

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

**SECTION 1: Planning Applications**

**SECTION 2: Planning Appeals**

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

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## **1. PLANNING APPLICATIONS**

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

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

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

19/11/2013

**Item**            **1.1**

**Reg. No.**        **9/2012/0568/OM**

**Applicant:**  
**MR JONATHAN CHASTNEY**  
**TALavera ESTATES LTD**  
**C/O AGENT**

**Agent:**  
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**PEGASUS PLANNING GROUP LTD**  
**3 PIONEER COURT**  
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**Proposal:**        **OUTLINE APPLICATION WITH ALL MATTERS**  
                         **RESERVED (EXCEPT FOR ACCESS) FOR UP TO 450**  
                         **DWELLINGS INCLUDING THE PROVISION OF A SMALL**  
                         **DISCOUNT SUPERMARKET (A1 USE -1,650SQM),**  
                         **LOCAL CENTRE COMPRISING OF NO MORE THAN**  
                         **FIVE INDIVIDUAL UNITS (A1/A2/A3 USE TOTALLING**  
                         **1,650SQM), DAY NURSERY (D1 USE - 450SQM)**  
                         **PRIMARY SCHOOL AND OPEN SPACE ON LAND OFF**  
                         **SWARKESTONE ROAD CHELLASTON DERBY**

**Ward:**            **ASTON**

**Valid Date:**     **17/07/2012**

**Reason for committee determination**

This is a major application with more than two objections and is not in accord with the development plan.

**Site Description**

The site covers an area of 19.4ha, it lies adjacent and to the north of the A50, approximately 1 km from Chellaston town centre and 7 km from Derby City Centre.

Swarkestone Road runs to the west of the site, beyond which there is the Bonnie Prince public house and recently constructed office housing development. There is existing housing at Ridgeway, and a field with planning permission in principle (Woodlands Lane), to the north. To the east lies there is open countryside. The southern boundary of the site is formed by the A50 Trunk Road, which bisects the open Trent Valley to the south of Chellaston.



Generally the site rises in height to the north and east from the low point of the site is adjacent to the A50 traffic island, with a noticeable increase in the site's gradient towards the eastern end of the site.

The site is generally clear of significant landscape features as it is currently used for agriculture, although there is significant hedging to the western, northern and southern boundaries. There is also a group of small trees immediately to the north of the existing field access. The embankment to the A50 was landscaped as part of the trunk road project in the mid-1990s.

## **Proposal**

The application is in outline, with all matters reserved except for access. Since the initial submission in June 2012 the following components of the development have been amended:

- Petrol station removed from the application.
- Playing field and allotments removed.
- Sports pavilion removed.
- Primary school included.

Therefore the application relates to up to 450 dwellings including the provision of a small discount supermarket (A1 use -1,650sqm), local centre comprising of no more than five individual units (A1/A2/A3 use totalling 1,650sqm), day nursery (D1 use - 450sqm), and primary school.

Following comments by the Council's Design Excellence officer, the accompanying Masterplan indicates the general locations and form of the various elements of the development, in particular showing:

- Tree lined spine road.
- Elevations of retail units to address the street.
- Pocket park between retail units and nursery/school.
- Existing hedges reinforced to enhance wildlife corridors.
- Open space and footpath networks, including link to recently permitted development off Woodlands Lane.

A detailed drawing shows the proposed access to the site, off the A514 immediately to the north of the A50 Chellaston interchange.

In addition to the Masterplan the application is accompanied by the following documents:

- Environmental Statement (updated to take account of the changes referred to above), covering Planning Policy Context, Socio Economics, Ecology & Nature Conservation, Landscape and Visual, Traffic & Transport, Air Quality, Noise & Vibration, Archaeology & Cultural Heritage, Agricultural Circumstances, Flood Risk, Drainage & Hydrology and Ground Conditions
- Design and Access Statement.
- Flood Risk Assessment.
- Transport Assessment

- Health Impact Assessment.
- Planning Statement
- Retail Statement.
- Statement of Community Involvement.
- Sustainability Statement.

