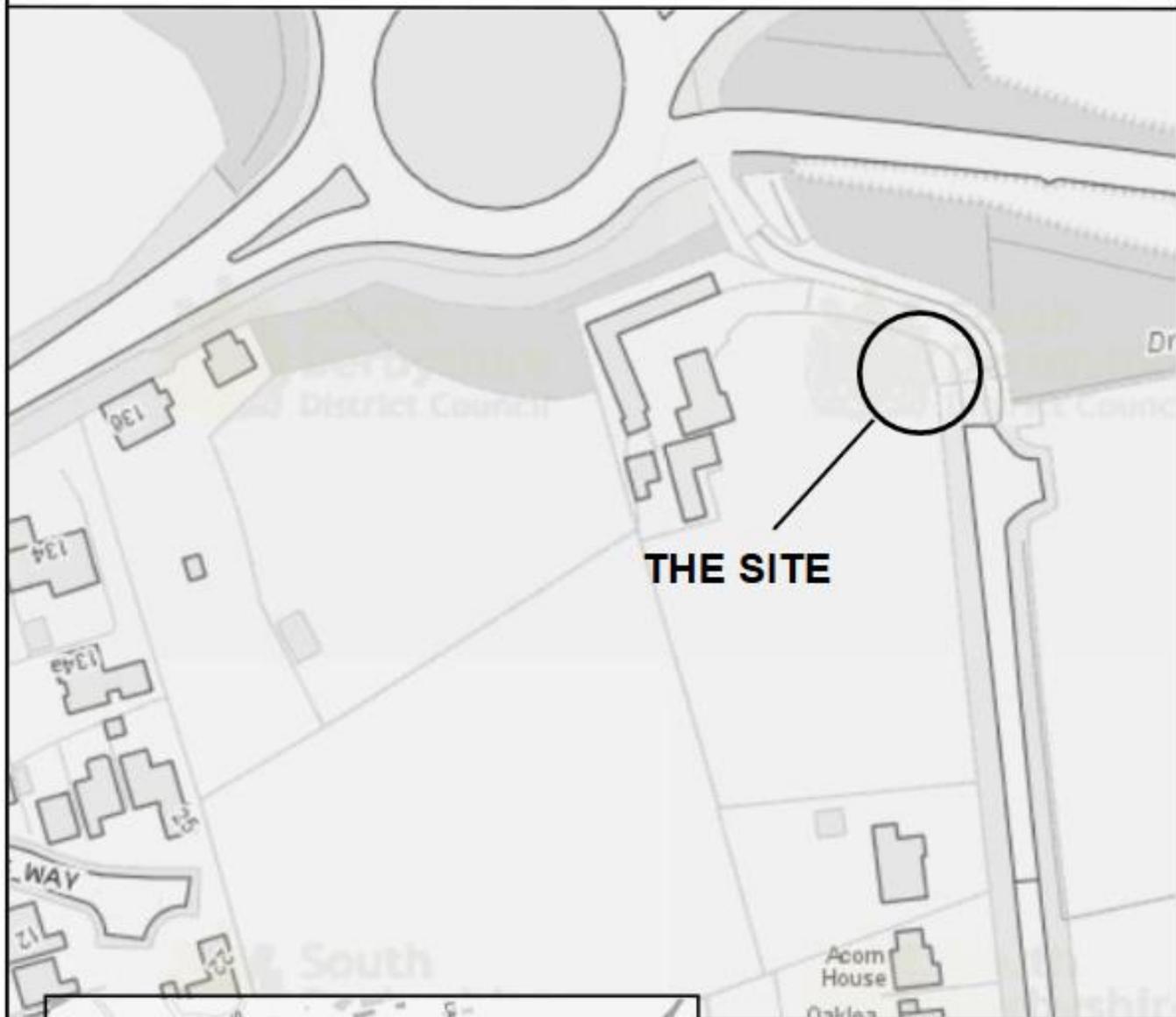
Responses to consultations and publicity

Tree Officer - No objection subject to a condition. The Oak Tree has excellent, shape, form, appearance and is in a good condition. The crown lift is required to allow high sided vehicles to pass. The information provided on the application about a 5.5m height crown lift is an ambiguous detail and a condition has been recommended to address this.

Hilton Parish Council objects to the proposals and raising the following points:

- a) Application is not complete as it doesn't include any photographs of the tree indicating the branches to be removed;
- b) A 5.5m crown lift would render the tree a very odd shape and probably unsustainable;

DMOT/2021/1694 – Land at SK2531 3702, Lucas Lane, Hilton, Derby



MAPS ARE NOT TO SCALE

This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

South Derbyshire District Council. LA 100919481.2020

- c) The roots of the tree are in danger of severe compaction from the footpath, which will result in their dying. The combination of the excessive crown lift and compaction of the roots will in most certainty lead to the death of this tree;
- d) It will be much kinder to the tree if lorry access was via the lower access road for which the hedgerow has already been prematurely removed. It is also possible to move the access road and footpath by the oak tree approximately 2m to the east;
- e) The preservation of this tree is important to retaining some character to what will end up just an urban landscape.

31 responses from 25 local residents raising objections and making comments on the proposals have been received, raising the following comments:

- a) Provides biodiversity and habitat for bats and birds;
- b) Provides shade and inspiration for recreational activities;
- c) The existing driveway should be reused, minimising impact on tree and reducing use of resources such as hardcore;
- d) Any "pruning" would result in the tree being damaged and destroyed;
- e) It will look deformed and absurd, and may also die as the result of such drastic management procedures. 'To raise the crown' - is something that can be sensibly done to some trees at some stages of their life, especially in garden settings, but you don't do it to mature oaks;
- f) Mature trees and country lanes are increasingly important to the mental wellbeing of all Hilton residents;
- g) Developers should not be allowed to destroy nature;
- h) The damage to grass verges in Lucas Lane is already bad due to another building venture which is caused by the workers cars and vans parking on the grass and the road is fast becoming a muddy mess. The new building by Morris homes will increase this and a road with the prettiest verges will be destroyed;
- i) This majestic oak was going to be the only retaining original feature of Lucas Lane amongst more new housing due to the constant planning approval to an already overbuilt village;
- j) How is this compatible with "Green Targets" as mentioned by the LGA;
- k) When we have so many issues with climate change and have list so many trees in the recent storms, why are SDDC letting builders destroy what natural hedgerows and trees that are left;
- l) Any building applications can work around the tree and make it a feature rather than prune or remove. This tree will be home to lots of valuable wildlife;
- m) Concerned that the tree will be felled and this will be detrimental to the wildlife that have already incurred uprooting due to the land disruption;
- n) Trees are absolutely necessary for water drainage, absorbing pollutants (A50) and providing cleaner air; and
- o) Trimming the trees crown and branches will irretrievably damage the habitat of the 395+ species that depend on an oak tree for survival. Damaging the tree will have a devastating knock-on effect on the area's wildlife and biodiversity.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), BNE4 (Landscape Character and Local Distinctiveness)
- Local Plan Part 2 (LP2): BNE7 (Trees, Woodland and Hedgerows)

The relevant national policy and guidance is:

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

The relevant legislation is:

- The Town and Country Planning (Tree Preservation) Regulations 2012

Planning considerations

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

- Whether the works are justified; and
- Whether the resultant biodiversity and amenity value remains acceptable.

Planning assessment

The proposed works relate to lifting the crown of the Oak Tree which is covered by TPO 533. The applicant has requested the crown lift works to the tree to prevent any conflict between the Oak Tree and an access into the site which will be used by lorries and other high sided vehicles which will pass by. Whilst a reserved matters application is currently under consideration, access for the proposed residential development was approved under planning permission DMPA/2019/1143 and this shows the northern access point in close proximity to the protected tree.

The applicant has advised that the crown lift will consist of the removal of secondary and tertiary branches only, shortening them back to primary limbs or alternative good strong point, which is in accordance with 'Best Standard' for trees. In this regard the crown lift is considered to be acceptable and will prevent avoidable damage by such vehicles. The council's Tree Officer has confirmed that subject to a condition to control the works to this the proposals are acceptable.

The works as proposed and controlled by condition would ensure that the health and sustainability of the tree would not be detrimentally affected. The benefits of the tree for its biodiversity potential and habitat would also be retained and whilst altered the form and value of the tree in its landscape would also be retained.

In light of the above, it is considered that the proposed works would be in line with the aims and objectives of Policies BNE3, BNE4 and BNE7 and the relevant sections of the NPPF.

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

Recommendation

Grant consent subject to conditions.

1. The work hereby approved shall be carried out within two years of the date of this consent.

Reason: To conform with Regulation 17 of the Town and Country Planning (Tree Preservation)(England) Regulations 2012, in order to enable the Local Planning Authority to consider any proposals beyond this period in the interests of safeguarding the amenity value of the tree(s).

2. The works shall be carried out in accordance with the recommendations contained in BS3998:2010 Tree work.

Reason: In the interests of good arboricultural practice.

3. Notwithstanding the information submitted in support of the application the works shall consist of a crown lift over the road footprint to a maximum of 5.5m. This shall involve the reduction of secondary and tertiary branches only, shortened back to primary limbs or alternative good strong growth points. Any larger primary branches that require pruning should be shortened no further

than the road edge. No main structural branches or limbs to be shortened any further than is necessary or the road kerbstones, whichever is the lesser.

Reason: In the interests of good arboricultural practice.

Item No. 1.3

Ref. No. [DMPA/2021/1342](#)

Valid date: 27/08/2021

Applicant: A Maine

Agent: CT Planning

Proposal: **Approval of reserved matters (layout, scale, appearance and landscaping) pursuant to outline permission ref. 9/2014/0886 (residential development for up to 68 dwellings together with associated highway works, public open space, landscaping, associated drainage infrastructure and creation of pedestrian and cycle ways) on Land at SK2720 7907 (Site A) Park Road, Cadley Park, Swadlincote**

Ward: Newhall and Stanton

Reason for committee determination

The development is a major application, and at the present time, there are unresolved objections from key statutory consultees.

Site Description

The site is a greenfield site extending to approximately 3ha which slopes downwards in a south-easterly direction and is bounded by residential properties to the north-east of the site, with Buildbase and Garden King Garden Centre across Park Road, located to the north. The site was allocated under Policy H3 of the Local Plan for housing and outline consent was granted under application 9/2014/0886 for the erection of up to 68 dwellings at the site in July 2019. The site is located within the settlement boundary of the Swadlincote Urban Area owing to the allocation of the site for housing within the Local Plan under Housing Policy 2: Land North of William Nadin Way, Swadlincote. Public Footpath Swadlincote 96 runs east-west along Woodview Road to the north of the site whilst Footpath 98 runs north-south along Copperas Road to the east of the site.

The proposal

The application seeks approval of the reserved matters of layout, scale, appearance, and landscaping for the erection of 68 dwellings (66 open market homes and 2 affordable homes) and associated infrastructure such as roads, parking, and areas of open space. At outline stage approval was given for up to 68 dwellings and the access to the site via a new roundabout to Park Road, and this application relates to the matters reserved in relation to that outline permission and associated S106 Agreement.

The proposed layout utilises a new roundabout on Park Road for access with the proposed dwellings laid out such as to try and present a frontage to Park Road, as well as the internal road layout. An area of land for use as a locally equipped area of play (LEAP) is provided to the north of the site and the proposed bungalows located to be adjacent to the existing bungalows on Copperas Road. The proposed dwellings are predominantly of two storey scale, albeit that there are six bungalows proposed, all arranged as either semi-detached or detached dwellings, laid out to provide, in general, road frontage development. Parking is provided generally on plot close to the dwelling to which they relate. Vehicular access to the development is from Park Road via a new roundabout, as approved when the outline planning permission was granted permission.

Applicant's supporting information

Planning Statement – The document describes the site, the planning history, and the planning policy context. It also explains how the submission accords with the outline planning permission. It states that the proposals reflect the illustrative layout submitted at outline stage and that the submission provides for appropriate reserved matters details for the layout, scale, appearance and the landscaping of the entire development.

Relevant planning history

9/2014/0886 – Outline application (all matters except for access to be reserved) for the residential development for up to 68 dwellings together with associated highway works, public open space, landscaping, associated drainage infrastructure and creation of pedestrian and cycle ways – Approved 12/07/19.

9/2019/0590 – The formation of balancing ponds/swales - Approved 23/09/19.

Responses to consultations and publicity

The Environment Agency has no objection to the application.

The Coal Authority has stated that other than the potential surface extraction features at the site which would be a matter for the Building Regulations process to address, there are no coal mining legacy features to dictate any proposed development layout. Coal mining legacy related issues could be addressed as part of the discharge of condition application, the Coal Authority has no objection to this planning application.

The Planning Policy Officer requests a cycle crossing point on “Street 1”, within the layout. The Force Designing Out Crime Officer has no objection to the layout but advises the garden enclosure for plots 56-57, and 64-65 are needed, and some of the landscaping species will grow tall and block important views.

The Environmental Health Officer has raised no objections to the application.

Severn Trent Water has no objection, subject to a condition relating to surface and foul water disposal, as well as notes to applicant relating to public sewers, the location of a clean water main within the site and its diversion.

The Council's Strategic Housing Manager advises that the proposals submitted are in accordance with the signed S106 agreement and therefore they have no objections to this application, however, they would prefer to see the bungalows developed with level access (walk-in) showers.

The Lead Local Flood Authority (LLFA) question why swales have not been provided within the layout when they were considered as part of the outline drainage strategy.

The County Highway Authority have raised concerns in respect of the internal road layout, requesting the bend within the site to be redesigned.

The Derbyshire Wildlife Trust advise that the submission broadly accords with the Illustrative masterplan submitted at the outline stage, noting that a Landscape and Ecological Management Plan (LEMP) is still required by condition 27 of the outline permission. They advise that condition 19 of the outline permission requires the installation of bat and bird boxes on retained trees but as there will be no retained trees suitable for the installation of bat and bird boxes we advise then a number of bat and swift boxes should be incorporated within the new dwellings in accordance with a Biodiversity Enhancement Plan instead.

There have been 4 letters of objection received raising the following points:

- a) I wasn't aware of the outline permission as I never received a letter.
- b) Removal of the hedge from Woodview Road is unnecessary as it is full of wildlife – trees and hedges will come out for the roundabout and at Copperas Road.
- c) It will be a hazard for pedestrians and the original access near Woodview Road would be better.
- d) How long will the building work take to start and complete?
- e) What effect will the roundabout have on Woodview Road, and who will look after it?
- f) What about the trees and hedges to Woodview Road.

- g) Will the play park be safe next to Woodview Road, and will it be enclosed?
- h) Please confirm the houses next to Woodview Road will not have a right of way to access their properties up Woodview Road.
- i) Where will social housing be located?
- j) Are there any plans for further commercial building or supermarket with all these new homes?
- k) Vegetation has been removed on what we thought was our garden, leaving it now open and unsafe – they gave us no notice of this.
- l) We are told there is an underground water pipe – the new hoses built there will therefore sink, and won't it cause our land to sink and slip and be a danger to our children?
- m) Will the hedge to Woodview Road be retained?
- n) Would the link to Woodview Road be cut into the hedge, and would it be better at the Park Road end of Woodview Road, as children, dogs, etc will be walking into moving traffic.

Relevant policy, guidance and/or legislation

The relevant policies are:

The relevant Development Plan policies are:

Local Plan Part 1 (2016): S2 (Presumption in Favour of Sustainable Development); S4 (Housing Strategy); S6 (Sustainable Access); H2 (Land north of William Nadin Way, Swadlincote); H20 (Housing Balance); SD1 (Amenity and Environmental Quality); SD2 (Flood Risk); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); BNE1 (Design Excellence); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness); INF2 (Sustainable Transport); INF7 (Green Infrastructure); INF9 (Open Space, Sport and Recreation).

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

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

National Design Guide

Planning considerations

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

- Compliance with the outline permission;
- Highway safety and connectivity;
- Design and residential amenity;
- Ecology; and
- Other matters.

Planning assessment

Compliance with the outline permission.

This proposed reserved matters scheme provides for 68 dwellings on the site with vehicular access from the Park Road and a new roundabout junction. The reserved matters broadly respect the Illustrative layout submitted at outline stage. Frontage development to Park Road and the internal road network is generally provided with a Locally Equipped Area of Play located to the north of the site. In terms of compliance with conditions on the outline permission, the layout has been designed with Manual for Streets in mind, as required by condition 9 of the outline; the proposal provides bin collection points as required by condition 13; parking is in accordance with the requirements of condition 15; landscaping accords with the requirements of condition 19; floor levels have been provided in accordance with the requirements of condition 26; and the bungalows required by condition

30 have also been provided.

With the above in mind, it is considered that the approach to delivering the development put forward as part of this reserved matters application is compliant with the requirements of the outline planning permission and conditions specified therein.

Highway safety and connectivity

The provision of the vehicular access from a new roundabout junction on Park Road was considered when outline permission was granted and has, therefore, already been accepted as appropriate. The proposed internal site layout has been designed to not only accommodate that vehicular access, but also provides for links to the adjacent rights of way. The comments of the Planning Policy Officer in respect of providing a dropped kerb crossing on Street 1 are noted, and the revised plans incorporate that facility. The safety of the proposed internal road layout for the development is generally considered to be acceptable. Off-street parking is mostly provided on plot, and these arrangements are considered to be acceptable. Discussions have been on-going with the applicant to address the residual concern of the County Highway Authority. That change has been incorporated within the revised plans on which the County Highway Authority have been reconsulted and they are understood to be accepting of the scheme as a result of that change. An update on these matters will be presented to members at the meeting. In light of the above, notwithstanding the concerns raised in the letters of objection, the proposals are considered to be generally acceptable in highway safety terms and the proposed development will provide a well-connected scheme both internally and to external points.

Design and residential amenity

The design and layout of the proposals have been extensively reviewed to ensure an appropriate design and layout is achieved. These included alterations to the elevational treatment of the houses, as well as their layout and landscaping, to ensure connectivity within, as well as to and from, the site. The layout of the proposed housing is considered to be acceptable and appropriate for the site. The design of the proposed dwellings has been influenced by the more traditional houses which can be found in the wider area, repeating them in what is a relatively simple form being of two storey scale, with pitched roofs and with brick/render and tile construction. The layout provides frontage development to the proposed new road network as well as to Woodview Road for plot 25. It is considered that the density of layout of the proposal would not adversely impact upon the character or appearance of the surrounding area. It is noted that the wider surrounding area is characterised by a mixture of housing designs and ages, with large commercial buildings also located across Park Road. In light of this it is considered that the proposed dwellings are of an acceptable design and appearance.

The landscaping scheme that is proposed will ensure that the development is provided with comprehensive and varied landscaping that will result in an appropriately designed development. The landscaping must achieve biodiversity objectives, as required by condition 19, but the concerns of the Force Designing Out Crime Officer are noted in regards to the appropriateness of the species and their height. Notwithstanding these comments, the number and species are considered to be acceptable for this development. There is a requirement for the developer to implement the landscaping scheme through condition 20 of the outline planning permission. The proposed landscaping scheme is, notwithstanding the comments of the Force Designing Out Crime Officer, considered to be acceptable.

To date no detailed plans of the play area equipment have been provided, other than their location close to the northern boundary within the identified area. This area has adequate supervision as it is overlooked by proposed plots 23, 24, 25, 26, 27, 28, 43 and 44. Whilst an existing property, 143 Park Road, is located to the north of that area of the site, across Woodview Road, they are sufficiently distant so as to ensure that the occupiers of that property would not unduly affected by the use of the play area.

In terms of residential amenity, the proposed layout respects the existing residential properties adjacent to the site and would not lead to any undue impacts on the amenity that the occupiers of those properties could reasonably expect to enjoy by way of loss of light, overshadowing, overbearing impact,

loss of privacy or overlooking. The proposed layout generally accords with the standards set out in the council's' adopted Design SPD. Care has been taken to ensure that the interrelationship between the existing bungalows to Copperas Road and the bungalows provided on the site, i.e. plots 29, 30, 31, 33, and 34 to no.s 2 and 3 Copperas Road. Whilst the finished floor levels of those proposed properties are between approximately 300mm and 800mm higher than the neighbours, this interrelationship is considered to be acceptable in terms of loss of privacy and overlooking. It is considered that the proposed development would create satisfactory living environments for the future occupiers of the proposed dwellings and provides an appropriate balance between the amenity of future occupiers and the delivery of the number of dwellings approved at outline stage, and design matters. Overall, notwithstanding the comments received, in design terms and in terms of residential amenity, the proposed development is considered to be acceptable.

Ecology

The Derbyshire Wildlife Trust advise that the submission broadly accords with the Illustrative masterplan submitted at the outline stage, noting that a Landscape and Ecological Management Plan (LEMP) is still required to be submitted for approval through condition 27 of the outline permission. They advise that condition 19 of the outline permission requires the installation of bat and bird boxes on but as there will be no retained trees suitable for the installation of bat and bird boxes we advise then a number of bat and swift boxes should be incorporated within the new dwellings in accordance with a Biodiversity Enhancement Plan instead.

Derbyshire Wildlife Trust have advised that they are content that the proposed development would be adequately mitigate any impact on ecology at the site. Conditions are also already in place on the outline planning permission to ensure that adequate ecological mitigation is provided as part of the development, noting that a Landscape and Ecological Management Plan (LEMP) is still required by condition 27 of the outline permission. Condition 19 of the outline permission requires the provision of bat and bird boxes but as no appropriate trees are available Derbyshire Wildlife Trust request these be provided in the fabric of the houses themselves. Notwithstanding the comments raised in the letters of objection, Derbyshire Wildlife Trust are content that the proposals address the necessary ecological interests as required by the outline planning permission, subject to a condition to provide the bat and bird boxes within the fabric of the homes. On that basis, in terms of the impact of the development on ecological interests at the site, these will be adequately mitigated and as such the proposals are considered to be acceptable in ecological terms.

Other matters

In terms of surface water drainage a separate planning permission is in place to secure the provision of the necessary attenuation ponds to mitigate the development. However, in terms of the LLFA comments, the applicant's engineers have also advised that the steep topography of the site is such that swales are not suitable in this location. Condition 3 on the outline permission requires details of surface water attenuation during construction; condition 4 requires the submission of a detailed design and associated management and maintenance plan of the surface water drainage for the site; condition 5 requires the submission of a hierarchical approach to surface water disposal; and condition 17 requires details of highway surface water disposal. In view of this, notwithstanding the comments of the LLFA, surface water mitigation controls are already in place through the outline permission which the applicant will need to address separately. It is clear that in terms of surface water drainage and flood risk the scheme presents a suitable way to develop the site.

In terms of foul water drainage and the request from Severn Trent Water for details of those facilities, condition 23 is already in place to secure these details and as such it is not necessary to repeat this in this reserved matters application.

Details of the proposed materials for the buildings have been put forward and the applicant proposes a mixture of two types of red bricks and render to a small number of plots, as well as two colours of roof tiles. However, it is not clear which exact roof tiles are proposed therefore a condition is recommended to ensure the materials are suitable. Elevational details of the means of enclosure are

also needed and whilst those shown on the layout plan are appropriate in principle, further details are needed.

In regards to the other points raised that have not been covered above, the hedgerow to Woodview Road is mainly retained except for an opening to connect the site to that right of way; the use of Woodview Road and the right of way from occupiers of the proposed dwellings is not considered to be a danger for users; the start date and length of works is a matter for the developer; the roundabout will form part of the public highway so will be the responsibility of Derbyshire County Council once adopted; the play area will be enclosed; the occupiers of the proposed development will have as much right as anyone else currently does to use Woodview Road – it will not convey any rights; two affordable bungalows are proposed in the north-east part of the site; this development does not result in the need for further commercial building; and STW and the developer are aware of the water main and this has been accommodated and will be adequately protected to avoid undue impacts.

Conclusion

Subject to formal confirmation from the County Highway Authority that their outstanding concerns in respect of the internal road layout have been addressed, which is anticipated to be finalised in advance of the meeting at which an update will be provided, then the proposed development is generally considered to be acceptable.

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

Recommendation

A further update will be provided at the meeting in regards to highway and subject to these matters being adequately addressed:

Approve subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the following approved plans/details:

Proposed Site plan (ref. 2278-03-02 Rev. M)
Housetype Pack received 3rd May 2022
Joint Ownership Garage Front to Back Roof Pitch (ref: 2198/104)
Detailed Soft Landscape Proposals (1 of 3) (ref: 21-098-01 Rev. C)
Detailed Soft Landscape Proposals (2 of 3) (ref: 21-098-02 Rev. C)
Detailed Soft Landscape Proposals (3 of 3) (ref: 21-098-03 Rev. C)
External Works Appraisal Sheet 1 of 3 (ref: 010 Rev. H)
External Works Appraisal Sheet 2 of 3 (ref: 011 Rev. F)
External Works Appraisal Sheet 3 of 3 (ref: 012 Rev. H)

Reason: For the avoidance of doubt.

2. Notwithstanding the submitted details, the development shall be provided with swift and bat boxes in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the details approved by this condition and shall thereafter be retained in those positions throughout the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to ensure that appropriate measures to encourage wildlife habitat creation within the site are provided.

3. Notwithstanding the submitted details, prior to the first occupation of a dwelling, further details of the equipment and other incidental items as well as boundary treatment for the locally equipped area of play (LEAP) shall have been submitted to and approved in writing by the Local Planning Authority. The details shall include the layout and elevations of the equipment as well as a timetable for their provision and details of how they will be maintained throughout the lifetime of the development. The development shall then be carried out and maintained in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to ensure that an appropriate play area is provided for the enjoyment of the local population and in the interests of residential amenity.

4. Notwithstanding the provisions of Parts 1 and 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order) none of the dwellings hereby permitted shall be extended or altered externally, be provided with porches, gates, walls, fences or other means of enclosure (except as authorised by this permission or allowed by any condition attached thereto), or (other than within rear garden areas) have hard surfaced areas created, without the prior grant of planning permission.

Reason: To enable the local planning authority to retain control over these matters in view of the form and layout of the development and to ensure a satisfactory standard of external appearance in the interests of the visual amenity and local distinctiveness.

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

Reason: In the interests of the visual amenity and local distinctiveness.

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

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

7. Notwithstanding the submitted details, prior to the construction of a boundary wall, fence or gate, further details of the position, appearance and materials of those features including a timetable for their provision, shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details and timetable.

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

8. Notwithstanding the submitted details, prior to their provision further details of the following building elements shall be submitted to and approved in writing by the Local Planning Authority:

- (a) string courses, eaves, verges, corbelling, chimneys, and rainwater goods (including their method of fixing); and
- (b) all retaining structures, including their materials.

The development shall be implemented incorporating the approved details of the building

elements which shall be maintained as approved throughout the lifetime of the development.

Reason: To ensure a satisfactory standard of external appearance in the interest of the visual amenity and local distinctiveness.

Informatives:

- a. 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. If the applicant proposes to divert the sewer, the applicant will be required to make a formal application to the Company under Section 185 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website (www.stwater.co.uk) or by contacting our Developer Services Team (Tel: 0800 707 6600).
- b. Severn Trent Water advises that there is a 125mm water main within the application site and that no build over is permitted. If the applicant propose to divert the water asset, the applicant, developer or site agent will need to submit a Diversion Application (S185) along with the proposed plans for STW to assess.
- c. The Council's Strategic Housing Manager advises that it would be preferable to have the bungalows for affordable housing developed with level access (walk-in) showers.
- d. The applicant is advised that 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. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:
<https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>

Item No. 1.4

Ref. No. [DMPA/2021/0467](#)

Valid date: 17/01/2022

Applicant: Scott **Agent:** Fisher German LLP

Proposal: **The variation of condition nos. 2, 5, 6, 9, 10, 12, 14 and 15 of permission ref. DMPA/2020/1117 'for removal of conditions 13 and 15 and variation of condition 7 of 9/2018/1375, for change of use from agricultural land to storage and distribution use (use class B8) along with demolition of existing buildings and laying of hardstanding' at Former Midlands Pig Producers, Woodyard Lane, Foston, Derby, DE65 5DJ**

Ward: Hilton

Reason for committee determination

This item is presented to Committee as it is a major planning application, and the original planning application for the site was presented to the Committee for approval in September 2019 as the proposed change of use was contrary to the provisions of the Development Plan. The recommendation was for approval of planning permission. A subsequent planning application to vary conditions on the application was presented to the Committee on the 27th April 2021 with a recommendation for approval. The application was approved.

Site Description

The site is located to the east of Woodyard Lane in Foston, a short distance to the north of the A50 and its junction at Dove Valley Park. It is bounded to the north, east and south by manufacturing and warehousing premises, including those at Dove Valley Park. Large industrial units occupied by JCB lie immediately to the east, and the FUTABA distribution centre is to the north. Smaller office units are located to the south of the site along with the LCS container storage yard which falls within applicant's wider ownership. To the west of Woodyard Lane lies a caravan site and a number of other business uses, including offices and storage and distribution. A residential property is located opposite the site entrance. An animal rendering plant is located to the north west of the site.

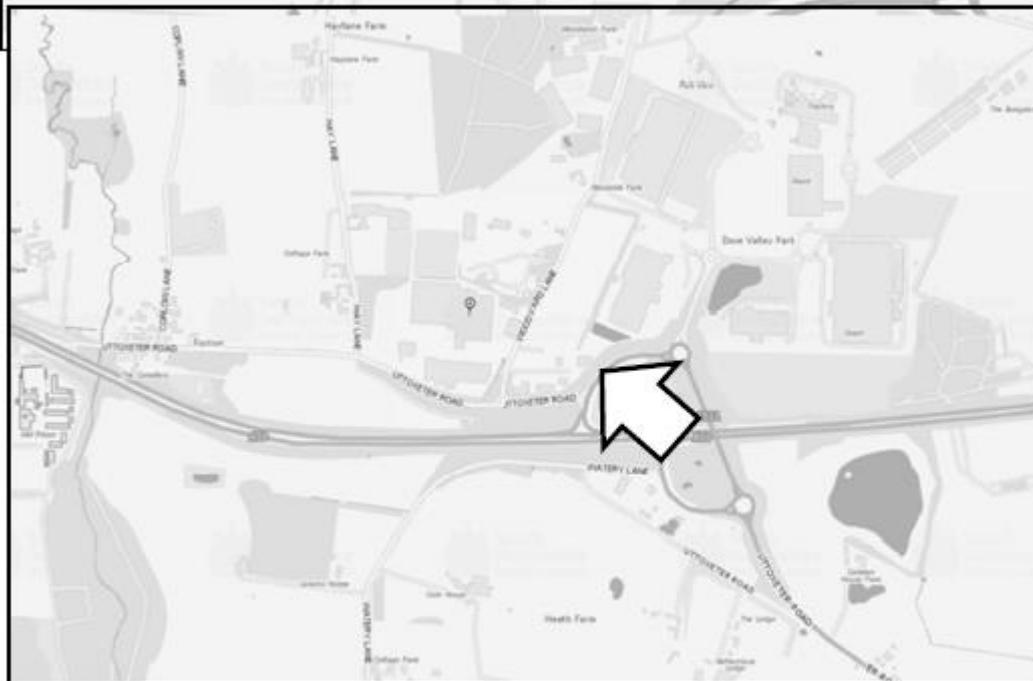
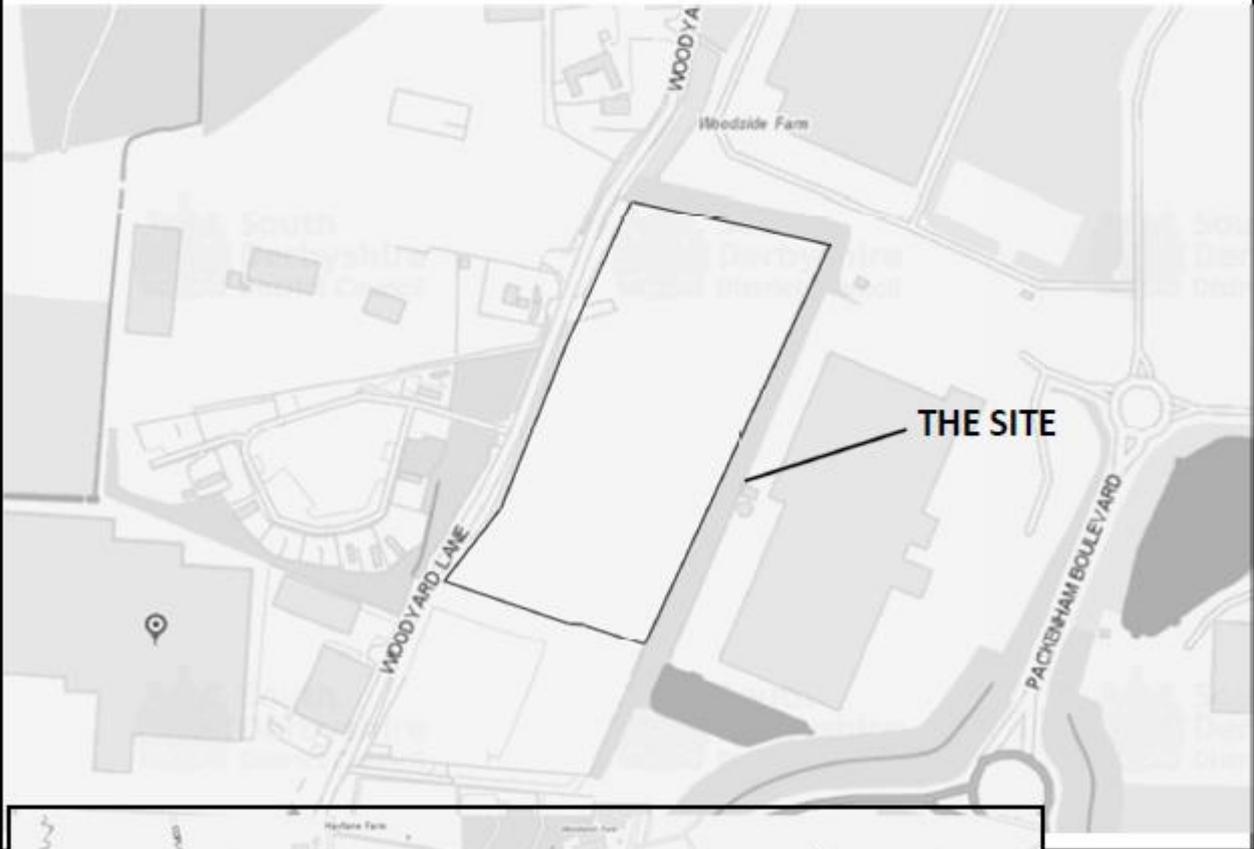
The site was formerly used as an intensive pig unit together with two 3-bedroomed detached residential properties used by agricultural workers. The agricultural buildings have been demolished and the site was cleared in 2019. There is access to the applicant's wider ownership through a separate access to the southern boundary of the site, although the main access is to Woodyard Lane itself. The site is bounded by 2.4m high chain link fencing and double chain link gates to the entrance with Woodyard Lane. The western boundary with the Lane has a mature hedgerow, although of poor quality. To the north is a landscaped bund which forms part of the industrial park landscaping.

The site is in the countryside, although adjoining allocated employment areas, and is not subject to any specific heritage or ecological designations, although the Conygreave & Rough Woods ancient woodland lies beyond development on the northwest of Woodyard Lane. The site is located within a Flood Zone 1 area and therefore considered not to be at risk from fluvial flooding.

The proposal

The variation of conditions 2, 5, 6, 9, 10, 12, 14 and 15 of permission ref. DMPA/2020/1117 to increase the width of the access, remove the landscape bund, and other minor changes following the submission of details to discharge some of the original conditions.

**DMPA/2021/0467 - Former Midlands Pig Producers,
Woodyard Lane, Foston, Derby, DE65 5DJ**



 **MAPS ARE NOT TO SCALE**
This map is reproduced from Ordnance Survey data with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.
South Derbyshire District Council, LA 10013481.2020

Applicant's supporting information

The applicants have requested a variation to the scheme to provide a better access arrangement into the site than the existing historic access which is slightly angled and does not make it easy to access the site from the north. A wider access and a set of gates set slightly further back is intending to improve accessibility to the site and reduce the potentially difficult manoeuvres in to and out of the access.

The removal of the bund confirms the recent approval at the site for the location of the canteen facilities, office for the site, the office car parking and cycle store approved under planning application DMPA/2021/0463. The development would still remain outside of the root protection zones for the existing trees beyond the northern and western boundaries of the site which overhang onto the site.

Other conditions are requested to be varied to be in connection with the submitted details rather than details seeking further discharge, so effectively details have been submitted to discharge conditions previously imposed for example, drainage and landscaping.

Relevant planning history

9/2017/0799: Outline application with all matters reserved for change from agricultural land to offices, general industrial and storage and distribution. Approved August 2018.

9/2018/1375: Change of use from agricultural use to B8 storage and warehouse. Approved Sept 2019.

DMPA/2020/1117: Removal of conditions 13 and 15 of 9/2018/1375 relating to footpath access.

DMPA/2021/0473. siting of canteen block, cycle shelter and car parking areas for offices. Approved.

Responses to consultations and publicity

The County Highway Authority has inspected the submitted information and can confirm that there is no objection to the proposal.

Derbyshire Wildlife Trust notes the removal of the protective bund, which it would be better to retain. Nevertheless, there are no objections to the proposal. It is important that the implemented bat mitigation measures provided under Natural England licence are not compromised by the varied scheme, particularly the pole mounted bat boxes, the locations of which should be clearly shown on the updated Landscaping Plan. They have also considered the submitted Lighting Plan which avoids illumination and light spill in proximity to the bat mitigation provision in the north of the site, which is welcomed. The updated landscape scheme shows the locations of the boxes.

The Local Lead Flood Authority had initially objected to the proposal as there were insufficient details provided to allow for the discharge of details on conditions 9 and 10 of the 2021 variation condition approval. Additional details were provided. They are now satisfied with the submitted details and agree with the discharge of the relevant conditions. The scheme should be implemented as submitted.

The Landscape Architect requested some amendments to increase some tree planting and sizes. No objection in principle. She is now satisfied with the submitted amendments.

Objection to the variation has been submitted by a nearby neighbour. These can be summarised as follows:-

- a) The proposal would involve much more HGV traffic using Woodyard Lane going past my house
- b) There is an issue with surface water coming off the road and flooding the drive. Although the road verge gets digged out to help drainage, lorries keep collapsing the drainage channels. The road needs upgrading therefore to accommodate more HGV's and put in proper drainage channels.

Relevant policy, guidance and/or legislation

The relevant policies are:

Local Plan Part 1 (2016): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S5 (Employment Land Need), S6 (Sustainable Access), E1 (Strategic Employment Land Allocation), E2 (Other Industrial and Business Development), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD5 (Minerals Safeguarding), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness); INF2 (Sustainable Transport)

Local Plan Part 2 (2017): BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows).

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Planning considerations

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

- The principle of the development;
- The effect of the proposal on the character and appearance of the countryside;
- The effect of the proposal on residential amenity;
- The effect of the proposal on the environment; and
- The effect of the proposal on the highway network.

Planning assessment

The principle of the development

The change of use of the land was approved as part of the 2018 application for warehouse and storage. Amendments were also agreed to some of the conditions on the 2020 application. Whilst the site is therefore within the countryside, the principle of development at the site for the proposed use has been agreed.

The proposal is therefore acceptable and complies with policies S1, S2, and E7 of the South Derbyshire Local Plan Part 1 2016, and policy BNE5 of the South Derbyshire Local Plan Part 2 2017.

The effect of the proposal on the character and appearance of the countryside

The principle of the scheme has been agreed, therefore the differences between the approved scheme and the proposed scheme needs to be assessed. The main changes, physically, are the increase in the width of the entrance drive into the site, including the setting back slightly of the gates, and also the removal of the bund. This application was submitted early in 2021. Following the submission, discussions were held to deal with the discharge of certain conditions as part of this scheme. There was also the submission of a separate application at the site for the siting of some communal facilities for the workers, including the location of the office building and the siting of the staff car parking.

This application included the details for the removal of the bund previously approved as part of the 2018 scheme. The intention of this was to protect the trees to the north of the site. The bund is not currently there on the site but would have to have been created. It was concluded as part of the assessment of that scheme that the trees outside of the site could be adequately protected without the need for the artificial bund in this location. There is already a substantial bund to the north of the site

which is a well tree'd screen providing a visual break to the development on the Dove Valley Industrial Park site.

It is considered that the changes to the entrance access details and the amendments to the entrance gates is not of any significance to the visual impact of the proposals to the site and surrounding area. The reasons for the changes are set out below.

The other changes are mainly internal within the site, which is a large area of flat land, which sits, well screened on both the west and eastern sides, to allow only limited views from Woodyard Lane.

It is therefore concluded that the proposal is satisfactory and that the variation of conditions application does not change the fundamentals of the scheme. The proposal is therefore concluded to comply with policies BNE1, and BNE4 of the South Derbyshire Local Plan Part 1 2016, and policies BNE5 and BNE7 of the South Derbyshire Local Plan Part 2 2017.

The effect of the proposal on residential amenity

There are a couple of residential properties on Woodyard Lane, and also a caravan park for permanent residency. The objections relating to the impact from traffic is assessed below. The principle of the development has already been accepted. The proposal would not have different impact on residential amenity in terms of the usage of the site than that already approved. The noise issues would be the same.

This proposal does provide details of the lighting scheme for the site. This does show that there would be a number of 8m high lighting columns positioned at appropriate intervals along the main sections of the site in between where the portacabins will be stored.

The type of lights have been shown. There is potential for these to impact on the enjoyment of residential amenity by virtue of lights shining outside the site and causing light pollution to residents. Whilst there is a good tree screen on the western boundary of the site, it will be important to show that the lights would not result in the production of extraneous light falling into adjacent residential occupiers houses and causing harm to residential amenity. The residents of the caravan park do have quite a good screen between the caravans and the proposed location of the lights. The property at The Gables is much closer and would be the greatest affected.

It is proposed to ensure that there are baffles added to the lights, and that the lamps are angled down towards the floor. These details can be imposed by way of condition. In the event of this being abused, further action could be taken against the applicant's and enforcement action taken if there is a stray light falling outside of the site which is causing harm to nearby occupiers. On this basis, it is considered that the scheme would be satisfactory and not result in significant harm to residential amenity interests. The proposal is thereby capable of complying with policy SD1 of the South Derbyshire Local Plan Part 1 2016.

The effect of the proposal on the environment

The non-building of the buffer zone does bring the development nearer to the adjacent trees outside of the site. However, it is considered that the approved layout as part of DMPA/2021/0463 is acceptable and has been agreed in principle as part of the previous application DMPA/2021/0473, and would ensure the retention of these trees. The ground within the site is hard surfaced anyway at the moment, and therefore there is little change in terms of impact on the trees. The Wildlife Trust is satisfied that the proposed lights would not be harmful to any bats foraging in the area to the buffer zones around the site.

In terms of the submitted drainage details to discharge conditions 9 and 10, and thereby vary them, the Local Lead Flood Authority has agreed to the submitted amendments, and that these effectively discharge the original conditions imposed at the site. On this basis, the proposal can be agreed with the amended conditions varied by this proposal.

It is therefore concluded that the proposal complies with policy SD3, E2, E7, BNE3, and BNE4 of the South Derbyshire Local Plan Part 1 2016 and policies BNE5 and BNE7 of the South Derbyshire Local Plan Part 2 2017.

The effect of the proposal on the highway network

The submitted details provide a wider access and a further set back into the site for the entrance gates. This is designed to improve the smoothness and speed of delivery lorries to access and exit the site. It provides a better two-way access and greater opportunities for visibility out of the site. The Highway Authority has assessed the scheme and considers that the proposal is satisfactory and has no objection to the variations.