### **Applicants' supporting information**

The applicant's planning statement arrives at the following conclusions:

- The proposal would provide a mix of dwelling types and sizes and would form a logical location for the development of housing required within the area. In addition, not only is the site providing a range of affordable housing types, it is also providing a range of local amenities such as open space, school, sports pavilion, day nursery, supermarket and small shops.
- The Design and Access statement that accompanies this application demonstrates the sites suitability for development and the design principles that have been used to influence the proposal. The statement also sets out the vision for the development and assesses the site's physical environment and also the constraints and opportunities. The proposal also illustrates the proposed access, ensuring that the development makes adequate provision for pedestrians, cyclists and vehicles and ultimately enables the development to be safely accessed.
- The Statement of Community Involvement that has been produced by consultants PDL, details the extensive consultation process that the proposed development has gone through. In order to reach a wide audience, which included the public and councillors, pre-consultation meetings were undertaken with South Derbyshire District Councillors and a public exhibition was held in November 2011 at Chellaston Academy. The results obtained were then used to influence the proposed development and a revised Masterplan was drawn up. A design exhibition was subsequently held at Chellaston Academy in February 2012 and again the public and Councillors were invited to review the amended Masterplan and submit their comments. All comments that were received either on the day, via the website or on feedback forms have been taken into consideration and are contained within the SCI. The revised Masterplan that accompanied the application was the third iteration since consultation began in early November designed to reflect the comments and concerns that were received. [Comment: The Masterplan has further changed during the course of the application in response to consultation].
- Prepared by consultants Rutherfords Highway Planning Consultants, the accompanying Transport Assessment has been produced to provide highway design and travel implication advice and also incorporates a preliminary Travel Plan.
- A Flood Risk Assessment (FRA) was undertaken by consultants JPP which assesses flood risk and describes a strategy to drain the site in respect of surface water drainage. The report concludes that, providing the strategies described in the FRA are adopted, *"developed site will not contribute further to flood risk thus satisfying the principles of the National Planning Policy Framework."*
- The Environmental Statement which accompanies this application includes chapters which focus on the proposed developments effects on the socio-

economics of the area along with its effect on ecology and nature conservation, landscape and visual impact, traffic and transport, air quality, noise and vibration, archaeology and cultural heritage and flood risk and drainage. The ES demonstrates that there are no significant adverse environmental effect arising from the proposed development, however where minor issues do arise, these will be mitigated appropriately.

- It is evident from the proposed design of the scheme and the investigative reports that have been undertaken, that this proposal for the development of a Greenfield site would allow for a high quality development whilst also playing an important role in delivering a sustainable form of development inclusive of affordable housing. Finally, in terms of housing supply, SDDC does not have a five year land supply and it is clear that this site could be speedily delivered, with all housing completions taking place within the next ten year period.
- In light of the above, it is considered that the proposed development represents an efficient and effective use of an excellent site on the edge of Derby.

The applicant has also addressed the education issue through a specialist educational consultancy. With regard to secondary school provision the consultancy's analysis concludes that Chellaston Academy's normal (catchment) area includes all of Chellaston both within Derby City and beyond plus South Derbyshire villages as far as and including Melbourne. The school currently admits, in addition, just over 20% of its pupils from other areas of Derby City. These admissions are not protected and in the event of pressure for places from within the catchment area, would not be admitted in accordance with the priorities set in the Academy's published Admissions Policy (out of catchment siblings, thereafter others by random allocation).

## **Planning History**

None relevant.

## **Responses to Consultations**

The Highway Authority has no objection subject to conditions including the submission of a detailed Travel Plan.

The Highways Agency has no objection in principle but directs a condition to secure a mitigation scheme within the trunk road confines.

The Environment Agency has no objection subject to conditions, including the improvement of the existing sewerage system, which presently has lack of capacity in this part of Derby.

The Crime Prevention Design Adviser comments that congestion periods are not necessarily as stated in the applicant's traffic information and that congestion affects the response times for emergency vehicles. He recommends that the scheme should be subject to Secure by Design principles.

Natural England has no objection but recommends that the LPA should secure measures to enhance the biodiversity of the site in accordance with Paragraph 118 of the NPPF.

Derbyshire Wildlife Trust welcomes proposals to retain and enhance existing hedgerows, the provision of green roofs and bird and bat nesting opportunities. If possible the veteran tree that has the potential to provide a bat roost should be retained in-situ. Planting should be undertaken to promote habitats for the white-letter hairstreak butterfly. The development would result in the loss of skylark breeding habitat and the Trust recommends that the applicant investigates compensatory provision on adjacent land. Conditions are recommended to preserve and enhance natural history interests.