Whilst the objector is concerned about effects of increased HGVs along Woodyard Lane, this variation does not alter the amount of traffic likely to use Woodyard Lane. The works to the highway are outside the remit of this application and would need to be considered by the Highway Authority to carry out improvements. The overall increase in traffic from the development is therefore neutral and not a reason to refuse the scheme.

It is therefore concluded that the proposal would be satisfactory from a highways point of view and the proposal complies with policy INF2 of the South Derbyshire Local Plan Part 1 2016.

Conclusions

It is concluded that the submitted details are acceptable to agree to vary the conditions as attached within the decision notice. It is therefore recommended that planning permission be granted.

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

Recommendation

Approve subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the 4th September 2019.

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

2. The development hereby permitted shall be carried out in accordance with plan(s)/drawing(s) ref;

Drainage Maintenance Plan received 12th August 2021;
Manhole Schedule received 12th August 2021;
Soakaway Report received 12th August 2021;
Location Plan received 12th August 2021;
Drainage Strategy received 12th August 2021;
Proposed Light Fitting Brochure 13th September 2021;
Arboricultural Method Statement received 13th September 2021;
Root Mount Column received 13th September 2021;
Drainage Maintenance Regime received 4th March 2022;
Application form received 4th March 2022;
Lighting Plan 127502024 received 4th March 2022;

Drainage Layout Option 1 rev D received 4th March 2022;
Block Plan drawing No. 127502-011 rev C received 4th March 2022;
Supporting letter received 4th March 2022;
Construction Management Plan drawing No. 127502-015 received 4th March 2022
Lighting Report rev A DF2830 FL05 rev A received 4th March 2022;
Tree Protection Details Drawing No. 127502-103B received 4th March 2022;
Additional supporting information from Toorc Talk Consulting received 8th April 2022; and
Landscape Plan Drawing No. 127502-215- rev B received 20th April 2022.

unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. The development shall be carried out in strict accordance with Bat Mitigation Strategy detailed in section 5 of the Bat Survey report prepared by Quants Environmental dated July 2019 submitted under application 9/2018/1375, and the conditions of the requisite Natural England Licence, a copy of which shall be submitted to the local planning authority once issued.

Reason: To protect the interests of protected species in the interests of the biodiversity of the site.

4. The development shall be carried out in strict accordance with the house martin mitigation and compensation recommendations included in section 4.3.2 of the Bat Survey Report prepared by Quants Environmental dated July 2019.

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

5. The development hereby permitted shall be carried out in accordance with drawing ref. 127502-013B showing the Tree and Hedgerow Protection Plan and the Arboricultural Method Statement. The approved scheme of protection shall be implemented prior to any other works commencing on site and thereafter retained throughout the construction period.

Reason: In the interests of safeguarding existing habitat and the visual amenities of the area, recognising that initial preparatory works could bring about unacceptable impacts.

6. The development hereby permitted shall be carried out in accordance with drawing ref. 127502-015 showing the Construction Management Plan. Once implemented, the approved facilities shall be retained free from any impediment to their designated use throughout the construction period. All construction vehicles shall have their wheels cleaned on a hard surface before leaving the site in order to prevent the deposition of mud or other extraneous material on the public highway.

Reason: In the interests of highway safety, acknowledging that construction traffic will create impacts on highway safety on commencement of development.

7. The existing access shall be retained available for use by construction traffic throughout the construction period.

Reason: In the interests of highway safety.

8. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the local planning authority without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

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.

9. The development hereby permitted shall be carried out in accordance with drawing ref. 2440-100-D Drainage Layout Option 1 as submitted.

Reason: To ensure that surface water from the development can be directed towards the most appropriate waterbody in terms of flood risk and practicality, noting that certain works may compromise the ability to subsequently achieve this objective.

10. The development hereby permitted shall be carried out in accordance with the drawing ref. 2440-100-D Drainage Layout Option 1 and the Drainage Maintenance Regime by Toorc Talk Consulting dated 13th January 2022 and supplementary information received 8th April 2022. The surface water drainage infrastructure shall be installed in conformity with the approved details prior to the first occupation of the site, or in accordance with a phasing plan first submitted to and approved in writing by the local planning authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.

Reason: To ensure that the principles of sustainable drainage can be incorporated into the development, noting that initial preparatory and/or construction works may compromise the ability to mitigate harmful impacts.

11. Upon completion of the surface water drainage system, including any attenuation ponds and swales, and prior to their adoption by a statutory undertaker or management company; a survey and report from an independent surveyor shall be submitted to and approved in writing by the local planning authority. The survey and report shall demonstrate that the surface water drainage system has been constructed in accordance with the details approved pursuant to condition 20. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be included for approval in writing by the local planning authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed by an independent surveyor, with their findings submitted to and approved in writing by the local planning authority.

Reason: To ensure the effective operation of the surface water drainage scheme following construction of the development.

12. Prior to the development being taken into use, the existing northern access to the site shall be provided in accordance with the drawing ref. 127502-011C and be provided with a minimum width of 7.3m; 10m kerbed radii and visibility sightlines of 4.5m x 57m; the area forward of which shall be cleared and maintained in perpetuity clear of any obstructions exceeding 600mm in height relative to the nearside carriageway edge.

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

13. Any gates shall be set back at least 10 metres into the site from the highway boundary.

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

14. The development hereby permitted shall be carried out in accordance with Lighting Plan Drawing No.127502-024 and Lighting Report DF2830 FL05 REV A and Lighting Brochure as submitted in the application. The light fittings shall be baffled so as not to provide overspill outside of the site boundary. This should keep glare to a minimum by ensuring that the main beam angle of all luminaires directed towards any potential observer is no greater than 70 degrees from the vertical. No external lighting other than as approved shall be installed without the separate prior written approval of the local planning authority upon an application made in that regard. The lights shall be switched off outside the operating hours as set out in condition 16.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties and to minimise sky glow.

15. The development hereby permitted shall be carried out in accordance with landscape drawing No. 127502-215- B received 26th April 2022. All hard landscaping shall be carried out in accordance with the approved details in the first planting season following the commencement of the development, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation/use of the site or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the local planning authority gives written consent to any variation.

Reason: In the interest of the visual setting of the development and the surrounding area.

16. The storage use hereby permitted shall not take place other than between 0700 hours and 2000 hours Mondays to Saturdays, with no deliveries other than between 0700 hours and 1900 hours weekdays and 0800 and 1300 hours on Saturdays. The use hereby permitted shall not take place whatsoever on Sundays, public holidays and bank holidays.

Reason: To safeguard the amenities of nearby occupiers.

Item No. 1.5

Ref. No. [DMPA/2022/0269](#)

Valid date: 24/02/2022

Applicant: Jim Hewlett **Agent:** Rosenthal Architectural Services

Proposal: Replacement of existing raised decking to rear garden at 2 Bishops Court, Melbourne, Derby, DE73 8LN

Ward: Melbourne

Reason for committee determination

The item is presented to Planning Committee as a Councillor (Cllr. Jim Hewlett) is the applicant.

Site Description

The existing raised decking/summerhouse is located in the rear garden of 2 Bishops Court and is within Melbourne Conservation Area. This is a generally private situation, well screened from the public realm, that screening including some mature trees.

The proposal

The proposal is for the replacement of raised decking and the reinstatement of the small outbuilding. It should be noted the summerhouse was approved in its own right in 2004.

Applicant's supporting information

This is to replace the existing rear garden decking with like for like timber structure, no addition in height or width and thereafter to reuse the existing summer house, placed in the same position on the proposed decking.

Relevant planning history

9/2004/0014 Erection of Conservatory and Summer House to rear - approved March 2004.

Responses to consultations and publicity

Melbourne Civic Society - No Objection

Melbourne Parish Council - No Objection

SDDC Conservation Officer - I make no objection to the proposal, nor comment or observation. There is no additional impact upon the character and appearance of the Conservation Area.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

Local Plan Part 1 (2016): Policy S2 (Presumption In Favour of Sustainable Development), Policy SD1 (Amenity & Environmental Quality), Policy BNE1 (Design Excellence), Policy BNE2 (Heritage Assets)

Local Plan Part 2 (2017): H27 (Residential extensions and other householder development), BNE10 (Heritage)

DMPA/2022/0269 -2 Bishops Court, Melbourne, Derby, DE73 8LN



The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)
Melbourne Conservation Area Character Statement 2014 (CACS)

The relevant national policy and guidance is:

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

Planning considerations

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

- Design
- Amenity;
- Impact on the character and appearance of the conservation area

Planning assessment

Design

The proposal is for replacement raised decking in the rear garden. Submitted details show this is principally a like for like replacement, a form of similar proportions using similar materials. There is no difference in height and the existing Summer House will be re-used, placed in the same position as is it as present. Accordingly, it is considered that the design is acceptable.

Amenity

The proposal is considered neither to be of a size or situation as to unduly overshadow or cause a reduction in privacy. The primary spaces at No. 3 Bishops Court are considered to be far enough away as not to be unduly affected. There is existing boundary treatments in place that help to screen the decking and summerhouse and is considered that the proposal would not cause any reduction in privacy to the current situation being a replacement.

Impact on the Character and Appearance of the Conservation Area

It is considered that the proposed raised decking would not have a detrimental impact on the character and appearance of the conservation area, it simply not prominent enough as to create some level of detriment, suitably screened if at all glimpsed from the public realm by existing boundary fencing and mature trees/vegetation. As such, impacts upon the conservation area would be neutral and its significance preserved, as is described as a desirable objective within Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

As such, the proposal would conform to the requirements of the NPPF and the objectives of Policies BNE2 of the LP1 and BNE10 of the LP2 in that the significance of the heritage assets (Conservation Area) would not be harmed.

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

Recommendation:

Approve subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the submitted plans and documents received 23rd February 2022; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of doubt.

Item No. 1.6

Ref. No. [DMPA/2022/0112](#)

Valid date: 14/02/2022

Applicant: South Derbyshire District Council **Agent:** Blair Gratton Architects Limited

Proposal: **Proposed shopfront and facade refurbishment with minor internal alterations. 1 High Street, Swadlincote, DE11 8JG**

Ward: Swadlincote

Reason for committee determination

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

Site Description

The property is located on The Delph, which is an important open space in the town centre, on the corner of High Street and Midland Street. The building is three storey and is of traditional brick and tile construction, and was built in 1899. The property has been used for a range of shopping and commercial uses. The property is prominent within Swadlincote town centre, and although the building is not listed it is an important building within Swadlincote Conservation Area which is also subject to an Article 4 direction.

The proposal

Planning permission is sought for the refurbishment of the shopfront and façade including the removal of the existing, non-original metal fascia which will be replaced with new fascia board. The proposals would see the reinstatement of the bull-nosed cill in areas where they have been cut away previously. The existing over-boarding of the pilasters are proposed to be removed and replaced with simple mouldings and the end pilasters will have stone bases and timber scroll heads at each end of the new fascia. The fascia board would also be reduced as well as the glazed tiles replaced with black glazed brick work, as is used traditionally, to the underside of the new bull-nosed cill. The uPVC rainwater gutter and downpipe are being replaced with black-painted cast metal units.

Applicant's supporting information

The application is accompanied by a Heritage Statement which sets out the history of the site and the rationale of the proposals.

Relevant planning history

9/2000/0288 - Erection of security shutters - Approved with Conditions 06/6/2000

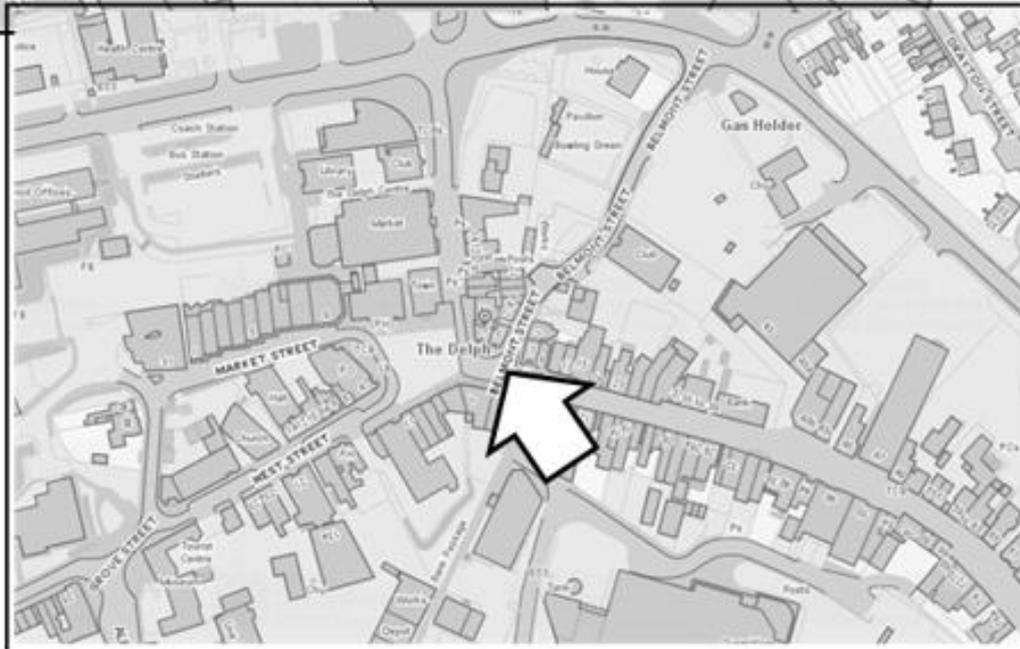
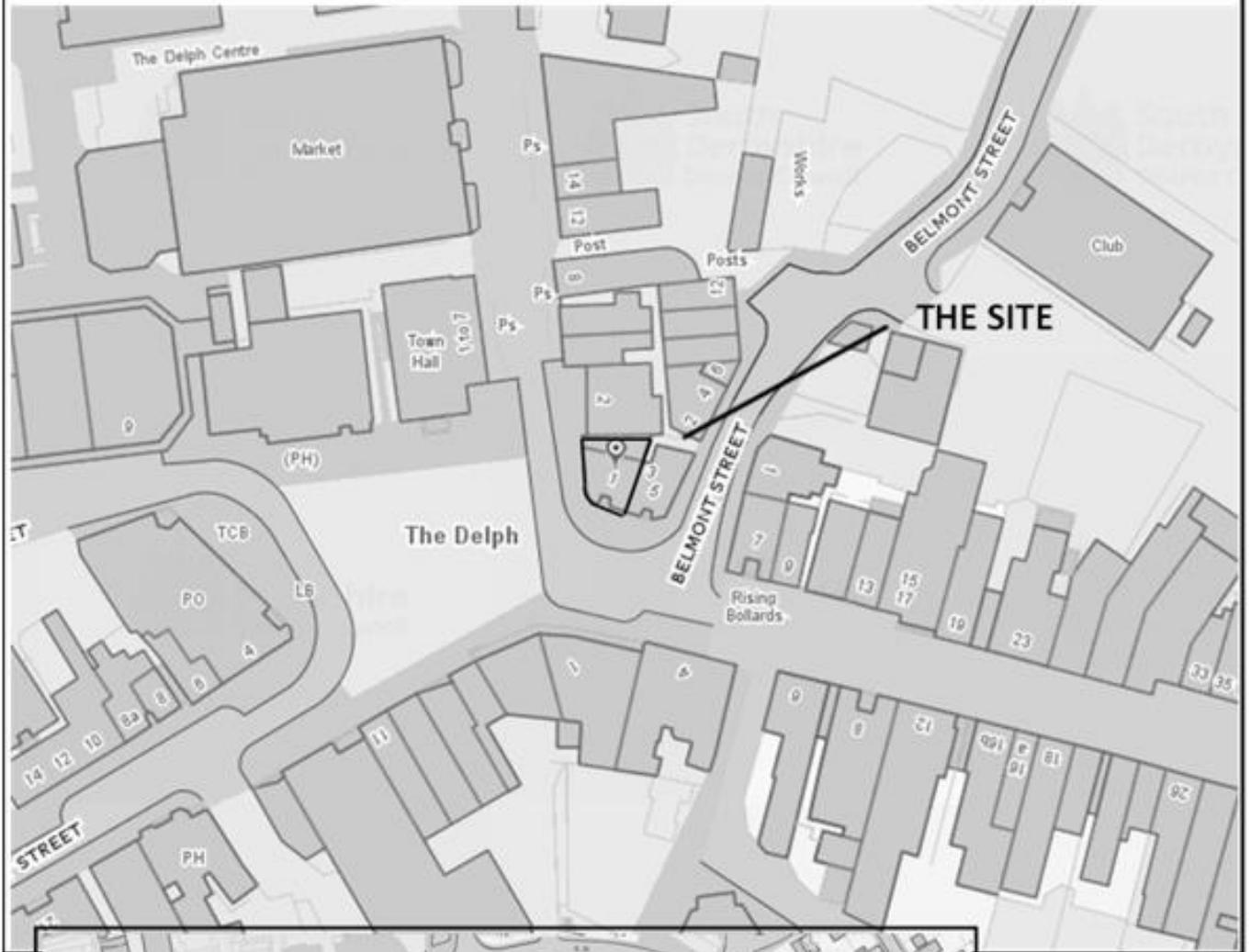
9/2004/1221 Change of use from offices to tattooist studio - Approved with conditions 16/11/2004

Responses to consultations and publicity

The Conservation Officer raises no Objection subject to condition

There have been no representations received from members of the public in response to the consultations undertaken on the application.

DMPA/2022/0112 - 1 High Street, Swadlincote DE11 8JG



MAPS ARE NOT TO SCALE

This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationary Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.
South Derbyshire District Council, LA 100019461.2020

Relevant policy, guidance and/or legislation

The relevant policies are:

Local Plan Part 1 (2016): S2 (Presumption in Favour of Sustainable Development), S7 (Retail), SD1 (Amenity and Environmental Quality), , BNE1 (Design Excellence), and BNE2 (Heritage Assets).
Local Plan Part 2 (2017): BNE10 (Heritage), BNE11 (Shopfronts) and RTL1 (Swadlincote Town Centre).

National Guidance

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

Local Guidance

South Derbyshire Design Guide SPD
Swadlincote Conservation Area Management Plan

Planning considerations

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

- Impact on the appearance of the building
- Impact on the character and appearance of the conservation area

Planning assessment

Impact on the appearance of the building

Policies BNE1 and BNE11 of the Local Plan stipulate that development should be well designed and visually attractive and that proposed shopfronts should be well proportioned in relation to the existing building. They should also use high quality, sympathetic materials that respond positively to the surrounding context. In addition, policies BNE2 and BNE10 of the Local Plan specify that proposed development should seek to protect, preserve and enhance existing heritage assets and should be sympathetic to minimise harm to the heritage assets.

The proposed front fascia, woodwork and new façade would significantly enhance the appearance of the building within the row of buildings. The new timber framed glazing to be inserted will match the appearance of the adjacent shop front and this would be more in keeping with other buildings within the wider Conservation Area. By incorporating traditional materials reflective of those found in traditional shop fronts in the town centre, the proposals would be more appropriate than the existing situation. The proposed development provides an opportunity to significantly improve the appearance of the streetscene and character of the immediate area. The proposed development would fully accord with the principles of policies BNE1, BNE2, BNE10 and BNE11 of the Local Plan.

Impact on the character and appearance of the Conservation Area.

As the proposals can be seen as an improvement, taking into account the nature of the proposal, the level of harm to the overall Conservation Area would be deemed to be less than substantial. In these circumstances, paragraph 202 of the NPPF states that the harm should be weighed against the public benefits of the proposal. The public benefits for the proposal are considered to be the visual enhancement of the shop front and the benefit to the appearance of the Conservation Area. As the proposed shop front is in a prominent location within the town centre, it is considered that the proposal would enhance the character and appearance of the Conservation Area which is considered to be of public benefit.

It is considered that the application would be in accordance with the duty of the Council under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the preservation and enhancement of the surrounding Conservation area and the relevant policies of the

Local Plan.

Conclusion

The proposed development is considered to accord with adopted policies in the Local Plan, the principles found within the Council's Design Guide SPD and would be appropriate and sympathetic to the host building and wider Swadlincote Conservation Area. On this basis it is recommended that planning permission be granted subject to planning conditions.

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

Recommendation:

Approve subject to the following conditions

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

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

2. The development hereby permitted shall be carried out in accordance with the submitted plans and documents received 24th January 2022 and amended application form received 14th February 2022, unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of doubt.

3. Notwithstanding the details shown on the approved plans, further precise details of the shop front including a cross section at 1:10 showing mouldings, timber frames and glazing bars; the stall riser and fascia including a cross section at 1:5; and all new windows and doors, including the colour and finish of all of these building elements, shall be submitted to and agreed in writing with the Local Planning Authority before installation. The works shall be carried out in accordance with the details approved by this condition.

Reason: To protect the visual amenity of the area and character of the conservation area.

Item No. 1.7

Ref. No. [DMPA/2021/1850](#)

Valid date: 16/03/2022

Applicant: Green

Agent: Turner Wall Architecture and Planning

Proposal: **The proposed construction of a dropped kerb, drive access and the proposed erection of brick pillars and single storey detached garage at 1 Yew Tree Lane, Thulston, Derby, DE72 3FG**

Ward: Aston

Reason for committee determination

The application is reported to committee as it must be considered whether the proposal represents appropriate development as defined within paragraph 149, section 13 of the NPPF; as is required by Policy S8 of the Part 1 Local Plan. Therefore, the proposed application has to be treated as a departure from the local plan.

Site Description

The site comprises a two and a half storey detached dwelling, in a village comprising a number of similar dwellings. There is an existing annex attached to the main dwelling, which borders Oak Road. There are also two outbuildings within the curtilage, close to the boundary of no.2 Oak Road.

The proposal

The application seeks approval to construct a dropped kerb, new drive access with brick pillars, and a single storey detached double garage on the existing drive.

Applicant's supporting information

None of relevance.