Sport England objects because the application does not demonstrate that the demand for sporting provision generated by the development would be adequately met. Should the LPA be minded to grant permission against the objection the following should be secured by way of legal agreement or condition:

- Appropriate contributions towards outdoor and indoor sporting provision;
- Appropriate sports pitch provisions on site to meet demand and any identified shortfalls.
- All sporting provision to be designed to Sport England and relevant National Bodies' guidance.
- Ground condition assessments to ensure adequate quality of provision.
- Timely delivery of facilities.
- Long term management and maintenance of facilities.
- Secure community access to facilities.
- Design and nature of playing fields to reflect needs of the area.

Derby City Council comments as follows:

- a) The City's roads will be subject to a significant number of trips and thus has an interest in connectivity of the proposed development with existing housing stock, particularly in respect of extending the bus/cycle networks and providing suitable pedestrian links.
- b) The lack of connectivity between the nursery/primary school and the existing Ridgeway estate, and housing on the west of the A514 suggests that this is not a sustainable development.
- c) It is important to ensure that the bus service will not be obstructed by cars as a result of local congestion around the primary school in the morning peak.
- d) Similarly the retail use is likely to attract cars due to poor connectivity.
- e) The applicant's traffic model assumes the new T12 link road is in place. As such a condition precluding occupation until that road is in place is recommended.
- f) It is anticipated that there would be congestion at the site access, although this is a County matter.
- g) Section 106 contributions towards transport improvements of £1100 per dwelling, £410 per flat, £9500 per 100 sq m for food retail, £1300 per 100 sq m of non-food retail are sought.

The Development Control Archaeologist comments that the site has the potential to retain significant remains of a Romano-British settlement and recommends a condition to secure further investigation and analysis.

Severn Trent Water Ltd has no objection in principle.



The Contaminated Land Officer recommends an appropriate condition to deal with any gas arising on the site.

The Environmental Health Manager has no objection in principle.

The City and County Education authorities express concern that Chellaston Academy is full and there is no prospect of expansion. The LEAs are aware of the requirement for more housing to the south of the city and consider that a strategy to provide secondary education capacity should be taken forward through the South Derbyshire Local Plan. New capacity should be funded by developers. They request that permission be made conditional upon a secondary school strategy being in place.

Derbyshire County Council seeks contributions for additional waste management capacity (£12,883.50), libraries (£162,000) and primary school places. It also seeks on site provision of public rights of way and greenways and broadband infrastructure.

### **Responses to Publicity**

When the application was submitted it would have been in accord with the development plan (East Midlands Regional Plan). In the interim that plan has been revoked by the Secretary of State. Therefore it has been necessary to re-advertise the application as not accord with the development plan.

A petition of some 500 signatories opposes the application.

139 letters of objection have been received:

- a) The access would be dangerous for road users due to its position next to a major junction and traffic volumes.
- b) The petrol station and shops would aggravate traffic problems.
- c) The petrol station and shop would serve more than the new housing and would draw traffic off the A50.
- d) The shops would increase journeys by car by drawing people out of the established urban area.
- e) Major development in recent years has resulted in excessive traffic congestion in the local area to the detriment of safety and amenity. This will make matters worse.
- f) Chellaston Academy is already oversubscribed and local primary schools are at capacity. The development would prejudice existing children's rights to go to Chellaston Academy.
- g) South Derbyshire will collect the Council Tax and New Homes Bonus but Derby residents will suffer the adverse consequences.
- h) The sewerage system is inadequate.
- i) Brownfield sites should be developed first.
- j) There would be loss of countryside, green buffer zone, and public and private views, to the detriment of the character of the area.
- k) Wildlife habitat would be lost.
- l) Existing small business would be harmed by the shops and filling station.
- m) Local facilities and services including doctors, libraries, social services, transport, facilities for young people, police and fire, are not adequate to cope with the development.
- n) There would be increased air and noise pollution.

- o) There would be reduced property prices for existing houses.
- p) Any access to the site from adjacent housing areas would increase hazards there.
- q) The site is presently used for passive recreation by residents.
- r) Derby's planning policy should be taken into account.
- s) The site is in the countryside and contrary to the adopted Local Plan.
- t) Other sites with permission should be developed first.
- u) There is no footway along Swarkestone Road.
- v) Nearby protected species would be adversely affected.
- w) There would be increased flood risk.
- x) The community consultation exercise revealed a wide range of reasoned objection.
- y) The community consultation exercise was flawed and does not reflect community pinion.
- z) The planning statement does not explain how the development complies with planning policy.
- aa) The village character of Chellaston is in danger of being lost to urban development.
- bb) The development would conflict with community interests.
- cc) Previous mining could cause ground instability and gas emissions.
- dd) The development is not sustainable by being self-contained and by relying on the Building Regulations for energy reduction.
- ee) The development would not meet local needs. There are many empty homes which should be utilised first.

Chellaston Residents Association raises the following objections:

- a) The access is too close to the A50 for safe use
- b) The access would be subject to up to 900 vehicle movement per day, plus service and public transport vehicles as well as traffic using the commercial facilities proposed. Thus would exacerbate existing traffic congestion contrary to Local Plan Transport Policy 6.
- c) Local infrastructure, including schools, is not adequate. Children would have to be transported elsewhere which is not sustainable.
- d) There is no convenient and safe walking route to local schools.
- e) Sewerage system is inadequate as stated by STW and EA.
- f) There would be loss of visual amenity.
- g) There would be loss of hedgerows and habitat features.
- h) The site is a green buffer between the urban area and the A50, allowing for movement of wildlife.
- i) The site should accommodate a relief road for Chellaston and contribute to its delivery. The proposal could prejudice this opportunity.

Weston on Trent Parish Council objects as follows:

- a) The access would be inadequate and would have a detrimental impact on traffic.
- b) Local primary schools are full and Chellaston Academy is over-subscribed. Weston village children would be unable to gain places at Chellaston.

Melbourne Parish Council objects on the grounds that there is no provision for schooling, which may affect the intake of Melbourne children to Chellaston School.

Derbyshire CPRE objects for the following reasons:

- a) The site is greenfield and provides a barrier between the city and the countryside. Development should take place on brownfield land.
- b) The A514 is heavily congested and the access is not safe.
- c) The extra traffic from the development would result in danger to road users, including children from nearby villages walking to Chellaston Academy.
- d) Journeys to the local doctor's surgery would add further to traffic problems.

Education for Melbourne objects on the basis that there is no plan to address the lack of secondary school capacity, in particular because Chellaston Academy cannot expand and thus there are ramifications for Melbourne children who are in the Academy's catchment. The application should make adequate provision for secondary education, developed in conjunction with the LEA and head teachers.

### **Development Plan Policies**

South Derbyshire Local Plan Saved Environment Policies 1, 9, 11 & 14, Housing Policies 8 & 11, Shopping Policies 2 & 3, Recreation and Tourism Policy 4, Community Facilities Policy 1, Transport Policies 6 & 7.

### **Local Supplementary Planning Guidance**

The Provision of outdoor playing space in new developments (as updated by the Council's S106 guide for developers)),  
Housing Design and Layout.

### **National Guidance**

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)  
Paras 11-14 (The presumption in favour of sustainable development)  
Para 17 (Core principles)  
Chapter 1 (Building a strong competitive economy)  
Chapter 2 (Ensuring the vitality of town centres)  
Chapter 4 (Promoting sustainable transport)  
Chapter 6 (Delivering a wide choice of high quality homes)  
Chapter 7 (Requiring good design)  
Chapter 8 (Promoting healthy communities)  
Chapter 10 (Meeting the challenge of climate change, flooding etc.)  
Chapter 11 (Conserving and enhancing the natural environment)  
Paras 186 & 187 (Decision-taking)  
Para 193 (Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.)  
Para 196 & 197 (Determining applications)  
Paras 203-206 (Planning conditions and obligations)  
Annex 1 (Implementation)

### **Planning Considerations**

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

- The principle and general sustainability
- Affordable housing
- Extent of retail elements and impact on the vitality of the town centre
- Traffic and transport
- Impact on the character of the area
- Urban design & Open Space
- Ecology
- Archaeology
- Flood risk and hydrology
- Residential amenity
- Education
- Section 106 Contributions

## **Planning Assessment**

### The principle and general sustainability

At the time the application was submitted the East Midlands Regional Plan was up to date and comprised part of the development plan. Its evidence based policies included provision for housing at the southern fringe of Derby. The plan has since been revoked by the Secretary of State.