Relevant planning history

9/2005/0659 - Outline application (all matters to be reserved except for siting) for the erection of two dwellings – Refused 15/07/2005

9/2005/1036 - Erection of a granny flat – Approved 24/10/2005

9/2014/0531 - The erection of an extension – Approved 30/07/2014

9/2015/0365 - The erection of a detached garage with direct vehicular access to/from the highway – Refused 22/06/2015

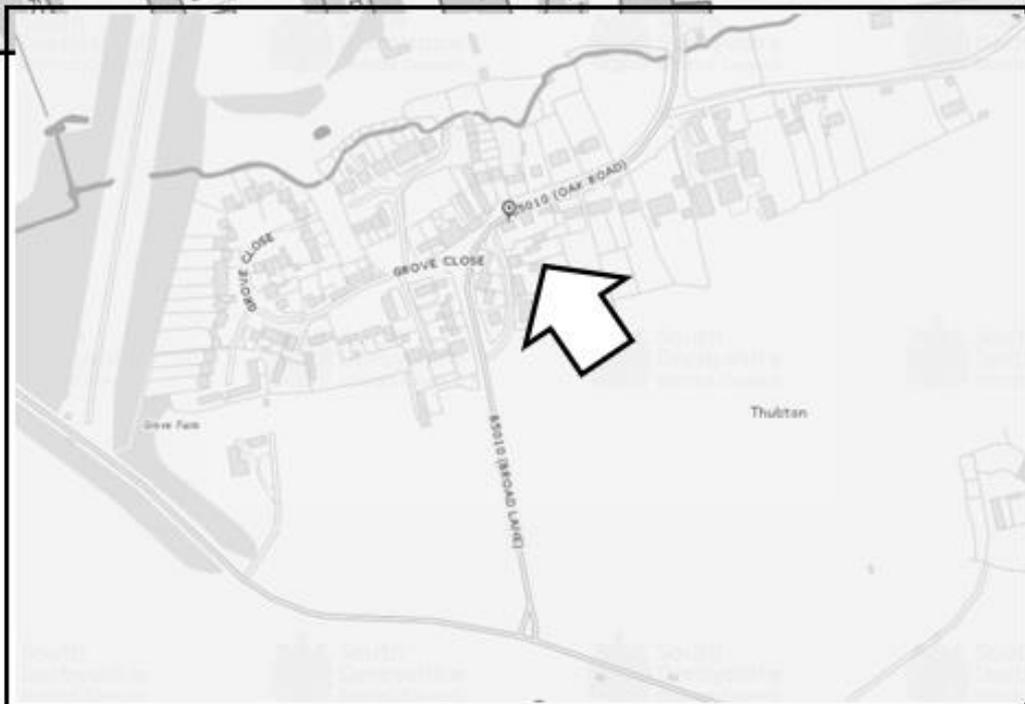
9/2019/0043 - The erection of a detached dwelling – Approved 27/11/2019

Responses to consultations and publicity

No comments from neighbours have been received in response to the consultations undertaken.

The County Council Highways Authority have no objection to the proposals subject to conditions. They also note that the proposed access is located at the end of a cul-de-sac and therefore vehicle speeds on Yew Tree Lane will be very low. In addition, the access is wide enough to ensure the required pedestrian visibility splays are achievable. It is also noted that although the proposed double garage is smaller than the preferred size of a double garage (6m x 6m) it is clear that there is sufficient hardstanding within the site to accommodate satisfactory turning and manoeuvring to enable vehicles to enter and leave the site in a forward direction.

DMPA/2021/1850 – 1 Yew Tree Lane, Thurston, DE72 3FG



MAPS ARE NOT TO SCALE
This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.
South Derbyshire District Council, LA 10019461.2020

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

Local Plan Part 1 (2016): Policies S2 (Presumption in Favour of Sustainable Development); S6 (Sustainable Access); S8 (Green belt); H1 (Settlement Hierarchy); SD1 (Amenity and Environmental Quality); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); BNE1 (Design Excellence); INF2 (Sustainable Transport).

Local Plan Part 2 (2017): SDT1 (Settlement Boundaries and Development) BNE5 (Development in Rural Areas); H27 (Residential Extensions and Other Householder Development)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Planning considerations

Planning considerations

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

- Principle of development;
- Design;
- Amenity; and
- Highway Safety

Planning assessment

Principle of Development

The site lies within the village of Thulston, and is surrounded on all sides by residential development. This village does not have a defined settlement boundary but is listed in policy H1 of the Local Plan Part I as a rural village. The Policy allows for 'development of a limited nature' in this location. Policy BNE5 supports limited development outside settlement boundaries in allowing for the 'infilling of a small gap of not normally more than two dwellings' provided it is in keeping with the character of the area.

The site is surrounded on all sides by residential development, but is washed over by the Green Belt. The Government attaches great importance to Green Belts, with the fundamental aim of Green Belt policy, as set out in the NPPF being to prevent urban sprawl by keeping land permanently open. The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in 'very special circumstances'. It sets out exceptions to this at paragraph 149, including limited infilling of villages (criterion e). Policy S8 of the local plan echoes this presumption against inappropriate development and states that development in the Green Belt should be assessed against national policy. The application site, whilst set within the Green Belt, is in a village location set within the context of detached dwellings with associated outbuildings. The garage would be set within the streetscene of Yew Tree Lane and viewed as a subordinate building closely linked with the existing built form. It is considered that this could serve as 'very special circumstances' for the proposed development considering it's reduced scale and impact from that of an additional dwelling which could be allowed as 'limited infilling' in this village location.

Design

Policy BNE1 of LP1 states that new development should be visually attractive, appropriate, respect

important landscape and continuity within the street scene. Policy H27 of LP2 emphasises that proposals should be in keeping with, and not unduly detrimental to, the general character and appearance of the area.

It is considered that the proposal is generally in line with the aims of policies BNE1 and H27, The proposed garage would be 5.6m in width, 5.3m in length and 4.1m in height; using brick and timber on the walls to match the existing, and clay tiles on the roof to also match the host dwelling. Therefore, it is considered that the development would be in keeping with the design of the host and the general character and appearance of the area. The proposal is also considered subordinate in scale and position to the existing dwelling, and the wider street scene respectively.

Amenity

Policy SD1 is supportive of development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers. Policy BNE1 requires development to not cause demonstrable harm to neighbouring amenity.

The proposed development would be positioned southeast of the dwelling and closest to the neighbours at no.5, no.2 and no.3 Yew Tree Lane. The proposed development would be positioned north of no.5, northeast of no.2, and west of no.3. Due to the positioning and the single storey nature of the development, it is not considered that there would be any overbearing impact on any these neighbours as a result of the development. Other neighbours are considered to be sufficient distance away not to be adversely affected by the development.

The proposal is therefore considered to accord with the policies SD1 and BNE1 in terms of the impact of neighbouring properties.

Parking and Highway Safety

Parking space within the proposed garage is to be built on the existing drive at the property is considered to be in accordance with Policy INF2 and the Design SPD. The garage with interior space for two vehicles measuring 5m in length, 5.2m in width and the existing hardstanding around the garage are considered to satisfy the strong advice of the SPD of provision of two parking spaces per dwelling. The exterior development will be 5.3m in length, 5.62m in width and 4.12m in height. This is smaller in length than the highways authority standing advice, but it is deemed acceptable by county highways as there is sufficient space for turning and manoeuvring within the site.

The dropped kerb and new driveway entrance would be at the end of a small cul-de-sac, away from major highways. It is therefore considered that the creation of the new private driveway access and dropped curb would not cause any undue harm to the flow of vehicles and would allow for sufficient visibility splays. A condition is necessary to meet the concerns of the highway authority, on which basis the proposal would be considered to satisfy policy INF2, which requires that appropriate provision is made for safe and convenient access, and that parking provision should have regard to parking standards.

Summary

The proposed extension constitutes inappropriate development in the Green Belt. However, there are considered to be very special circumstances to warrant an approval of the application, contrary to the policy presumption against such development. By reason of its size, sitting within a developed area of the village, and its height - it is considered that the proposal will not cause undue detrimental harm to the openness of the Green Belt, the street scene or residential amenity of neighbouring occupiers. The impact on the highway is considered acceptable by the Highway Authority. It is considered that outside of the Green Belt the proposal complies with requirements of the NPPF, the Council's Design SPD, Policies BNE1, INF2 of the LP1 and of the LP2. This application is subsequently recommended for approval.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard

has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation:

Approve subject to the following conditions

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings ref. Location Plan; Proposed Site Plan and Elevations rev.10; and Application Form; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. All external materials used in the development shall match those used in the existing building in colour, coursing and texture unless, prior to their incorporation into the development hereby approved, alternative details are first submitted to and approved in writing by the Local Planning Authority pursuant to an application made in that regard, whereafter the approved alternative details shall be incorporated into the development.

Reason: In the visual interest of the building(s) and the surrounding area.

4. Prior to the first use of the development the access and parking areas shown on the plans hereby approved shall be completed and thereafter permanently retained for parking and manoeuvring purposes.

Reason: So that vehicles may enter and leave the site with the minimum of interference to the free flow and safety of other traffic on the highway and for the convenience and safety of pedestrians including people with disabilities.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the garage hereby approved shall not be used for any purpose other than for the parking of vehicles and associated ancillary domestic storage except with the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

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

6. The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with the National Planning Policy Framework (2019).

7. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order (2015), (or any Order revoking, amending or re-enacting that Order) no gates / bollards / chains / other means of obstruction shall be erected across the approved access unless details have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

Informatives:

- e. Pursuant to Section 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- f. Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email highways.hub@derbyshire.gov.uk or telephone 01629 533190.

Item No. 1.8

Ref. No. [DMPA/2021/0983](#)

Valid date: 16/06/2021

Applicant: P & R Wilkinson

Agent: JVH Town Planning Consultants LTD

Proposal: **Outline application (matters of access to be considered now with matters of layout, scale, appearance and landscaping reserved for later consideration) for the erection of three dwellings at Land to the rear of 69a and 69b, Repton Road, Hartshorne, Swadlincote, DE11 7AF**

Ward: Woodville

Reason for committee determination

This item is presented to the Committee as the applicant is related to Councillor Neil Tilley, and because the proposal is contrary to some of the policies of the South Derbyshire Local Plan Part 1 2016 and Part 2 2017.

Site Description

The site comprises the land behind the two dwellings at 69a and b Repton Road. The land comprises the garden area to the properties, which include a building which has for a number of years, used for the breeding and keeping of dogs as a hobby. The main dwelling fronts Repton Road, and there are outriggers which are situated to the rear of the main building. This historically used to be a bakery.

There is a track which leads to land at the rear of the dwelling. There is a slight gradient uphill towards the back of the site. The eastern boundary is well screened by hedgerow and some larger trees behind the fence line. There was possibly an orchard as part of this area to the rear of the dwelling, which is effectively the main garden area for the dwelling. This area is occupied by a number of different buildings which include timber sheds for the keeping of chickens, and a brick outbuilding and other typical garden structures. The site is heavily tree's with fruit trees and smaller trees. There are a couple of larger trees within the garden. There is a row of trees protected by a Tree Preservation Order on the boundary between the site and the adjacent development in Adams Close.

Beyond the garden area there is an area which widens out which accommodates a concrete garage and a 1960s/70s breeze block flat roofed building where the collie dogs are being kept. There is a boundary line and a central gate which leads to the pasture land to the rear. There is a public footpath which runs to the east of the site, and runs in a southerly direction towards Woodville.

The proposal

This is an outline application with all matters to be reserved except for access for up to three new dwellings. The proposal would result in the removal of all the existing garden structures from the site and redevelop the site with access served from the existing access driveway. It is also proposed to relocate the current car parking for nos 69 a and b to the rear of the existing houses, together with a turning area.

Applicant's supporting information

The starting point for consideration of the subject land is its lawful status. The entire site is the curtilage and garden to no's 69a and b Repton Road. The dwelling houses and adjoining outbuildings and garden are residential and lie within the development boundary where redevelopment is acceptable subject to other relevant planning tests. The area beyond the boundary is garden land and occupied by the aviary and the dog kennels. The dog kennels are significant structures, and they are extensive in their development footprint.

DMPA/2021/0983 – Land to the rear of 69a and 69b, Repton Road, Hartshome, DE11 7AF



MAPS ARE NOT TO SCALE
This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.
South Derbyshire District Council, LA 190019481, 2020

The definition of previously developed land in the Annex to the NPPF indicates that residential gardens not in built up areas can be regarded as previously developed land, and there is recent case law on this point. It is the case therefore that the "garden area" extends as far as the Dog Kennels and that this land can be regarded as previously developed and therefore has an advantage in terms of redevelopment potential and is a sustainable form of development adjacent to the built up area.

In the case of the subject application, it is the case that part of the proposed development lies within the development boundary and is policy compliant on that basis. The remainder of the site lies outside the settlement boundary, but comprises previously developed land adjacent to the boundary. The reuse of this type of land is regarded as sustainable by the NPPF, which seeks to maximise brownfield development opportunities. Here the relationship to the development boundary is very close and will include the redevelopment of the large dog kennel building. Development will not spill out into the countryside or affect the amenity of any nearby property.

Care has been taken to safeguard the line of TPO trees that are located within the former Chesterfield Arms site and which form a boundary with the application site. The siting of dwellings on the application site has been carefully chosen to avoid damage to these trees.

Relevant planning history

No relevant planning history.

Responses to consultations and publicity

The County Highway Authority initially had concerns with the proposed access arrangements onto the main road. Following the receipt of amendments to the scheme, the proposal is considered acceptable. All dwellings would require a minimum of three parking spaces if replicated at the Reserved Matters stage. The illustrative scheme shows a double garage is provided. Garages should be 7.2m x 6.5m if double. Conditions are proposed to be imposed with regard to the visibility splay required, future parking provision, provision of a bound surface near the highway, and a restriction on the location of any gates.

Derbyshire Wildlife Trust has assessed the submitted ecological information. It is concluded that none of the buildings/structures and trees on site provide suitable bat roosting opportunities. The trees and buildings have some potential for nesting birds, particularly those with bird boxes attached. It is recommended that conditions are imposed to enhance the biodiversity at the site with bat and bird boxes. Also no trees, shrubs or buildings to be removed during nesting season.

Severn Trent Water has suggested that the disposal of surface water by means of soakaway should be considered as the primary method if possible.

The National Forest Company has noted that the site is below 0.3ha. There is no request for dedicated woodland planting or an offsite contribution. They note the TPO's next to the site. The exact extent needs clarification. It would not be possible to facilitate the development without removal of trees. The proposal should include the layout which is only in outline form at this stage. There should be justification for the loss of the trees. There should be appropriate native tree planting to offset loss. Conditions should be imposed to protect the retained trees.

Trent and Northern Footpath Society notes the proposals presence next to the footpath 15. No objection to the proposal, provided there is no obstruction to the official route.

The Ramblers Association note the footpath. The footpath must be kept open during all operations on the site, as it is not within the boundary of the site.

Comments have been received from three neighbours. These can be summarised as follows:-

- a) The access to the side of the existing property is not wide enough to accommodate three more houses to the rear. There is no space for waiting cars to pull in if another car comes the other way.

- b) The property is long and the driveway unsuitable. Three buildings are too much. The furthest away encroaches even further into the greenbelt area than Adams Close does.
- c) There are bats next door and can be seen flying over the area. There are also species of Owl that roost in the trees and can be heard at night.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

Local Plan Part 1 (2016): Policy S1 Sustainable Growth Strategy; Policy S2 Presumption in Favour of Sustainable Development; Policy S3 Environmental Performance; Policy S4 Housing Strategy; Policy S6 Sustainable Access; Policy H1 Settlement Hierarchy; Policy SD1 Amenity and Environmental Quality; Policy SD3 Sustainable Water Supply, Drainage and Sewerage Infrastructure; Policy BNE1 Design Excellence; BNE3 Biodiversity; Policy BNE4 Landscape Character and Local Distinctiveness; Policy INF2 Sustainable Transport and Policy INF8 The National Forest.

Local Plan Part 2 (2017): SDT1 Settlement Boundaries and Development and BNE7 Trees, Woodland and Hedgerows.

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Planning considerations

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

- The principle of new dwellings in this location and impact on the appearance of the countryside;
- The effect of the proposal on the residential amenity of nearby occupiers;
- The effect of the proposal on the highway network; and
- The effect on the environment

Planning assessment

The principle of new dwellings in this location and impact on the appearance of the countryside

In policy terms, only the front section of the site is contained within the Limits to Development of the village. The limits follow the rear of the gardens of properties to the east of the site, goes straight across the application site and joins with the edge of the properties in Adams Close. The boundary then follows the old public house south to the edges of 8, 10 and 11 Adams Close.

It is clear that the garden has been in residential use as part of 69a Repton Road Hartshorne for a number of decades. The applicant's erected a breeze block flat roofed building which has housed the breeding of Border Collies, although this has previously been accepted as a hobby and as such would amount to a use of land incidental to the enjoyment of the dwellinghouse. This area of land also includes a garage. There is more of a distinct boundary between what was previously the kennel type use and the agricultural field beyond. There has been a metal shed erected within this field which is separate to the assessment of this application.

The fallback position to the application is that the breeze block kennel building could potentially be converted to a dwelling under policy H28. The building is not particularly attractive or one which is of good quality in design terms, but is of substantial and permanent construction, and would therefore fulfil the policy requirements for conversion.

It is not considered that the proposal can be considered as infill development in the terms of policy BNE5 of the South Derbyshire Local Plan Part 2 2017. It is backland development behind the existing frontage of 69a Repton Road. Policy H1 allows for development which is outside the Limits to Development boundary, but which is cross subsidy or an exceptions site. This proposal is not intended to be an affordable housing site.

The proposal involves development beyond the defined settlement boundary limits and does not represent permissible development under the strict terms of BNE5. In determining the application consideration must be given as to whether other material considerations outweigh contrariness to the policies H1 and BNE5.

Delving further into aspects of BNE5, the main issue to be assessed is therefore whether the development could take place without unduly impacting on landscape character, biodiversity, best and most versatile agricultural land or heritage assets. It has been established that the site forms part of the residential curtilage of 69a and has been used as domestic use, for the breeding of dogs for a number of decades.

A replacement dwelling to be agreed in the location of the dog kennels building could potentially, be accommodated through policy H28 of the South Derbyshire Local Plan Part 1 2016, with an approved appearance, in terms of design; and with the appropriate conditions to provide an appropriately sized buffer zone between the southern boundary of the site and a new dwelling. This could be located so as not to result in any greater harm to the appearance of the site within the countryside than the existing breeze block kennels. A condition limiting height would also be required to ensure that the dwelling here would be low lying in the countryside, on the edge of the settlement. On this basis, it seems reasonable to accommodate a dwelling here, within the countryside, although contrary to policy H1 of the South Derbyshire Local Plan Part 1 2016.

Development of other dwellings between the end dwelling and the existing house would be seen in the context of the backdrop of development in Adams Close when viewed from the public footpath to the east of the site, as walkers come back towards the village, and see the existing urban development in the settlement. On this basis, there would not be significant harm caused to the landscape or the countryside character in this vicinity, and therefore the proposal could comply with policy BNE4 of the South Derbyshire Local Plan Part 1 2016. There is good tree cover between the site and the open countryside, most of which could be retained on the eastern boundary adjacent to the proposed access drive.

In the planning balance therefore, the proposal would be contrary to some of the policies above, but a judgement needs to be made about the potential for significant harm to the interests of the countryside. It is concluded that the proposed development in outline form is considered to be acceptable in principle, subject to appropriate conditions to limit the impact of the new housing, particularly in terms of height, to ensure that it is not much taller than the existing kennels, and in terms of providing an appropriate buffer zone of 9m between the southern boundary and the nearest part of a new dwelling, to be comparable with the siting of the existing kennels building.

On this basis, on balance, the proposal for up to three dwellings could be acceptable and comply with the Council's policies, when assessed in the round and the planning balance. Conditions are proposed to deal with these issues of effect on the countryside and landscape character to ensure that the visual effects would be a no more harmful impact.

The effect of the proposal on the residential amenity of nearby occupiers

The proposal is in outline form for three dwellings. There are fairly recent dwellings approved to the west of the site on the former Chesterfield Arms Public House site. These are two storey dwellings which back on to the application site. They have rear gardens lengths of approx. 14 for numbers 5, 7 and 9 Adams Close. Due to the orientation of number 11, the distance is approx. 8m to the gable end and the garage. The proposal is for a development of up to three dwellings. There is no specific details on whether these would be two storey or single storey dwellings, and also the siting is not agreed at

this stage.

On this basis, there is scope for dwellings to be approved which would not result in significant harm to the residential amenity of the adjacent neighbours. There is scope for provision of a distance of 21m between plots 1 and 2 to dwellings in Adams Close, even if these are two storey. The details of the protection of these dwellings would be assessed as part of the Reserved Matters application.

Plot three would need to be limited in height due to its proximity as standing beyond the end of the development line to the west, and hence a desire to reduce the impact of a new dwelling on the countryside. This will also need careful design to also limit potential overlooking into the rear garden of 11 Adams Close.

It is concluded that there is potential for the proposal to comply with policy SD1 of the South Derbyshire Local Plan Part 1 2016 at the Reserved Matters stage when the detailed design is to be agreed.

The effect of the proposal on the highway network

Amendments have been submitted during the course of the application. This has overcome some initial concerns by the Highway Authority. They have therefore now recommended conditional approval. The exact details of the layout and the parking requirement would be agreed at the Reserved Matters stage, but in principle the scheme is acceptable and would not result in significant harm to the interests of highway safety. The proposal would thereby be capable of complying with policy INF2 of the South Derbyshire Local Plan Part 1 2016.

The effect on the environment

It is suggested to impose a condition relating to the reduction of water consumption within the dwellings in accordance with policy SD3 of the South Derbyshire Local Plan Part 1 2016, and to help meet the Council's commitment to reducing the impact of climate change.

Similarly, it is suggested to impose a condition requiring the provision of an electricity charging point for each new dwelling to provide opportunity for future occupiers to charge their electric cars. This would help meet the requirements of the Council's statement of acknowledging being in a Climate Emergency.

There are existing trees within the site. There is a good screen along the eastern boundary of the site where the existing access track runs. There is no reason why these need to be affected to any significant degree by the development and could be retained as this would be the location for the new access drive down to the dwellings. There are trees covered by a Tree Preservation Order to the western part of the site. The effect of the proposal has been assessed by the Council's Tree Officer. It is concluded that there would be no significant impediment to the placing of the scale of development at the site, subject to the Reserved Matters layout providing the right separation distances from the root protection areas of retained trees. There are some trees on the site which are of lesser amenity value and could be removed without significant overall harm. It has been identified that there are a couple of important trees, which it would be better to keep, and can be retained within a layout for up to three dwellings.

There are opportunities to improve landscape planting at the site within the garden areas to enhance the existing trees, and to provide an appropriate adequate buffer zone between plot 3 and the countryside boundary to the south by way of imposition of condition. This can be agreed at the Reserved Matters stage. On this basis, the proposal is capable of complying with policy INF8 of the South Derbyshire Local Plan Part 1 2016, and policy BNE7 of the South Derbyshire Local Plan Part 2 2017.

Severn Trent has requested imposition of a condition requiring details of the disposal of foul sewage and surface water run-off. The PPG and Building Regulations indicate that disposal by means of soakaway should be the primary method of disposal. The site contains a large amount of hardstanding

currently and there should be opportunities to improve the surface water run off environment. They also suggest an informative with regard to the location of public sewers. The applicant has indicated that soakaways would be feasible at the site. Foul sewage would be to mains sewers. It is therefore concluded that the proposal would comply with policy S3 of the South Derbyshire Local Plan Part 1 2016.

Conclusions

The proposals are therefore considered acceptable, and it is recommended that outline planning permission be granted subject to the imposition of appropriate conditions.

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

Recommendation

Approve subject to the following conditions:

1. (a) Application for approval of the reserved matters listed at condition 2 shall be made to the local planning authority before the expiration of three years from the date of this permission; and
(b) The development hereby permitted shall be commenced 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 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. Before any development is commenced the further approval of the local planning authority is required with respect to the following matters (herein referred to as the reserved matters) on an application made in that regard:

- (a) appearance,
- (b) landscaping,
- (c) layout, and
- (d) scale.

Reason: This permission is granted in outline under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015 and section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

3. The development hereby permitted shall be carried out in accordance with plan(s)/drawing(s) ref;

Application forms received 15th June 2021;
Tree Survey 15th June 2021;
Design and Access Statement received 15th June 2021;
Bat and Bird Survey received 16th June 2021;
Location Plan received 31st January 2022; and
Proposed Site Plan P003 Rev L received 31st January 2022 containing access and parking details for the existing dwelling.

unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

4. No development, including preparatory works, shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following:
- (a) a risk assessment of potentially damaging construction activities including a scheme of dust mitigation measures and the control of noise emanating from the site during the construction period;
 - (b) identification of biodiversity protection zones (e.g. buffers to trees and hedges or to protected wildlife habitat);
 - (c) practical measures (both physical measures and sensitive working practices, such as protective fencing, exclusion barriers and warning signs) to avoid or reduce impacts during construction (particularly in relation to works within canopy and root protection areas for hedgerows or protected trees);
 - (d) the location and timing of sensitive works to avoid harm to biodiversity features (in relation to breeding birds in particular);
 - (e) the times during construction when specialist ecologists need to be present on site to oversee works (as required);
 - (f) responsible persons and lines of communication; and
 - (g) the role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person (as necessary).

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless the ECoW otherwise sets out alternative details which are subsequently agreed by the local planning authority.

Reason: To protect existing trees and hedgerows to be retained, to ensure construction works are carried outside of bird nesting season in the interests of the biodiversity of the site and the surrounding environment; and to protect the adjacent residential occupiers.

5. No development shall take place until details of the proposed finished floor levels; ridge and eaves heights of the proposed dwellings have been submitted to and approved in writing by the local planning authority. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels, eaves and ridge heights of surrounding property. The development shall be carried out as approved.

Reason: To ensure the proper siting of the dwelling in relation to the surrounding land levels, and to show the relationships with adjacent properties in the interests of the visual amenity of the site and residential amenity of nearby occupiers.

6. Prior to the first occupation of the dwellings hereby approved, provision shall be made within the development for a re-charge point for electric vehicles for each dwelling approved. The charging points shall be provided with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket shall be located where it can later be changed to a 32amp EVCP. Alternative provision to this specification must be first submitted to and approved in writing by the local planning authority. The electric vehicle charging points shall be provided in accordance with the stated criteria prior to the first occupation or use of the respective dwellings and shall thereafter be maintained in working order and remain available for use throughout the life of the development.

Reason: In the interests of protecting and enhancing air quality through reducing and minimising emissions from vehicles.

7. The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with the National Planning Policy Framework (2019).

8. Any access gates/bollards/chains/other means of obstruction shall be hung to open inwards and thereafter retained a minimum distance of 10m from the near channel edge of the adjacent carriageway.

Reason: In the interests of highway safety enabling vehicles to safely draw off the highway before the gates/obstruction is opened.

9. Prior to the first occupation of the dwelling hereby permitted, the proposed access to Repton Road shall be provided with visibility sightlines of 43m in both directions measured to a point 1m in from the nearside edge of the carriageway, as measured from a point located centrally and 2.4m back into the access. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.

Reason: To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway.

10. No laying of services, creation of hard surfaces or erection of a dwelling shall commence until a scheme for the drainage of surface water from the site has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in conformity with the approved details prior to the first occupation of each respective dwelling served by the surface water drainage system.

Reason: In the interests minimising the likelihood of flooding incidents and damage to the environment, property or life.

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

Reason: To protect the residential amenity of nearby occupiers.

12. As part of a Reserved Matters application, the number, size, layout, and location of car parking spaces must be submitted to and approved in writing by the local planning authority. Before the first occupation or use of the development, these parking spaces shall be provided in accordance with the approved details and thereafter retained for the sole use of parking for the development hereby approved for the lifetime of the development.

Reason: To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway and to ensure that the facilities provided are reserved for the benefit of the development for which they are specifically required.

13. As part of the reserved matters, a scheme of biodiversity enhancement to include, as a minimum, features incorporated within the new buildings for roosting bats and nesting swifts along with hedgehog gaps and native planting within the details of landscaping shall be submitted to and approved in writing by the local planning authority. The enhancement scheme shall be implemented in accordance with the agreed details as construction proceeds and completed prior to the first occupation of the development.

Reason: In the interests of the biodiversity of the site and the surrounding area.

14. Notwithstanding any details on the submitted illustrative plans, the height of the most southerly dwelling when submitted as part of the Reserved Matters application shall be limited to an eaves height of 3m and ridge height of 6m.

Reason: To reduce the visual impact on the countryside of this dwelling when viewed from the nearby public footpath in the interests of the visual amenity of the site and surrounding area.

15. Each dwelling shall be constructed and fitted out so that the estimated consumption of wholesome water by persons occupying the dwelling will not exceed 110 litres per person per day, consistent with the Optional Standard as set out in G2 of Part G of the Building Regulations (2015). The developer must inform the building control body that this optional requirement applies.

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

16. Notwithstanding the details on the submitted illustrative scheme, the reserved matters layout should show that the most southerly of the dwellings proposed is at least 9m from the boundary of the site. No new buildings, including out buildings or the garage shall encroach within this area.

Reason: To protect the visual amenity of the site and surrounding area, and protect the interests of the character of the countryside and to allow a landscape buffer to develop along the southern boundary to reduce the visual impact of the new dwelling.

17. No removal of trees, hedges, shrubs, buildings or structures shall take place between 1st March and 31st August inclusive unless a survey to assess the nesting bird activity on the site during this period and a scheme to protect the nesting birds has first been submitted to and approved in writing by the local planning authority. No trees, hedges, shrubs, buildings or structures shall be removed between 1st March and 31st August inclusive other than in accordance with the approved bird nesting protection scheme.

Reason: In the interests of the biodiversity of the site and surrounding area.

Informatives:

- g. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness
- h. Public Right of Way Footpath No. 15, as shown on the Derbyshire Definitive Map, must remain open, unobstructed and on its legal alignment at all times. There should be no disturbance to the surface of the route without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section – ETE.PROW@derbyshire.gov.uk. If a structure is to be erected adjacent to the right of way, it should be installed within the site boundary so that the width of the right of way is not encroached upon.
- i. Planning permission does not give you approval to work on the public highway. To carry out works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email highways.hub@derbyshire.gov.uk or telephone 01629 533190.
- j. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.
- k. For the purposes of clarity, the submitted site plan is for illustrative purposes only in terms of the layout, number of dwellings, and sizes of dwelling. Such matters will be determined through the Reserved Matters application and as otherwise limited by the conditions imposed on this outline approval as described above.

Item No. 1.9

Ref. No. [DMPA/2021/1709](#)

Valid date: 08/11/2021

Applicant: Dhesi **Agent:** Making Plans Architecture

Proposal: The erection of a single storey rear and two storey side extension at 11 Sandcliffe Park, Midway, Swadlincote, DE11 7PX

Ward: Midway

Reason for committee determination

The application is presented to the Committee as the dwelling is owned by an employee of South Derbyshire District Council.

Site Description

The site consists of a two-storey detached dwelling in a cul-de-sac comprising of a number of similar dwellings within Midway, Swadlincote.

The proposal

The application seeks approval to construct a single storey rear extension, and a two storey side extension.

Applicant's supporting information

None of relevance.

Relevant planning history

No relevant planning history.

Responses to consultations and publicity

There have been no responses received to the consultations and publicity undertaken on the application.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

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

Local Plan Part 2 (2017): Policy H27 (Residential Extensions and Other Householder Development)

The relevant local guidance is:

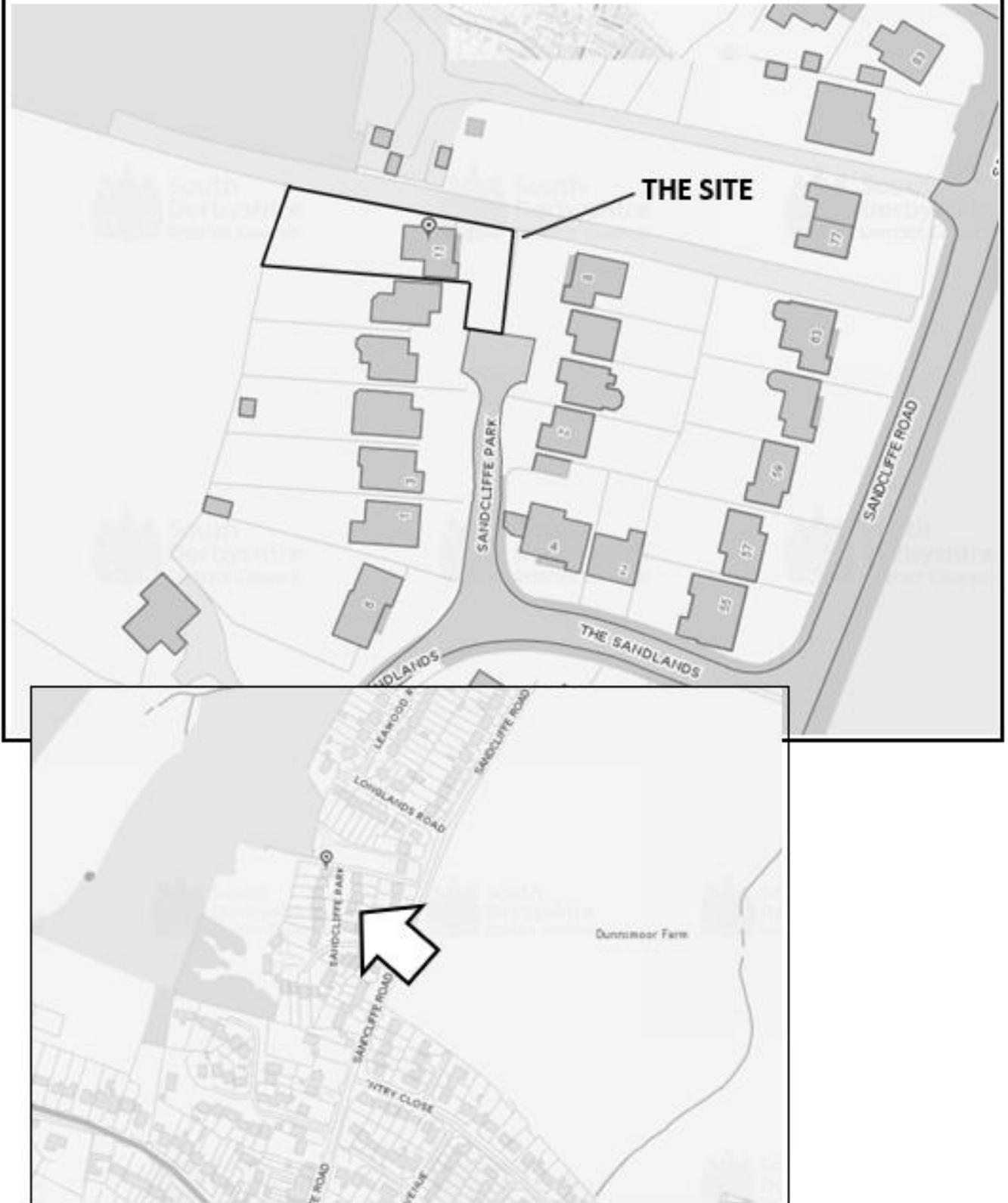
South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

DMPA/2021/1709- 11 Sandcliffe Park, Midway, Swadlincote, DE11 7PX



MAPS ARE NOT TO SCALE
This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.
South Derbyshire District Council, LA 100019461.2020

Planning considerations

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

- Design;
- Amenity; and
- Highway Safety

Planning assessment

Design

Policy BNE1 of LP1 states that new development should be visually attractive, appropriate, respect important landscape and continuity within the street scene. Policy H27 of LP2 emphasises that proposals should be in keeping with, and not unduly detrimental to, the general character and appearance of the area.

The proposed development consists of a first floor extension above the existing garage which would extend back in two storey form to the rear wall of the existing dwelling. Beyond this there would be a single storey flat roof extension featuring a roof lantern.

The roofline of the two storey part of the proposals would be slightly set down from that of the host dwelling with a modest catslide dormer facing out towards the street, ensuring that the extension would be viewed as a subordinate sympathetic addition to the property.

The single storey extension is a relatively low lying modest form, contained entirely to the rear of the dwelling. Its design is considered entirely appropriate for this location.

Materials used would be in keeping with the existing dwelling, using brickwork to match existing for the walls of each elevation, and roof tiles to match existing (on the two storey extension). The proposed windows on the front of the elevation would be white UPVC to match the existing, To the rear more contemporary aluminium windows frames are proposed, given this is within the private amenity space of the dwelling with no public views it is considered that these materials are acceptable.

Whilst the addition of the new catslide dormer on the front elevation would change the existing form of the dwelling, it is considered that this would not significantly change the appearance of the existing dwelling, such that it would appear out of keeping in the streetscene.

It is considered that the scale, materials, design and character of the proposed development would therefore be in keeping with the existing dwelling and the local area in which it is situated, and is therefore is considered to meet the aims of policies BNE1 and H27.

Amenity

The existing dwelling is situated at the most northerly point of a small cul-de-sac. As a result, there are no immediate neighbours to the north of the application site which would be affected by any element of the proposals. The closest neighbours to the development are located directly to the south. The proposed southern elevation features small secondary windows with obscured glazing to ground floor level, which it is considered would protect the privacy of no.9 Sandcliffe Park. Being situated to the north of no.9, and due to the staggering of the dwellings within the street, the proposed two-storey extension is not considered to cause significant loss of amenity to this immediate neighbours through loss of daylight. The proposals are also not considered, due to their siting and the relationship between the host property and this immediate neighbour to cause an undue overbearing effect.

Being single storey, any impact on the immediate neighbour at no.9 as a result of the single storey addition is considered to be mitigated in terms of overbearing and privacy impacts by the existing boundary treatment, its scale (being a 3.8m projection) and siting.

Neighbours at no.8 are positioned to the east of the dwelling. Taking into account the distance between the proposed development and no.8, it is considered that the addition of a secondary bedroom/study window would not cause undue harm to the privacy of the occupants of the dwelling.

All other neighbours are considered to be sufficient distance away not to be adversely affected by the development.

Parking and Highway Safety

The proposal does not affect the existing car parking arrangements for the current 4 bedroom property. It is not considered that the addition of a further bedroom/study area would alter the parking demand for the site and as such the proposals are not considered to conflict with Policy INF2 of the LP1.

Summary

The proposed extensions are considered to be subordinate additions to the existing dwelling, which due to their design and siting are inkeeping with the character of the dwelling and wider streetscene and are not considered to have any significantly detrimental impact on the occupants of any neighbouring property. According the proposals are considered to be in accordance with the Council's Design SPD and Policies BNE1, INF2 of the LP1 and H27 of the LP2.

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

Recommendation:

Approve subject to the following conditions

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings ref. Location Plan J3349-01; Application Form; J3349-02 rev.C; J3349-04 rev.C unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. Other than where specified on the approved plans/drawings, all external materials used in the development shall match those used in the existing building in colour, coursing and texture unless, prior to their incorporation into the development hereby approved, alternative details are first submitted to and approved in writing by the Local Planning Authority pursuant to an application made in that regard, whereafter the approved alternative details shall be incorporated into the development.

Reason: In the visual interest of the building(s) and the surrounding area.

Item No. 1.10

Ref. No. [DMPA/2021/0090](#)

Valid date: 29/10/2021

Applicant: S Wain

Agent: JF Planning Associates

Proposal: **Demolition of existing dwelling and outbuildings and the erection of two dwellings at Broadfield, Thorn Tree Lane, Newhall, Swadlincote, DE11 0LW**

Ward: Newhall and Stanton

Reason for committee determination

The application is brought to the Planning Committee because it is subject to an appeal against non-determination. The determination as to what the decision of the local planning authority would have been has to be made therefore by the Planning Committee.

Site Description

The site is an agricultural smallholding, with a large individual two storey dwellinghouse situated at the north western end of the site. There are two accesses to the site. One is from a north easterly direction on Thorn Tree Lane for the section which leads to the A511, the other is from the southern end, via the section which leads to Bretby Road. Thorn Tree Lane is now pedestrianised only with bollards at the southern entrance to the site. There is a track which leads to the farmhouse cut into the hill in a shallow channel. There is also a public footpath which runs to the north west of the site. There are trees along the eastern boundary with Thorn Tree Lane. There are several outbuildings to the west of the farmhouse, and some older agricultural huts. There were animals on the site at the time of the site visit. There is evidence of an old second world war bunker to the west of the house.

The land continues to rise from the edge of the existing urban development to the top of the rise near where the dwelling is located. There is also a slight rise to the north east corner. The farmhouse is quite large, and is in need of improvement and refurbishment. There is a relatively open hedgerow on the north western side with the open countryside, which forms part of the Green Belt between Swadlincote and Burton On Trent. The field to the north is also owned by the applicant. The Limits to Development boundary for Swadlincote runs along Thorn Tree Lane, and tight to the north west side of the 1970's houses in Rose Tree Lane.

The proposal

The proposal is to demolish the existing farmhouse and other outbuildings, and replace them with two detached four bedroomed dwellings. One is on a similar footprint to the existing building, sitting slightly further forward on the plot to allow a larger rear garden area with the field boundary, and one adjacent to the other, but sitting further west. Access to the properties is shown as via Thorn Tree Lane to the south. Each would have a separate garage with additional hardstanding for parking and turning in front of the dwellings.