In the interim, and in co-operation with the neighbouring authorities, Amber Valley and Derby City, the Council published its Preferred Growth Strategy for consultation as a pre-cursor to the published Draft Part 1 Local Plan. The strategy is evidence based and identifies the application site as a preferred housing site around the Derby Housing Market Area (HMA) that would therefore make a strategic contribution to meeting housing need in the area. The Preferred Growth Strategy acknowledges that the site would represent a prominent Greenfield extension to Chellaston, bounded to the south by the A50 trunk road. Nevertheless as a smaller strategic site, it is likely to be deliverable in the short to medium term. The Strategy also notes that there is pressure on school places at primary and secondary level in and around Chellaston and the potential need to pool pupil requirements from sites adjoining the urban edge of Chellaston, where their cumulative impact would require additional school places.

In response to the Preferred Growth Strategy document, four supporting comments and nine comments raising concerns were received. In support, one response suggested that the site has good infrastructure including roads/access and that Chellaston Fields was a sustainable location with good accessibility that would meet the test of the NPPF. The pressure on existing school places was acknowledged with a stated intention to work with the relevant authorities to address and mitigate any impact. The site would be deliverable in the short to medium term. Those opposing the site in response to the Strategy suggested that development would put additional pressure on Chellaston Academy, which was at or nearing capacity. It was suggested that Chellaston already has too many houses, that the existing road was inadequate and that the T12 road (connecting the A514 Chellaston Interchange with established and proposed business areas at Sinfin) would make little improvement. One response stated that expansion at Chellaston would compromise the surroundings and current facilities, which were at capacity. Further, it would lead to the loss of village identity and be harmful to wildlife and existing trees. Melbourne Parish Council and Melbourne Civic Society were both

concerned about the site's implication for secondary school provision for Melbourne children whom they both wished to continue to be able to access Chellaston Academy.

The site has now been carried forward to the draft Local Plan Part 1, underpinned by the general strategic objective (Policy S1) for sustainable growth and regeneration, in particular by meeting South Derbyshire's split of the Derby HMA housing requirement that is South Derbyshire's housing needs and helping to meet the needs of Derby City which it cannot accommodate within the city boundary. Chellaston Fields thus appears as a draft allocation in Policy H14, subject to the following site specific requirements:

- Pedestrian and cycle routes shall be provided within the site and links between the site and existing residential development and future employment areas shall be provided;
- Consideration should be given to some retail development on the site that is commensurate to the size of development and surrounding area but does not affect the viability and vitality of existing retail in the area;
- Developer contributions to be made to primary and secondary school provision on an agreed strategy with the Council.

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

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

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

Paragraph 215 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework.

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

authority cannot demonstrate a five-year supply of deliverable housing sites. The Council cannot currently demonstrate a five year supply of housing.

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

The objectively assessed housing needs of the Derby HMA has been agreed across the three local authorities, with South Derbyshire needed to provide 13,454 dwellings up to the end of the plan period in 2028.

Given the site's location adjacent to the city, with access to its facilities, services and transport options, and in acknowledgement of the contribution that it would make towards meeting an identified strategic housing need, the proposal represents sustainable development in principle. In the context of a Local Plan that is out of date in so far as policies for the supply of housing are concerned, the presumption in favour of sustainable development would apply unless any adverse impacts would significantly and demonstrably outweigh the benefits.

In terms of the general policies in the current Local Plan, Saved Environment Policy 1, which applies to development outside existing settlements, is supportive of development that it is unavoidable in the countryside. In this case, given the imperative to provide new housing adjacent to the city, development is unavoidable. The policy also requires the character of the countryside, the landscape quality, wildlife and historic features to be safeguarded and protected. If development is permitted in the countryside it should be designed and located so as to create as little impact as practicable on the countryside. These qualitative issues are addressed in the following sections of this report. Saved Housing Policy 8 sets specific functional requirements applicable to new houses away from settlements. However this policy complements a suite of housing site allocation policies in the 1998 Local Plan and in the case of this application, which is mainly concerned with housing supply, it is out of date. Therefore the presumption in paragraph 14 of the NPPF is clearly capable of outweighing it in this case.

The provision of a primary school and day care nursery are supported by Local Plan Saved Community Facilities Policy 1 and Chapter 8 of the NPPF and by the LEA (primary school).

#### Affordable housing

The 2012/13 Strategic Housing Market Assessment (SHMA) suggests, over the period of 2012 – 2017, there is a housing need for 1,723 affordable homes, (345 affordable homes per year), across South Derbyshire. For the Derby Fringe the SHMA suggests an affordable housing tenure mix as follows:

- 25.5% - intermediate housing; e.g. shared-ownership.
- 12.4% - affordable rent

- 62.1% - social rent

The SHMA recommends an affordable housing mix as follows for South Derbyshire.