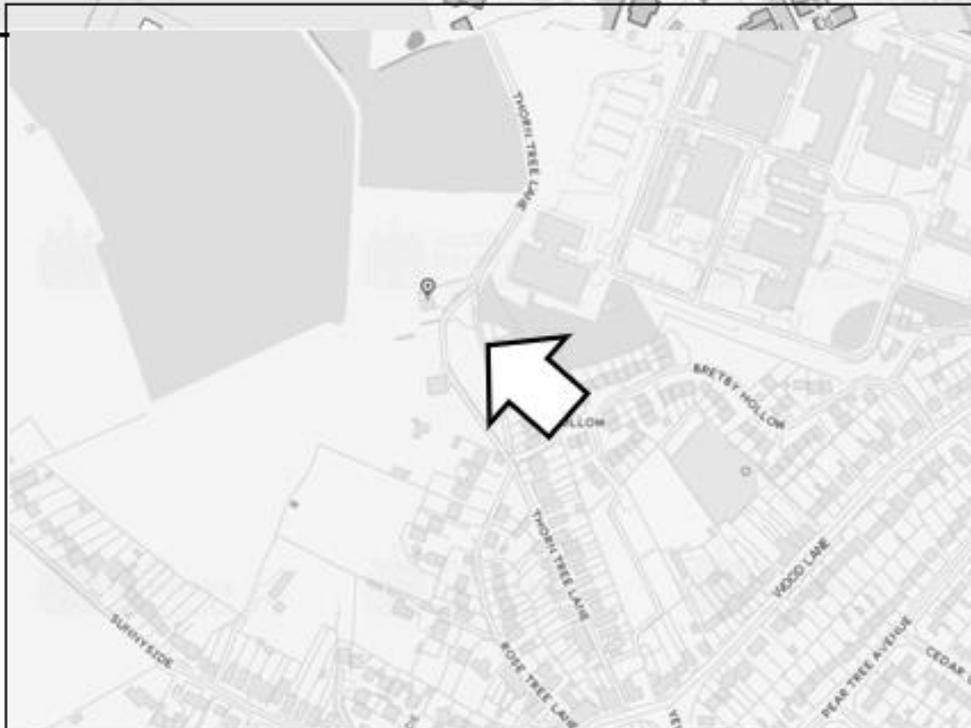
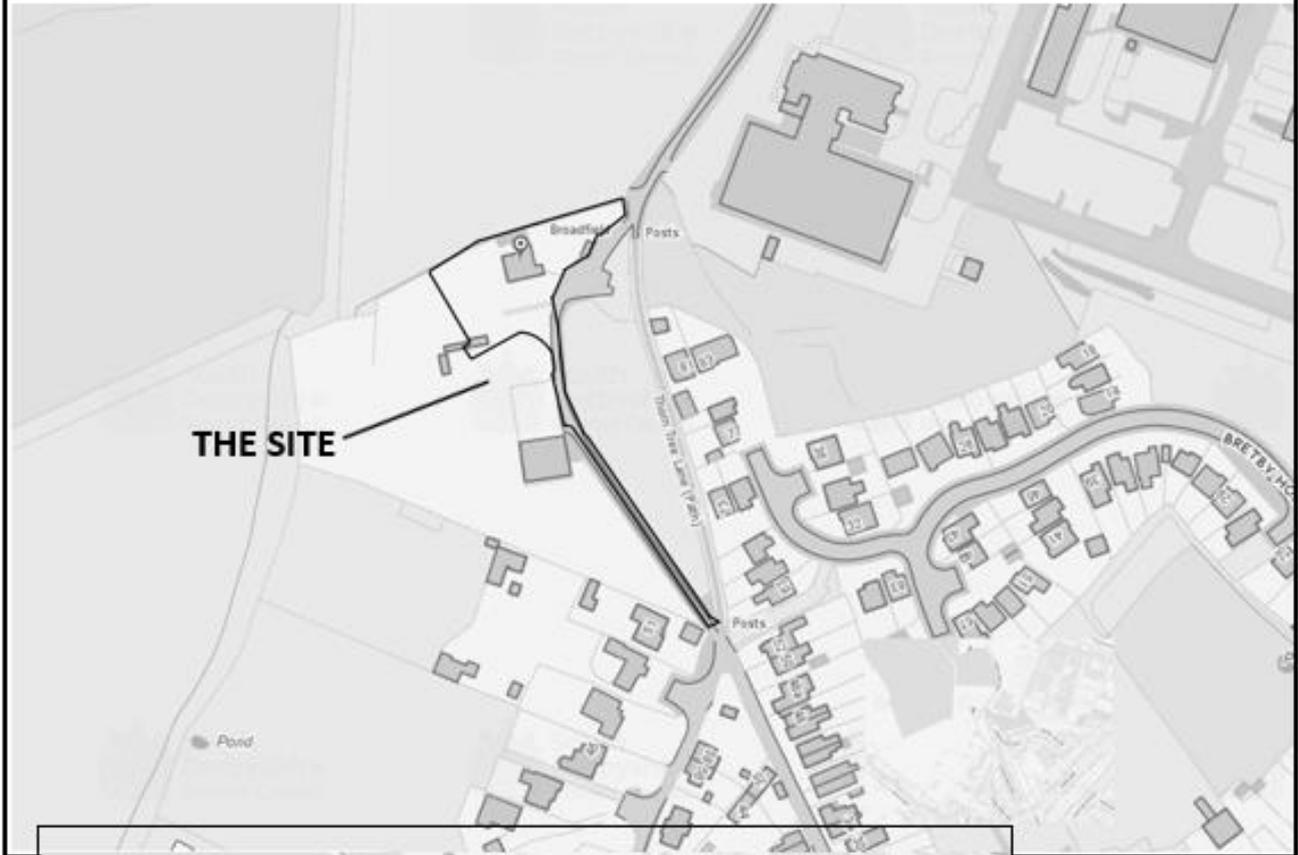
Applicant's supporting information

There is no specific additional supporting information submitted with the application. There is a Coal Mining Risk Assessment report. This will be assessed below.

Relevant planning history

No relevant planning history.

DMPA/2021/0090 – Broadfields, Thorn Tree Lane, Newhall, DE11 0LW



MAPS ARE NOT TO SCALE
This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationary Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.
South Derbyshire District Council, LA 190019461, 2020

Responses to consultations and publicity

The County Highway Authority has some reservations about the potential for conflict between vehicular and pedestrian movements, and the subsequent increase in traffic generated by the site. The site is bounded by two public rights of way, Footpath 84 to the north and footpath 83 to the east. The access to the site emerges at an acute angle to Thorn Tree Lane where it becomes footpath 83. It is not clear whether there is access to the site from Thorn Tree Lane in the north east corner.

Vehicular access to the north east would not be acceptable as this is a single width lane which carries the route of the footpath. This would increase conflict contrary to the best interests of highway and pedestrian safety. However, if only accessed from the south onto Thorn Tree Lane and Rose Tree Lane, then concerns can be addressed by imposing appropriate conditions.

Also in order to protect the safety of users of those roads avoid damage occurring from surface water flowing from the site, which may compromise safety, an additional condition should be added in the interests of highway safety.

The Coal Authority concurs with the conclusions of the Coal Mining Risk Assessment. Coal mining poses a risk to the proposed development. Investigations are required to ensure that the safety and stability of the development is assured. It is therefore recommended that appropriate conditions are imposed.

Severn Trent Water has no objection in principle to the scheme. It is recommended that the disposal of surface water by means of soakaway should be considered as the primary method of disposal before other methods are considered. It is suggested that an informative be added regarding public sewers.

The Environmental Health Officer has no objection to the proposal.

The Landscape Architect has no objection to the proposal, subject to some additions to a landscape scheme which will include the planting of native species hedgerows with trees. A tree protection drawing should show any trees to be removed and retained.

Councillor Bambrick has concerns about the proposal. Are there any TPO's on the site? There is a fallen tree overhanging the footpath.

Councillor Richards has requested that the application be brought to Planning Committee, because there are local concerns, and the issues are finely balanced, unless the recommendation is for approval.

Objections have been received from 13 local residents. These can be summarised as follows:-

- a) Will the proposal also include the demolition of the outbuildings. There are smells and fly/insect infestations which are from the farm animals.
- b) There is no method of disposal of foul sewage.
- c) Are there any future properties to be built at the site?
- d) The land is currently under dispute. The developers have bought the site but dont have access to the farm. Will this affect the planning?
- e) Thorn Tree Lane and Rose Tree Lane are narrow. How will deliveries get to the site?
- f) There is limited room to turn vehilces around at the top of the lane.
- g) There will be an effect on pedestrian safety.
- h) A previous application in the area has been refused because of a lack of services.
- i) This development will lead to more houses if approved.
- j) The site borders the National Forest, a place of beauty for locals to enjoy.
- k) How much land will these two houses take up? Will the access be from Bretby Lane? What will be the effect on wildlife. What will happen to the paddock next to the house? Will rights of way be protected across the land?

- l) Due to the rain there is water coming off the site made worst by removal of trees. There are no storm drains.
- m) There is a deep mine nearby the site, and there is an air raid shelter on the site. This is of significance to the history of the area.
- n) The woods next door are popular with walkers and cyclists. School children walk along the footpath and Rose Tree Lane.
- o) Parking is bad at the junction with Wood Lane and people have difficulty getting out.
- p) Work has started on the site to secure it with fencing and there has been some demolition of buildings.
- q) Access should be via the A511 not Wood Lane. Construction vehicles will damage Thorntree Lane. There will be mud of the roads.
- r) Vehicles could block access for other nearby residents and emergency vehicles.
- s) The replacement of one dwelling with two appears contrary to the Local Plan. No justification is provided for this.
- t) There may not be sufficient space to provide the adequate access for two-way traffic within the site.
- u) There is a historic character to the top end of Thorntree Lane. The farm entrance makes a strong contribution. There would be a detrimental impact from widening the access.
- v) There are large containers on the land, and they have been placed there with access from the A511.
- w) There has been tree felling during the bird nesting season, and this is illegal.
- x) There is digging within a contaminated area. This is being transported off site. There is asbestos buried on site. There are no hazard warning signs and not wearing of hazard suits. Contaminated waste is being taken on uncovered trucks. The public footpath has been diverted adjacent to Broadfields.
- y) Neighbour notification was not wide enough. More people in Thorntree Lane should be notified.
- z) The line of the public footpath is incorrect. There is a marker stone within the field between Consortium Wood and Broadfield.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

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

Local Plan Part 2 (2017): SDT1 Settlement Boundaries and Development and BNE7 Trees, Woodland and Hedgerows.

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Planning considerations

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

- The principle of new dwellings in this location and impact on the appearance of the countryside;
- The effect of the proposal on the residential amenity of nearby occupiers;
- The effect of the proposal on the highway network;

- The effect on mining legacy; and
- The effect on the environment.

Planning assessment

The principle of new dwellings in this location and impact on the appearance of the countryside

The site is located outside of the Limits to Development boundary of the Swadlincote Urban Area 1 settlement boundary. The site is also located adjacent to the Burton-Swadlincote Green Belt which runs adjacent to the north western boundary where the dwellings would be located.

Policy S1 of the Local Plan Part 1 states that decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. Policy SDT1 of the Local Plan Part 2 sets out the settlement hierarchy. Outside of these settlement boundaries within the rural area as defined by policy H1, development will be limited to that considered acceptable by policy BNE5.

It is not considered that the proposal can be considered as infill development in the terms of policy BNE5 of the South Derbyshire Local Plan Part 2 2017. Policy H1 allows for development which is outside the Limits to Development boundary, but only that which is cross subsidy or an exceptions site. This proposal is not intended to be an affordable housing site.

The proposal involves development beyond the defined settlement boundary limits and does not represent permissible development under the terms of BNE5. It is concluded that the development cannot be considered to be infill development. Broadfield stands alone and isolated from the main part of the settlement. The settlement boundary here is strong and well defined by the line of Thorntree Lane to the south east of the site. The urban development around Bretby Hollows sets the edge of the urban development, and the 1970's development at the top of Rose Tree Lane sets the defined boundary in that location.

The existing house is not particularly attractive or historic. It is need of refurbishment and improvement. Nevertheless, it is some distance from the properties in Rose Tree Lane and Thorntree Lane. It is considered to be an isolated rural dwelling associated with the agricultural smallholding of which it forms a part. It sits immediately adjacent to the Swadlincote/Burton on Trent Green Belt, but not within it.

In terms of the design of the new dwellings, there is a slight difference in appearance to differentiate between the two plots. The dwellings in themselves would not be unacceptable in terms of their appearance by way of materials or design. They would be seen as new dwellings, but located in an isolated location towards the top of the rise.

In determining the application, consideration must be given as to whether other material considerations outweigh contrariness to the policies H1, SDT1 and BNE5.

Delving further into aspects of BNE5, the main issue to be assessed is therefore whether the development could take place without unduly impacting on landscape character, biodiversity, best and most versatile agricultural land or heritage assets.

Whilst not being particularly attractive, the principle of the replacement of the existing house with another house would be likely to be considered acceptable under policy H24 of the Local Plan. However, the proposal involves the increase in the number of dwellings at the site from 1 to 2. The proposal would result in the increase in urbanisation of the site, and would have a greater impact on the openness of the site, on land adjacent to the Green Belt, and have a detrimental impact on the appearance of the site from the nearby public footpaths. The proposal along with the increase in cars, and other domestic paraphernalia from the gardens, fencing etc would have a detrimental visual impact and therefore impact on the appearance of the site within this countryside location and change its character from that of a single farmhouse on a smallholding. On this basis, it is considered that the

proposal would fail to comply with guidance within the NPPF at paragraph 174. The proposal would fail to enhance the natural and local environment.

Whilst the proposal would result in a modest increase in the provision of housing within the District, the Council at the present time can demonstrate a five year supply of housing. It is not considered that there are sufficient reasons to outweigh the contrariness of the development to the above policies. On this basis, the proposal is considered to be contrary to policies S1, S2, S4, H1, and BNE4 of the South Derbyshire Local Plan Part 1 2016, and policies SDT1 and BNE5 of the South Derbyshire Local Plan Part 2 2017 and the relevant sections of the NPPF.

The effect of the proposal on the residential amenity of nearby occupiers

The proposal would result in the increase of movements to and from the site from car vehicles which would result in some level of increased noise and activities. However, in comparison to the overall noise from the other dwellings which use Rose Tree Lane and Thorntree Lane, this is not considered to be materially different, such that the proposal would be unacceptable. Similarly, there would be an increase from construction traffic in the event of an approval, but this would be a necessary temporary situation. Construction hours could be controlled by condition in the event of a permission being granted.

The distance between the proposed dwellings and the adjacent occupiers in Bretby Hollows and Rose Tree Lane are considered acceptable to not result in any issues relating to overlooking or overbearing impact on nearby occupiers. The proposal would therefore be capable of complying with policy SD1 of the South Derbyshire Local Plan Part 1 2016.

The effect of the proposal on the highway network

A number of objections have been raised with regard to the potential increase in traffic from the increase in the number of dwellings at the site from one to two. This would be likely to result in increased traffic movements to and from the site. The site location plan indicates that traffic would come via the southern access to Thorntree Lane.

The Highway Authority has weighed up the impacts of the increase in traffic movements along with narrow lane. Whilst accepting there will be an increase, it is not considered such a level of increase that would result in a recommendation for refusal of the proposal. Again, given the number of vehicles which can access Rose Tree Lane and Thorntree Lane, the increase of one dwelling and the associated increase in number of vehicles is not considered of sufficient intensity or amount that results in unacceptable impacts on the highway network. On this basis, the proposal is acceptable, and it is recommended that appropriate conditions are imposed to deal with the development in the event of the application being granted planning permission by the Inspector. The Highway Authority has stated that they would not want the development accessing the site from the northern access. The applicant has indicated this intends to be the case, although there will be historic rights which mean that the site could be accessed from either access.

The Highway Authority would also want to see conditions which would limit any surface water run off from the site onto the highway, which could be dealt with via a french drain, or similar, across the access drive.

It is therefore concluded that the proposal would be acceptable on highway grounds, and complies with policy INF2 of the South Derbyshire Local Plan Part 1 2016 and the relevant sections of the NPPF.

The effect on mining legacy

The submitted reports concludes that there is the potential from previous mine workings in the area. It concludes that intrusive investigations are required further establish the depth of these. Drilling and gas monitoring will be required. It is considered appropriate to impose conditions regarding the further detailed intrusive site investigations in accordance with the conclusions in the report. It is therefore

considered that the proposal would be acceptable and capable of complying with policy SD4 of the South Derbyshire Local Plan Part 1 2016.

The effect on the environment

In the event of a permission being granted by the Inspector, It is suggested to impose a condition relating to the reduction of water consumption within the dwellings in accordance with policy SD3 of the South Derbyshire Local Plan Part 1 2016, and to help meet the Council's commitment to reducing the impact of climate change.

Similarly, it is suggested to impose a condition requiring the provision of an electricity charging point for each new dwelling to provide opportunity for future occupiers to charge their electric cars. This would help meet the requirements of the Council's statement of acknowledging being in a Climate Emergency.

Severn Trent has requested imposition of a condition requiring details of the disposal of foul sewage and surface water run off. The PPG and Building Regulations indicate that disposal by means of soakaway should be the primary method of disposal. The site is large so there should be opportunities to improve the surface water run off environment over the existing arrangements, such that there would be material detrimental impact as a result of the development. They also suggest an informative with regard to the location of public sewers. The applicant has indicated that soakaways would be feasible at the site. Foul sewage would be to mains sewers. Conditions can be imposed to deal with surface water run off from the site, to improve the situation over the current arrangements, and also foul sewage can be dealt with by condition and would be through the Building Regulations. It is therefore concluded that the proposal would be capable of complying with policy S3 of the South Derbyshire Local Plan Part 1 2016.

There is potential for improvements to be made to the landscaping of the site and the surrounding area to improve the biodiversity at the site and surrounding area. There are no protected trees on the site at the time of writing. Imposition of a condition could secure new native tree planting to help minimise the impact of the new dwellings, although it is not considered that this would be sufficient to totally mitigate the impact of the increase in dwellings at the site, and the overall impression of an increase in the urbanisation of the site. The proposal would also thereby be contrary to policy BNE4 of the South Derbyshire Local Plan Part 1 2016.

Conditions could also include opportunities for new bat roosts and bird boxes given its location close to suitable habitat and the countryside. It is not considered that the proposal would otherwise harm any protected species, although it would be beneficial for the applicants to undertake a survey prior to any demolition of the existing dwelling, in the event of an approval, to ensure that there would be no breaking of the law. An informative can be added as such. The proposal is capable of complying with the relevant sections of policies BNE1 and BNE7 of the Local Plan Part 1 2016.

Other Issues

The development is not large enough to require contributions to local services and facilities. There were issues at the time of the submission of the application relating to disputes about the tenancy and ownership of the land which it is understood have been resolved. This would not affect the assessment of the planning application on planning grounds.

The assessment has been made based on the submission of this scheme and does not set a precedent for assessment of any future planning applications at the site.

There are no public rights of way that would be directly affected by the development within the site boundary.

There is no indication that the air raid shelter is of particular historic importance.

Mud on the roads would be controlled by the Highway Authority, and an informative can be imposed in the event of a grant of planning permission by the Appeal Inspector.

In terms of consultation, initially those immediately adjacent to the site were consulted, as legally required, and then additional consultations were sent to some residents in Thorn Tree Lane during the course of the application that were slightly further away from the entrance to ensure a wider consultation.

Conclusions

It is considered that the proposed development of two new dwellings would be contrary to the policies of the development plan being wholly located outside of the Limits to Development of Swadlincote within the open countryside. There are no overriding reasons to allow for the increase in the number of dwellings on the site. It is therefore recommended that the Planning Inspectorate be informed that the application would have been refused in the event of the appeal not being submitted.

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

Recommendation

Due to the submission of a planning appeal against non determination, the decision of the local planning authority would have been to **Refuse** the application for the following reason:

1. The site is located outside the Swadlincote settlement boundary and does not benefit from an allocation in the Local Plan Parts 1 or 2, nor does it qualify as an exception or cross subsidy site, or as infill development. The proposed development, increasing the number of dwellings at the site, would therefore represent an unwarranted incursion into the open countryside, changing the character of the site and the smallholding; and by having a detrimental impact on the visual amenity of the site being located adjacent to the Green Belt, being prominently located towards the top of the private drive accessed from Thorn Tree Lane. The proposal would be contrary to the plan-led system and does not representing sustainable development in principle. The proposal would be contrary to policies S1, S4, H1 and BNE4 of the Local Plan Part 1 2016, policies SDT1 and BNE5 of the Local Plan Part 2 2017 and the provisions of the NPPF.

Item No. 1.11

Ref. No. [DMPA/2021/1883](#)

Valid date: 22/12/2021

Applicant: E Coke-Steel

Agent: JVH Town Planning Consultants LTD

Proposal: **The variation of condition no. 2 of permission ref. 9/2016/1227 (The Change Of Use From Former Farm Buildings To Wedding Venue, Formation Of Incidental Car Parking Areas, Improvements To Vehicular Access) at Grangefields Farm, Long Lane, Thurvaston, Ashbourne, DE6 5BH**

Ward: Etwall

Reason for committee determination

The item is presented to Committee at the request of Councillor Patten because local concern has been expressed about a particular issue.

Site Description

Grangefields Farm is located off Long Lane, Thurvaston. The farm complex lies north east of Long Lane at a distance off 550m. The farm is a traditional square shaped complex of two storey brick and tile buildings enclosing a central courtyard. The farm house is located in the south eastern corner of the complex. A portal framed open dutch barn is within the eastern part of the courtyard. The farm sits on lower lying land than Long Lane and due to the topography it is visible in the landscape at long distances. Properties located along both Osleston Lane to the west and Dalbury Lees to the east are visible as the land rises in these directions.

The proposal

This application seeks to regularise the development of the existing wedding venue by varying Condition 2 (approved plans) of the original permission (9/2016/1227) to reflect the development as now constructed in addition to some details still awaiting final installation. The development as built includes a smaller raised veranda in the internal courtyard, reconfiguration of the internal space - in particular the location of the 'Disco area at the northern side of the complex.

Applicant's supporting information

The [Noise Impact Assessment](#) considers the impact of noise from the wedding venue on nearby residential properties. The report considers the break out of noise from music and amplified voices during speeches. The report makes outline recommendations for improvements to the building envelope to control noise break out and provides noise limiting criterion for any external mechanical services. A baseline noise survey has been carried during the period 22:30-00:30 hrs to identify the existing noise levels representative of the closest residential properties to the proposed wedding venue. To control noise breakout to an acceptable level at the closest residential properties the assessment recommends:

- A layer of 100mm thick RWA45 acoustic mineral wool within the dancefloor roof to provide additional sound insulation. (Installed as per figure 8 of the report).
- Double glazed external windows to the dancefloor.
- Air conditioning with fully ducted air supply and extract to the dancefloor.
- A closed off entrance screen to the currently open archway in the west elevation with a self-closing door.

**DMPA/2021/1833 - Grangefields Farm, Long Lane,
Thurvaston, Ashbourne, DE6 5BH**



MAPS ARE NOT TO SCALE
This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.
South Derbyshire District Council, LA 10071401 1.020

The closing of archway in the west elevation which has been allowed for in the calculations of noise breakout detailed in the report. The other measures detailed above have not been included in the calculations and are expected to provide further improvements to the control of noise emissions from the wedding venue.

The dBLAeq and dBLeq levels of music noise break-out from the venue have been recorded as below the broad band and octave band background noise levels. The dBLAeq and dBLeq of noise from amplified voices during the speeches will be below the broad band and octave band background noise levels.

The Amended Noise Impact Assessment considers the impact of noise from the wedding venue on nearby residential properties. The report considers the break out of noise from music and amplified voices during speeches based on the amended layout. A baseline survey was undertaken on Friday 7th October 2016 prior to the site being refurbished. The main noise sources were distant road traffic, intermittent road traffic and occasional aircraft overflights. A survey of noise break-out was undertaken on Wednesday 5th January from 15:30 to 17:45. Noise was generated using the venues sound system. The noise levels were generated for testing purposes when the venue was not open and were set to match sound levels during events. The calculated noise level at receptors arising from music break-out and voices in the courtyard is at or below background noise level. Additional improvements are proposed which will further reduce the music noise break-out as listed above.

The Planning Statement sets out the purpose of the application and the reasons for using the Section 73 application process setting out the changes to the proposal against the approved scheme.

Relevant planning history

9/2016/1227 - Change of use from former farm buildings to wedding venue, formation of incidental car parking areas, improvements to vehicular access - Approved 30/06/2017

Application for approval of details required by conditions 18, 20, 21, 22 and 24 was discharged under 9/2016/1227.

DMOT/2019/0913 - Application for approval of details required by conditions 4, 5, 9, 12, 14, 15, 16 and 17 attached to planning application ref. 9/2016/1227 (relating to the change of use from former farm buildings to wedding venue, formation of incidental car parking areas and improvements to vehicular access) - Approved 1/05/2020

Responses to consultations and publicity

Environmental Health - Initially requested an updated noise impact assessment as the noise assessment submitted was predicated on the original layout and not the layout to which the wedding venue has been constructed and the original report and findings are therefore considered invalid. Following receipt of the amended noise assessment the findings and recommendations of the survey are considered acceptable.

Derbyshire Wildlife Trust - No objections.

County Highways - The proposed access drawing, showing amendments to the junction with Long Lane, visibility splays and passing places, does not appear to differ significantly from that approved in respect of the original application (9/2016/1227) for a wedding venue on the site. Therefore, subject to the conditions and notes relating to access and parking previously recommended by the Highway Authority being included in any consent for the current application, there are no objections to the proposal from the highway point of view.

Four representations have been received raising the following issues:

- a) Noise disturbance late until 12am in this once peaceful tranquil area;
- b) Cannot open windows in warmer months due to noise;
- c) clearly hear the music/talking/shouting sitting in our own gardens;

- d) Given the number of events this is an issue;
- e) Light pollution
- f) Lighting is obtrusive and misplaced polluting an area that is intrinsically dark;
- g) Mis-use of fire doors led to additional noise;
- h) No efforts to improve the situation after concerns raised with business;
- i) Diary of events kept of noise of varying levels in different weather conditions;
- j) Insufficient notification given of application.

Relevant policy, guidance and/or legislation

The relevant policies are:

Local Plan Part 1 (2016): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), E7 (Rural Development), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF10 (Tourism Development)

Local Plan Part 2 (2017): SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows), BNE10 (Heritage)

The relevant national policy and guidance is:

National Planning Policy Framework

National Planning Policy Guidance

Planning considerations

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

- Principle of Development
- Residential Amenity and Noise

Planning assessment

Principle of Development

Since the wedding venue started operating both Environmental Health and Planning Enforcement have received complaints about noise which also highlighted the inconsistencies between the venue as built, and the original permission. This application is a Section 73 application and seeks to regularise the development approved under existing permission (9/2016/1227) by approval of alternative plans reflecting the development as built rather than as originally approved. These amendments reflect the overall layout of the internal spaces, the proposal utilising the former traditional agricultural farmstead. Externally the internal courtyard that was proposed to be wholly raised has been scaled back and instead a raised verandah has been built adjoining the main dining room. Other elements that were proposed such as the day bar area located within the southern building have not now been built, nor have the toilets to the south eastern corner.

The principle of development has already been addressed in the previous permission and the development was considered to comply with policies BNE5, and in particular, INF10. This application assesses the impact of these amendments on the overall proposal and their suitability. In addition, a number of conditions have previously been discharged removing the need to repeat conditions on any permission that might be issued.

Residential Amenity and Noise

Given the original proposal was for the conversion of the existing traditional agricultural buildings there is very little difference externally to the amended scheme. The buildings are remote from other built development with a long driveway set amongst fields.

Internally the main changes from the previously approved scheme are the relocation of the kitchens to the southern end of the dining area and the bar to the kitchen's former location. A repositioning of the ceremony room and the dance floor to where the toilets were located makes better use of the space

and has ensured that the dance floor element of the scheme is now within the most insulated and contained area of the site with adjoining buildings on three sides and a lower roofline. The internal layout now appears to work more efficiently. The submission of a drawing showing the section through the dancefloor area of the building shows that the acoustic mineral wool insulation has been fitted. Whilst the dance floor is located adjacent to the car park to the north, there are no public access points directly onto the car park other than fire doors. The operators have posted signs on these doors stating that these shall not be opened unless in an emergency.

The applicant has submitted an amended Noise Assessment which sets out the conclusions of the testing undertaken in January 2022 at the converted buildings and concludes that the break-out noise levels for both music and voices of customers in the courtyard/terrace area are at or below background noise level at receptors R1 - R4. These residential receptors are identified in the report at locations in Thurvaston to the west, the junction of Long Lane and Burrows Lane to the north, Lees to the east and Trusleywood Farm to the south. In addition, the calculated level of noise from music and voices at the receptors is well below the British Standard (BS)8233. Additional improvements are also planned that will further reduce music break-out such as the enclosure of the entrance on the western side through the addition of the glazed doors as shown on drawing no P002 Revision C and double glazed windows in the dancefloor area. To counter the lack of ventilation through the opening of the doors and windows in the dancefloor area air conditioning with fully ducted air supply is proposed to be fitted. The Council's Environmental Health Manager has discussed the methodology behind the Noise Assessment and, following receipt of the amended noise assessment, confirms that he is satisfied with the results of the assessment recommending the assessment be part of the approved plans condition. The amended scheme is therefore considered to comply with SD1.

Other Matters

An objection was raised that neighbour consultation was not sufficiently comprehensive. A site notice was posted by the application site. Site notices are posted on applications that are in accordance with Local Plan policy where no neighbours are within 4m of the application site. The correct consultees include Trusley Parish Council and the elected members, in line with the Statement of Community Involvement (2018). Whilst Trusley Parish Council has only recently been a functioning Parish since November 2021, they were not consulted at the outset of this application. They have since been consulted and their consultation period ends on 4th June 2022. Therefore a decision cannot be made until the consultation period has elapsed. At the time of the original application, Dalbury Lees PC was consulted. They objected to the principle of the proposal stating that the application was neither 'essential' nor 'unavoidable' in terms of BNE5. They also felt that the original noise assessment was inadequate. However, these issues were discussed at Committee in at the time of the original application and the proposal, which was policy compliant, was granted subject to conditions.

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

Recommendation:

Approve subject to the following conditions

1. The development hereby permitted shall be in accordance with drawing nos. and report..
GF251121_P001C - Block Plan
GF251121_P002C - Ground Floor Plan
GF251121_P003C - First Floor Plan
GF251121_P004C - Roof Plan
GF251121_P005C - Proposed Elevations (1 of 2)
GF251121_P006C - Proposed Elevations (2 of 2)
GF251121_P010C - Site Location Plan (with Lighting)

GF251121_P011C - Access Visibility Splay and Parking Place Details
GF251121_P012C - Drainage
GF251121_P013C - Landscaping
GF251121_P020C - Site Plan
GF251121_P026C - Dance Hall Section

Noise Assessment 12023.06.v6

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 achieving sustainable development.

2. The premises shall not be open to any guests between the hours of 01:00 to 08:00.

Reason: To protect the amenities of nearby residents.

3. The access shall retain a minimum width of 6m for the first 20m into the site from the highway boundary, be provided with 6m radii and visibility sightlines of 2.4m x 116m in the easterly direction and 2.4m x 123m in the westerly direction, the area forward of the sightlines shall be maintained throughout the life of the development clear of obstruction.

Reason: In the interests of highway safety.

4. Any gates shall be set back at least 15m into the site and open inwards only.

Reason: In the interests of highway safety.

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

6. There shall be no use of fireworks or Chinese lanterns at the premises at any time for the life of the development.

Reason: In the interests of residential amenity.

7. The bat mitigation measures will be monitored for a minimum of three years after construction with reports submitted to the Local Planning Authority, Derbyshire Wildlife Trust and Derbyshire Bat Conservation Group immediately following completion of each survey.

Reason: To ensure that ecological interests are protected in accordance with paragraph 180 of the National Planning Policy Framework.

Informatives:

- i. The application site is affected by a Public Rights of Way (Footpath 15 in the Parish of Trusley, as shown on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further information can be obtained from the Rights of Way Duty Officer in the Economy, Transport and Communities Department at County Hall, Matlock.

- Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.

- 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 580000 for further information and an application form.

- 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.
- 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.
- 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.

Item No. 1.12

Ref. No. [DMPA/2022/0089](#)

Valid date: 19/01/2022

Applicant: Hewa Hama

Agent: Ashar Shuja

Proposal: **The erection of extensions and alteration including render to the side and rear elevation of 9B South Street, Woodville, Swadlincote, DE11 7DW**

Ward: Woodville

Reason for committee determination

The proposed extensions do not fully accord with the distances set out in the South Derbyshire Design Guide SPD and the application is recommended for approval.

Site Description

The application site comprises a two-storey semi-detached dwelling with additional accommodation in the roof. The site adjoins the attached property to the south (9A South Street) and to the north and east are other residential properties, those to the north located on the opposite side of an unadopted road. The application site is partially enclosed by a screen of conifer trees.

The proposal

Full planning permission is sought to erect two storey and single storey rear extensions to provide a dining room, kitchen, and w/c at ground floor, and two additional bedrooms above. Pitched roofs are proposed with the two-storey element set slightly lower at ridge height to the main dwelling.

Relevant planning history

There is no relevant planning history for this application.

Responses to consultations and publicity

One response has been received from a neighbour to the rear who is concerned about loss of privacy. It is contended that the occupants of 9b South Street have already invaded this neighbour's privacy by the cutting of trees that were in-between the properties. They have full view into their house now including the neighbour's bedroom. The proposed extension to said property would overshadow this neighbour's property, with additional loss of privacy.

Relevant policy, guidance and/or legislation

The relevant Development plan policies are:

Local Plan Part 1 (LP1) 2016: SD1(Amenity and Environmental Quality); and BNE1 (Design Excellence); and SD4 (Contaminated Land and Mining Legacy Issues); and INF2 (Sustainable transport)

Local Plan Part 2 (LP2): H27 (Residential Extensions and Other Householder Development)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

DMPA/2022/0089 - 9B South Street, Woodville, Swadlincote,
DE11 7DW



MAPS ARE NOT TO SCALE
This map is reproduced from Ordnance Survey material with the
permission of Ordnance Survey on behalf of the Controller of Her
Majesty's Stationery Office. Crown Copyright. Unauthorised
reproduction infringes Crown Copyright and may lead to
prosecution or civil proceedings.
South Derbyshire District Council, LA 10019861, 2020

Planning considerations

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

- Design
- Amenity
- Highway impacts
- Coal Mining Legacy impacts

Planning assessment

Design

The proposal to the semi-detached dwelling, comprises of the demolition of the previously existing kitchen & w/c and the erection of a two-storey rear extension, with an additional single-storey extension adjoining to the rear and side elevations of the property. The single and two-storey extension, being to the rear (which in most cases is in the least sensitive to alteration) and side elevations plus giving the poor condition of the property adjacent, it would have no detrimental effect on the character of the area. The rear extension is in keeping with the gable roof design of the host. Additional south facing windows, on the ground and first floor are proposed on the existing host.

The proposal to the single-storey rear extension, as an open plan kitchen/dining area, will have two roof lights above it. They will be situated between the ridge of the roof and nearly parallel to one another. Two (four panel) bi-folding doors will be to the north of the kitchen/dining area, facing towards the back garden. A horizontal window to the rear of the kitchen will be installed. Adjacent to the proposed kitchen/dining area there will be a w/c with a flat pitched roof, and two windows installed on the south facing wall. The additional single-storey extension situated on the north facing elevation and towards the front of the property will be a relatively minor addition, as the w/c, and likewise will have a flat pitched roof. Due to the small scale, the flat pitched roof is considered in keeping with the property. Two, elongated, vertical windows will be installed on the front and rear elevations of the proposed porch. Access to the porch will be from the north elevation, with double doors opening into the space.

Due to the dwelling being surrounded by conifers to the rear and south (above 1.5m high) as well as being set back from the road, it is not considered that there would be any significant impact on the street scenes. During the application process, concern was expressed with the materials used in the proposed plans, as the materials proposed were white render, cladding, and brick. Therefore, amended plans have since been submitted, with the proposal of adding white render to all elevations of the property. The large contrast between the materials of the two dwellings adversely affects the appearance of the semi-detached pair and would result in making 9B unduly visually prominent and out of character with 9A. To control this a condition could be used to ensure that the render is omitted from the front elevation, as the most visible in the streetscene. This would leave the host property with facing bricks to the front elevation and white render to the side and rear elevations, which is considered acceptable as it is to the rear and sides of the property.

Amenity

The proposal is considered to broadly comply with the space around the dwellings requirements of the South Derbyshire Design Guide (SPD), neither of a size or situation as to unduly overshadow adjacent primary spaces or cause a reduction in privacy again, to those same primary spaces.

In terms of overbearance, there will be some additional enclosure to the adjacent ground floor kitchen window on the attached property which in other circumstances may be unduly oppressive. However, the extension is to replace a rear ground floor projection, is located to the north of this neighbour, and the increased height and depth of the extension now proposed is not considered to result in an unacceptable impact in this context. The new two-storey extension (the SPD seeing that in the main

new two-story mass can be overbearing) is considered as an adequate distance away from the other neighbouring primary spaces.

In addition, the SPD guides when a concern over privacy has been raised, setting out minimum separation distances between primary spaces. Regarding impacts, on the properties to the east of the site (properties on Wedgewood Way) - the SPD requirements are adhered to. There is over 15m from the proposed kitchen window to the first-floor bedroom spaces at Nos 47/49. Also (with boundary fencing screening thereafter) regarding the distance of the host looking towards the neighbouring properties, there is over 21m from the proposed first floor bedroom windows (proposed bedrooms 3 and 4) of the host to the neighbouring properties.

Regarding the north facing elevation on the proposed ground and first floor plans, the distance between 9A and the properties to the north of the host (Thorn Street) with fair distance, measures approximately 20m. This is just short of what the SPD guide is aspirational for. The SPD guide states, 'The guidelines assume that sites are relatively level, with little to no screening'. With this in mind there is a 1.8m high fence with vegetation around the fence, in conjunction to this there is a public space/un-adopted road measuring approximately 6m wide which acts as a screening agent - with the public using this space and therefore meets requirements.

Highway Impacts

There aren't any impacts on the highway network as Thorn Street is on an unadopted road, and unadopted roads are not maintained by the Highway Act 1980. In addition to this, the SPD states 'The council strongly encourages developers to provide at least two spaces per dwelling. For homes of four bedrooms or more, it is recommended that three spaces are provided with an absolute minimum measurement of 2.4m (width) by 5.5m length)', The proposal comfortably fits within these guidelines.

Coal Mining Legacy impacts

The location of the host property is situated within an historic coal mining area. An informative will put on the decision notice to advise the applicant.

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

Recommendation

Approve subject to the following conditions.

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings of DMPA/2022/0089 unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. Other than where specified on the approved plans/drawings, all external materials used in the development shall match those used in the existing building in colour, coursing and texture unless, prior to their incorporation into the development hereby approved, alternative details are

first submitted to and approved in writing by the Local Planning Authority pursuant to an application made in that regard, whereafter the approved alternative details shall be incorporated into the development.

Reason: In the visual interest of the building(s) and the surrounding area.

Informatives:

1. Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at: www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries.
Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action. Property-specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider.
If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at www.gov.uk/government/organisations/the-coal-au

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 5
DATE OF MEETING:	31 MAY 2022	CATEGORY: Delegated
REPORT FROM:	HEAD OF PLANNING AND STRATEGIC HOUSING	RESTRICTED
MEMBERS' CONTACT POINT:	JENNY BLAIR JENNY.BLAIR@SOUTHDERBYSHIRE.GOV.UK	DOC:
SUBJECT:	NSIP CONSULTATION FOR OAKLANDS SOLAR FARM	REF: DMOT/2022/0585
WARD(S) AFFECTED:	LINTON AND SEALES	TERMS OF REFERENCE:

1. Recommendations

- 1.1 That the Committee raise any matters for the consultation response to the Head of Planning and Strategic Housing during this Committee, or in time for the 6th June 2022 deadline.

2. Purpose of Report

- 2.1 This report has been written to consider a consultation response to the Nationally Significant Infrastructure Project (NSIP) called Oaklands Solar Farm, which is a proposal to develop a solar farm of 163MW of solar power, and 37.5MW of energy storage capacity, in the general location of south of Drakelow, east of Walton on Trent, west of Rosliston and north of Coton in the Elms.

3. Background

- 3.1 NSIPs were introduced by the Government through the Planning Act 2008 in the fields of energy, transport, water, wastewater and waste. Due to the scale of these applications, they do not follow the usual planning application process, but go through a Development Consent Order (DCO) process whereby the application is made directly to the Planning Inspectorate. The District Council is therefore a consultee in the process rather than the decision-making authority.
- 3.2 This NSIP is at the 'pre-application' stage, and the formal statutory consultation was launched on 21st April 2022 and runs until 6th June 2022. The main document for consultation is the Preliminary Environmental Information Report (PEIR) which is available to view on the BayWa r.e. website (the applicant).
[Oaklands Solar Farm – BayWa r.e. \(baywa-re.co.uk\)](https://www.baywa-re.co.uk)

4.0 Discussion

- 4.1 Once the application is submitted to the Planning Inspectorate, the District Council has obligations to provide further comments including a Local Impact Report. Due to the work involved, the District Council intend to work jointly with Derbyshire County Council to share technical expertise. At this stage also, a response is required from South Derbyshire County Council, and it is currently intended that this will be submitted jointly with Derbyshire County Council.
- 4.2 South Derbyshire District Council are therefore invited to submit comments on the current consultation including the PEIR. Technical opinions from officers within the Council such as Environmental Health, Conservation Officer and Biodiversity Officer have been sought, and are in the process of being compiled. At this stage, more detail may be required for technical specifics to be commented upon.
- 4.3 Matters relating to highways, landscape and flood risk, will be picked up by the County Council, as the joint response is made.
- 4.4 Officers are aware that there is likely to be a mix of views coming through the consultation response, given the conflict between renewable energy being something the Council would likely support in principle in terms of its commitment to tackling climate change, balanced against the impact upon the locality itself in terms of visual impact and potential highway impact during construction, amongst others matters.
- 4.5 Members are also advised that they and their constituents are able to make their own representations to the consultation should they wish to do so.

5.0 Conclusions

- 5.1 Given the tight timescales involved and the joint response with Derbyshire County Council, a draft response is not available to view, however, members are asked to consider this consultation and feedback any comments they may have in time for the 6th June deadline.

6.0 Financial Implications

- 6.1 None

7.0 Corporate Implications

- 7.1 The proposal would contribute towards the key aim of the Corporate Plan to tackle climate change. However, it is acknowledged that there may be mixed views on the attractiveness of solar farms and therefore there is potential conflict with the key aim of the Corporate Plan to enhance the attractiveness of South Derbyshire.

8.0 Community Implications

- 8.1 The required public consultation is currently underway.

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 6
DATE OF MEETING:	31 MAY 2022	CATEGORY: Delegated
REPORT FROM:	HEAD OF PLANNING AND STRATEGIC HOUSING	
MEMBERS' CONTACT POINT:	SARAH BEEBY sarah.beeby@southderbyshire.gov.uk	DOC:
SUBJECT:	CONSULTATION FROM THE COUNTY COUNCIL ON APPLICATION REF. CD9/0222/34	REF: DMOT/2022/0426
WARD(S) AFFECTED:	ASTON	TERMS OF REFERENCE:

1. Recommendations

- 1.1 That the Committee agrees to provide a response to the County Council's consultation on the application which draws attention to the following considerations:
- Highways impact and the subsequent amenity impact on the residents of Thulston and Elvaston
 - Impact on trees and biodiversity
 - Drainage and land contamination
 - Impact on Listed Buildings
- 1.2 That the Committee delegate authority to the Head of Planning and Strategic Housing in consultation with the Chair to agree the finer detail and wording of the response.

2. Purpose of Report

- 2.1 The purpose of the report is to inform members of the consultation on the planning application at Elvaston Castle which is being considered by Derbyshire County Council as the Local Planning Authority in this instance. This report considers the proposals against relevant local and national policy and provides the recommendations above in response to the consultation exercise by the County Council.

3. Background

- 3.1 A planning application has been submitted by Derbyshire County Council in relation to the conversion and extension of existing buildings to commercial use, and construction of access drive and car park at Elvaston Castle Country Park. The County Council are the Local Planning Authority for this application and have consulted South Derbyshire District Council on the proposals. SDDC will be the Local Planning Authority for the corresponding Listed Building consent application

(DMPA/2022/0318) which is under consideration and relates solely to the works proposed to the Listed Buildings.

3.2 The works applied for in this planning application include:

- The restoration and conversion of a number of the 'core buildings' to provide new and improved commercial, leisure and educational facilities.
- A new café and play space.
- A new entrance from the B5010, access drive, replacement car park and delivery route.
- Landscaping throughout the site

3.3 The application is supported by a number of supporting document including:

- Planning application form
- Site Location Plan, block plans, floorplans and elevation plans
- Air Quality Assessment
- Design and Access Statement
- Environmental Statement
- Heritage Statement
- Land Contamination Assessment
- Landscape and Visual Impact Assessment
- Landscaping details
- Noise Impact Assessment
- Drainage Strategy
- Planning Statement
- Statement of Pre-application Community Engagement
- Sustainability Statement
- Transport Assessment
- Travel Plan
- Tree Survey

3.4 Derbyshire County Council are the Planning Authority determining the application and as well as SDDC Local Planning Authority they have consulted with the following consultees on the application requesting their comments:

- Aston on Trent Parish Council
- Cadent Gas Limited
- Crime prevention Officer
- Derby City Council
- Derby City Council Environmental Health
- Derbyshire Wildlife Trust
- Diocese of Derby
- Elvaston Parish Council
- Environment Agency
- Highways England
- Historic England
- Natural England
- Ockbrook and Borrowash Parish Council
- Severn Trent Water Limited
- SDDC Environmental Health
- SDDC Tree Officer
- The Gardens Trust

- The Georgian Group
- The Victorian Society
- Western Power

They have also consulted a number of their own internal departments including:

- Built Heritage Officer
- Archaeologist
- Ecology Officer
- Landscape Officer
- Countryside Team
- Footpaths Team
- Flood Team (LLFA)
- Network Management
- Tree protection officer

3.5 The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), S8 (Green Belt), E2 (Other Industrial and Business Development), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF6 (Community Facilities), INF7 (Green Infrastructure), INF10 (Tourism Development),
- Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas), BNE7 (Trees, Woodland and Hedgerows), BNE10 (Heritage)

The relevant local guidance is:

- Trees and Development SPD

The relevant national policy and guidance is:

- National Planning Policy Framework (NPPF) 2021

4.0 **Discussion**

4.1 Elvaston Castle County Park encompasses approximately 321 acres of open parkland, woodland and more formal historical gardens. At the heart of the estate lies Elvaston Castle. It is owned and maintained by the County Council and has been for a period in excess of 30 years. It is a Registered Park and Garden and has a significant number of listed buildings within the grounds. There are no fees for members of the public to access the site, with many people arriving on foot and a small cost per vehicle associated with parking in the existing car park. The costs associated with maintaining the country park are in excess of any revenue from car parking charges.

4.2 This, coupled with a declining budget since the 1990's has resulted in the decline of a number of buildings within the upper and lower stable areas as whilst there has

been a continued financial commitment from the County Council the estate as a whole requires considerably increased resources.

- 4.3 The County Council have explored ways of attracting more visitors and increasing income such that further investment can be made to the estate, working alongside an independent charity (The Elvaston Castle and Gardens Trust) and the National Trust. A masterplan for the estate has been created, with this current application forming its first stage, with the main proposals being the relocation of the car park adjacent the historic buildings at the core of the estate and the creation of a new driveway to access this. The restoration and conversion of the buildings within the upper and lower stable areas to create enhanced visitor facilities such as improved toilets, an information point, areas for education, plant sales area, offices, craft workshops and small retail units is also proposed along with a new café and play area.
- 4.4 Access to the site by car will be off a new roundabout on the Shardlow Road (B5010), connected to the wider road network via Derby's outer ring road and the A6 Alvaston Bypass and Raynesway (A5111). These in turn connect to the A52 and A50 and through to Derby, Nottingham and the M1. Routes through Borrowash, Elvaston Village and Thulston will not be encouraged, but will be possible. The roundabout will lead to Elvaston's new vehicular access drive, this would be a two-way route, kept to minimal widths to reduce impact and encourage reduced speeds. There will be no illumination. It is understood that a number of alternative access points have been considered. Insufficient information has been included on background/options analysis to inform this application as to why alternatives were discounted and to support the proposals.
- 4.5 The access drive, closer to the core of the Estate, is twinned with an existing bridleway. Care needs to be taken to ensure that any conflict between vehicles and equestrian, cycle and pedestrian users is avoided. Where the road enters the new car park it crosses a bridleway. It will be crucial that at this point a crossing is designed to ensure that pedestrians and all users of the bridleway are given priority over vehicles, supporting sustainable travel and leisure users, ensuring this route remains direct, continuous, safe and secure in accordance with Policy INF2 and BNE1. Further information on this should be requested.
- 4.6 Policy S8 (Green Belt) states that measures to improve public access to the Green Belt and improve connectivity will be encouraged. There is a presumption against inappropriate development in the Green Belt, as set out within Chapter 13 of the NPPF, whereby the construction of new buildings should be considered inappropriate excepting in circumstance set out in the NPPF including the provision of appropriate facilities for outdoor sport and recreation, limited infilling or redevelopment of previously developed land which would have no greater impact on the openness of the Green Belt. Other forms of development such as engineering operations, the reuse of buildings and material changes of use of land are also considered not to be inappropriate.
- 4.7 It is considered that the works to repair and convert the existing buildings would be appropriate development, consistent with the relevant policies of the NPPF. The new road, car park and associated works are considered to fall within paragraph 150 parts being engineering operations for local transport infrastructure required to be in the Green Belt due to the location of the Elvaston Castle in this location.

- 4.8 In regard to the new café, this would be set within the range of courtyard buildings, with a link connecting the existing buildings to the new café, with the entrance being through the existing building. This has been designed in such a way so as to minimise the impact on the built heritage by ensuring that the proposals are seen as a clear extension to the earlier parts of the complex. Paragraph 150 part c allows for 'the extension or alteration of a building provided that it does not result in disproportionate additions over the size of the original building'. There is no definition of what would be a 'disproportionate addition', this is something for the decision maker to conclude, however in practise this is often taken as meaning an increase of over 50%. Whilst the café would not be insignificant, it is attached to and set within the complex of the courtyard buildings which form a typical continuum of the built form on three sides. In this context it could be considered to not be a disproportionate addition to the complex as a whole. It is relatively low lying so as not to compete with the existing buildings and is informed by the land levels in this area such that it is not considered to conflict with the purposes of Green Belt.
- 4.9 SDT1 of the LP2 provides definition of the limits of a settlement, i.e. settlement boundaries. Elvaston Castle Country Park is located in a rural area/open countryside location. To this end policy BNE5 of the LP2 'Development in Rural Areas' is relevant which states that 'outside of settlement boundaries (as defined in policy SDT1) within the Rural Areas of the district planning permission will be granted where the development is:
- i. allowed for by policies H1, H22, E7, INF10, H24, H25, H26, H27 or H28; or
 - ii. otherwise essential to a rural based activity; or
 - iii. unavoidable outside settlement boundaries; or
 - iv. considered to be infill that is in keeping with the character of the locality and represents the infilling of a small gap not for normally more than two dwellings, within small groups or housing; and
 - v. will not unduly impact on: landscape character and quality, biodiversity, best and most versatile agricultural land, and heritage assets.'

As the works relate to improved leisure and tourism facilities at Elvaston Castle Country Park it is considered that part iii) of the above is satisfied and thus the impacts on loss of character, landscape, ecology and flood risk require assessment in order to inform whether the development is in compliance with policy and if sufficient mitigation is proposed. Noting that the site is in a rural location and would offer employment opportunities also it could also be considered as a site of Rural Development in terms of E7 subject to highways, amenity, local character and visual impacts being considered. The County Council will need to be satisfied that the proposals comply with the requirements of these policies, informed in part by the consultation responses of statutory consultees.

- 4.10 Policy BNE3 states that the Local Planning Authority will support development which contributes to the protection, enhancement, management and restoration of biodiversity and delivers net gains where possible by protecting sites of local and national significance from inappropriate development, supporting and contributing to relevant targets for priority habitats, protecting ancient woodland and veteran trees from loss, unless the need or benefits outweigh this loss. Proposals that affect local nature reserves or wildlife sites will need to be supported by appropriate surveys sufficient to fully understand the likely impacts. Policy BNE7 states that where

development could affect important trees, woodland or hedgerows developers will be expected to demonstrate the layout has been informed by appropriate surveys, appropriate measures ensure adequate root protection and buffer zones. The felling of trees should be considered in accordance with national guidance, replacements should be sought, impact on biodiversity should be minimised.

- 4.11 The application is supported by an Arboricultural Assessment and ecological survey work in the form of an Environmental Statement (ES) Biodiversity Chapter with supporting appendices. The survey baseline appears to have been undertaken in accordance with best practice industry standards and is sufficiently robust. Limitations to survey work have been appropriately described.
- 4.12 The access drive has been designed to minimise its impacts on the setting of the historic Estate and retain as many trees as possible, especially veteran trees. However, the access, drive, cafe and car park would result in the loss of three Category B trees (Pine, Silver Birch and Aspen) trees. There would also be some impact on 5 woodlands, with some removal of edge trees close to pathways or infrastructure and the removal of the first line of trees either side of the car park access to provide a working area. The service road would require the removal of one mature tree within W15. Other removals would be smaller, but using a no dig engineering solution, the road could be constructed with a low overall harm to the woodland.
- 4.13 There will be some more significant harm to category B woodlands 3, 8, 9 and 13. Works are considered to be more significant where there are some uncertainties in level changes required to facilitate development. In the case of woodlands 8, 9 and 13 most of the woodland cover would need to be removed to create the road, in the case of woodland 13 this includes the removal of 12 mature oak trees to facilitate the roundabout and road widening on the B5010. There would be some encroachment from the road on part of the avenue planting (Cat A), for a distance of 90 metres. There would likely be tree removal needed in woodland 12 (Cat A) due to the size of the trees and the working strip required. A no dig solution is unlikely to be possible.
- 4.14 It is proposed that where a tree is removed, at least two will be planted as replacements. The scale of removals proposed is unfortunate. Further consideration should be given to the need for this and should permission be granted consideration should be given to conditions to control protective fencing, root protection areas, no-dig construction areas and appropriate maintenance and management.
- 4.15 The Council's Tree Officer has been consulted on the application but at the time of writing the report these comments were unavailable and will be reported at Planning Committee.
- 4.16 The Council's Biodiversity Officer has been consulted on the proposals and his comments can be summarised as follows:
- The submitted Biodiversity Chapter identifies potential adverse construction impacts to protected species including reptiles, great crested newts, nesting birds, small mammals and bats (both in trees and in buildings). Appropriate mitigation in the form of Reasonable Avoidance Measures (RAM's) are proposed and can be secured through a Construction Ecological Method Statement (CEMP), as well as

appropriate strategies to secure as appropriate, European Protected Species Mitigation Licences (EPSML's) for great crested newts and bats.

- A Biodiversity Gain Assessment (BGA) report has been submitted which identifies a 16% net gain in Habitat Units, a 150% net gain in Hedgerow Units and a 34% net gain in River Units (figures rounded). However, it provides limited supporting quantitative data. Whilst the proposals will predominantly require the removal of lower value habitats such as arable land and poorer-quality grasslands, higher value habitats such as sections of established woodland supporting mature trees will also be removed (i.e. Rookery Wood), as well as x12 non-woodland mature trees. Veteran trees will not be removed.
- To mitigate habitat compensation measures both within the Application Boundary as well as outside, the latter within the curtilage of the Country Park and Zone of Influence arising from the proposals. Habitat compensation measures include the creation of mixed native woodland blocks and strips, the enhancement of species-poor grassland swards with over sowing of wildflower mixes, the creation of damp and dry meadows, new native hedgerow planting and the enhancement of existing wet woodlands and the planting of scattered trees across the development site.
- The applicant claims that the prescribed habitat compensation measures deliver the positive net gains identified. However, with the limited supporting quantitative data it is not possible at this time to fully assess the validity of the submitted BGA report. In addition to compensatory habitat for protected species the submitted Biodiversity Chapter proposes additional enhancement measures, such as the installation of a high number of bat and bird boxes (x200 of each), as well as the creation of herpetofauna hibernacula and refugia.

4.17 The Officer supports the view of Derbyshire Wildlife Trust (DWT), who have provided comments to the County Council that conditions should be used to secure the various mitigation and compensation measures proposed within the submitted Biodiversity Chapter. It is advised that further information should be submitted in respect of the Biodiversity Gain Assessment, ideally prior to determination of the planning application.

4.18 Policy BNE2 states that development affecting heritage asset will be expected to protect, conserve and enhance the assets and their settings, that the council will work to bring forward opportunities to secure long term future uses for underutilised buildings and seek opportunities to improve public access to existing heritage features. Policy BNE10 states development affecting heritage assets will be determined in accordance with national policy.

4.19 The works will involve the conversion and adaptation of a number of the listed buildings within the core of the estate. The significant new build café will also form an extension of the courtyard buildings. The driveway and car park will also fall within parts of the Registered Park and Gardens. Consideration needs to be given to the impact of the proposals on these designated heritage assets and their settings, in accordance with the NPPF.

4.20 The Council's Conservation Officer has been consulted on the proposals and their comments can be summarised as follows:

- I do not object to the principle of adaptation, alteration and extension to the built form within the application site, noting the At Risk status. Historic sites are best conserved when they are either used for their original purpose, or sensitively adapted for a new economic use. Conservation of the historic environment should bring together an appreciation of our social, economic and architectural heritage, allowing a greater appreciation for our past, providing access to previously isolated sites, whilst managing sensitive change to the historic fabric. It should not be the intention to preserve as existing, but rather to guide change for a successful outcome for the future of the At Risk buildings.
 - Alterations are subject to a Listed Building Consent application, which will be assessed by South Derbyshire District Council. The design, methodology, materials and conservation principles will be considered in the LBC application process. The principle of reuse and repair of the existing Listed Buildings and the principle of a contemporary extension and new build to facilitate visitor requirements is something which can be supported from a conservation viewpoint.
 - I acknowledge that this proposal will result in significant change within the Grade II* Listed Registered Park & Garden.
 - **The access driveway** - As is often the case with adaptation to historic buildings, there is a compromise required to provide facilities for new users, especially in a setting which would have originally had little or no requirement to manage such large numbers of visitors. The rationale is to improve the visitor experience, guide visitors to the commercial aspects of the site, and direct visitors around the site to minimise the immediate access and pressure upon the gardens. I am aware that there are years of work to produce a Masterplan and to be able to financially support these proposals. I am not party to all the background options analysis, nor advice the applicant has sought from the National Trust or other relevant agencies. There would appear to be an alternative access point from the A6 which would require less intervention within the Registered Park & Garden, and I am aware this was discounted as an option. This information should be provided to provide support for the current proposals.
 - Agree with the assessment that the proposed driveway would result in less the substantial harm to the Registered Park & Garden. In addition, it is my assessment that the proposed work would result in less than substantial harm to the historic fabric, character and appearance, and the setting of Listed Buildings. That being said, it is my assessment that the level of harm can be outweighed by the public benefit.
 - Further information should be sought relating to a number of matters including, the intention for reuse of the existing car parking; the management of horsebox parking and access to the country park; the use of the events space, and connectivity to the car parking and facilities; the management of the existing driveways to the church and cricket ground.
- 4.21 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 around proposed developments, by way of surface and ground water quality, air quality and amenity issues such as fumes, dust, noise and vibrations. Policy SD3

states that the Council will work with the relevant authorities to ensure that South Derbyshire's water resource and drainage infrastructure are managed effectively. Policy SD4 requires that land known to be contaminated to be supported by appropriate investigations and remediation measures.

- 4.22 The application has been supported by an Air Quality Management Assessment, Drainage Strategy, Noise Impact Assessment and Land Contamination Assessment. Comments from the Council's Environmental Health Officer has been sought in relation to these matters. No comments were available at the time of writing this report and these will be reported at Planning Committee.

5.0 Conclusions

- 5.1 The proposals, if successful in attracting additional visitors will increase trip rates and have immediate implications for important trees and biodiversity, heritage impacts, drainage, amenity and visual implications. It is considered that a number of these matters could be appropriately mitigated through the use of conditions. However, the County Council should be satisfied that the proposals would not have severe highways implications, be of detriment to air quality or the amenity of those residents living in surrounding villages which may be used by vehicles accessing the County Park. They will also need to be satisfied that the proposals would minimise impacts on and provide for net gains in biodiversity and should seek to avoid or mitigate any significant harm. In relation to the designated heritage assets they should be satisfied that there would be no substantial harm (to the buildings, Registered Park and Gardens or their settings) or where there is, that this is demonstrated to be necessary to achieve substantial public benefits that outweigh that harm.
- 5.2 Derbyshire County Council as Planning Authority for the application will receive comments on the application directly from experts relating to the highways impact (traffic generation and safety), drainage (surface water and foul sewerage) and matters such as heritage and landscaping. They will need to be content that the proposals comply with both national and local policy.

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM:7
DATE OF MEETING:	31 MAY 2022	CATEGORY: DELEGATED
REPORT FROM:	HEAD OF PLANNING AND STRATEGIC HOUSING	RESTRICTED
MEMBERS' CONTACT POINT:	JESSICA CHEADLE jessica.cheadle@southderbyshire.gov.uk	DOC:
SUBJECT:	DEED OF VARIATION – LAND TO THE EAST OF ACRESFORD ROAD, OVERSEAL	REF: 9/2015/1063
WARD(S) AFFECTED:	SEALES	TERMS OF REFERENCE:

1. Recommendations

- 1.1 That the Committee approves the request to amend the Section 106 Agreement (S106) and subsequent Deed of Variation (DoV) to include amendments to be made to the definition of the Education Contribution which is payable in accordance with the Third Schedule of the S106 Agreement– Financial Contribution. This is based upon recommendations that have been received from Derbyshire County Council.
- 1.2 That the Committee delegate authority to the Head of Planning and Strategic Housing to agree the finer detail and wording of the obligations to be secured under the DoV.

2. Purpose of Report

- 2.1 To inform the Committee of the proposed changes to the S106 Agreement at Land East of Acresford Road and seek Member agreement.

3. Background

- 3.1 Members may recall that the site, known as The Acres, Overseal, was granted outline planning permission for up to 70 homes in March 2016. The S106 Agreement and subsequent DoV can be found under permission reference [9/2015/1063](#). A second Deed of Variation request was brought forward to members in August 2021 in relation to the Healthcare Contribution (Third Schedule) and it is currently being progressed.
- 3.2 As required within the Third Schedule – Education Contribution of the S106 Agreement, South Derbyshire District Council received £178,411.32 from Cameron Homes following the trigger points being met. This contribution has to be spent by 30th June 2022.

4. Discussion

- 4.1 Following the receipt of the S106 contribution, The Planning Policy Team were approached by the Local Education Authority at Derbyshire County Council wishing to propose a variation to the definition of the Education Contribution. It is requested to use the S106 contributions towards an extension to increase teaching capacity at Overseal Primary School. Through this proposal it will mean the best possible project will occur for Overseal Primary School. This change will mean that the contribution that was sought to mitigate the effects of the development will remain in place for the allocation of Overseal Primary School.
- 4.2 The proposed amendments can be seen outlined in the table below.

	Existing Section 106 Agreement definition	Proposed Amendments to Agreement definition
Education Contribution	The sum of £159,586.14 (One Hundred and Fifty Nine Thousand, Five Hundred and Eighty Six Pounds) for Project A: Adaptation and remodelling of internal space at Overseal Primary School to accommodate 14 (fourteen) primary school places generated by the development	The sum of £159,586.14 (One Hundred and Fifty Nine Thousand, Five Hundred and Eighty Six Pounds) for Project A: Creation of additional teaching space at Overseal Primary School to accommodate 14 (fourteen) primary school places generated by the development

5. Financial Implications

- 5.1 There are no financial implications associated to the Council for this change as the costs of the DoV will be paid for by Derbyshire County Council as they have requested the DoV.

6. Corporate Implications

- 6.1 None.

7. Community Implications

- 7.1 None.

8. Background Information

- a) Section 106 Agreement:
[Planning Applications, Decisions and Appeals \(southderbyshire.gov.uk\)](https://www.southderbyshire.gov.uk/planning-applications-decisions-and-appeals)
- b) Deed of Variation:
[Planning Applications, Decisions and Appeals \(southderbyshire.gov.uk\)](https://www.southderbyshire.gov.uk/planning-applications-decisions-and-appeals)

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 8
DATE OF MEETING:	31 MAY 2022	CATEGORY: DELEGATED
REPORT FROM:	HEAD OF PLANNING AND STRATEGIC HOUSING	RESTRICTED
MEMBERS' CONTACT POINT:	JESSICA CHEADLE jessica.cheadle@southderbyshire.gov.uk	DOC:
SUBJECT:	DEED OF VARIATION – LAND AT SK3430 7732 DEEP DALE LANE, BARROW ON TRENT	REF: 9/2017/0922
WARD(S) AFFECTED:	ASTON	TERMS OF REFERENCE:

1. Recommendations

- 1.1 That the Committee approves the request to amend the Section 106 Agreement (S106) by means of a Deed of Variation (DoV) to include amendments to the Schedule Two (Management Company). This is based upon a request received from Taylor Wimpey Homes and following a discussion with colleagues at Derby City Council.
- 1.2 That the Committee delegate authority to the Head of Planning and Strategic Housing to agree the finer detail and wording of the amendments to Schedule 2 of the Section 106 Agreement to be secured under the DoV.

2. Purpose of Report

- 2.1 To inform the Committee of the proposed changes to the S106 Agreement for Land at SK3430 7732 Deep Dale Lane, Barrow on Trent and seek Members agreement.

3. Background

- 3.1 Members may recall that the site, known as Land at Deep Dale Lane, was granted planning permission for up to 100 homes following a S106 Agreement in February 2021. The S106 Agreement can be found under permission reference [9/2017/0922](#).
- 3.2 As required within the Schedule Two of the S106 Agreement, Taylor Wimpey Homes is required to create a Residents Management Company (RMC) for the development.

4. Discussion

- 4.1 The development is being built in two phases; phase 1 is under construction within Derby City (under the reference number [19/01065/RES](#)) and phase 2 is under construction within South Derbyshire under the reference [DMPA/2021/0397](#). Taylor Wimpey have approached the Council to vary the S106 Agreement to enable both phases to be under the same management company for both the Public Open Space (including LEAP) and the SUDs. The request is to remove the requirement for an RMC for the development within South Derbyshire. This will mean that the full details of the management company as stated within the S106 Agreement is still required to be provided, however it will not be a requirement for each of the residents to become shareholders of the RMC.

5. Financial Implications

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

6. Corporate Implications

6.1 None.

7. Community Implications

7.1 The whole development (SDDC and Derby City) will be under the same management company for the Open Space provision across the sites, which will allow for a more cohesive approach to the management of these areas.

8. Background Information

a) Section 106 Agreement:

[Planning Applications, Decisions and Appeals \(southderbyshire.gov.uk\)](http://southderbyshire.gov.uk)