Number of Bedrooms	South Derbyshire
1 bedroom	10% - 15%
2 bedrooms	35% - 40%
3 bedrooms	35% - 40%
4+ bedrooms	10% -15%

Based on current evidence, in order to deliver the affordable housing need a proportion of 40% affordable housing is sought, underpinned by Local Plan Saved Housing Policy 9 and Chapter 6 (para 50) of the NPPF. In this case, because of viability considerations (see Section 106 Contributions assessment below), the provision of 40% affordable housing would have adverse implications for other contributions that are fundamental to the development's overall sustainability. Therefore an affordable housing component of between 25%-30% would appear to be a reasonable provision for this particular site (dependent upon the extent of other contributions).

#### Extent of retail elements and impact on the vitality of the town centre

In addition to the new housing a small supermarket is also proposed, along with other smaller retail units. Local Plan Saved Shopping Policy 2 provides for out of town shopping development subject to the following criteria:

- “a) New shopping development in town centres will be preferred to that in other locations. New shopping in out-of-centre locations will only be permitted provided that:
  - i. The development cannot be accommodated within or immediately adjacent to an existing major centre;
  - ii. The scale and nature of the development, either individually or cumulatively, is not such as to affect seriously the vitality and viability of any existing nearby major centre as a whole;
  - iii. The site is not required for industrial or business uses;
  - iv. The development is not an intrusion into the countryside, and features of natural history or heritage importance are retained wherever possible;
  - v. The site can be adequately served by public transport.
- b) Any development which meets the above criteria will be permitted in out-of-centre locations where it consolidates existing out-of-centre shopping.
- c) New shopping development on industrial estates will not be permitted.”

The retail element has been subject to a Retail Assessment by the applicant having regard to available evidence, in particular Derby City Council's Derby Retail and Leisure Study and subsequent evidence submitted with planning applications in the city. The assessment and subsequent addenda comments that the application makes reasonable provision for connectivity between the site, Chellaston and outlying villages, thus improving the sustainability of the supporting facilities to other residents outside the proposed housing scheme. In accordance with paragraph 24 of the NPPF, the applicant has provided evidence to demonstrate that the proposal passes the sequential test. Whilst this shows some vacant sites and units within and on the edge of existing district centre boundaries in the urban settlement north of the application site, they are

not sequentially preferable on the grounds of suitability and viability. The applicant argues that in view of the application site's location and the expenditure that will be created, the proposed retail development is location specific and the qualitative benefits of creating sustainable development through mixed use development would not be fully met if the proposed retail element of the development was located elsewhere. There is no evidence that there would be a significant adverse impact on Chellaston district centre or any other centres. In the circumstances the retail development would not be in conflict with Saved Shopping Policy 2 and would be in accord with paragraphs 24, 26 & 27 of the NPPF. Appropriate conditions in accordance with paragraphs 203-206 of the NPPF would ensure that the impacts of the retail development would not exceed those identified in the Retail Statement by limiting, in particular, the size of the discount food store.

Local Plan Saved Shopping Policy 3: 'Local Shopping' states "Proposals for small shops will be permitted provided they do not adversely affect the amenities of neighbouring properties and adequate access, car parking and servicing facilities are provided." This supports the small retail units contained within the application, which are also in accord with Saved Community Facilities Policy 1 and NPPF Chapter 8.

#### Traffic and transport

Chapter 4 of the NPPF is entitled 'Promoting Sustainable Transport'. Paragraph 38 highlights "For larger scale residential developments in particular, planning policies should promote a mix of uses in order to provide opportunities to undertake day-to-day activities including work on site. Where practical, particularly within large-scale developments, key facilities such as primary schools and local shops should be located within walking distance of most properties."

The application proposes key facilities within the site and is accompanied by a preliminary Travel Plan to encourage use of a range transport modes including walking cycling and bus services. It is intended to facilitate a bus service through the site, by adaptation of an existing service (primed by developer contributions). In addition the site is within reasonable walking distance of existing local facilities and services. As such the proposal is in accord with the sustainable transport objectives of the NPPF.

The proposed means of access is acceptable to the relevant highway authorities and the proposal is thus in conformity with Local Plan Saved Transport Policy 6 which requires:

- Major new development should be sited close to the principal road network, linked and served by the appropriate standard of highway. Planning permission will not be granted for development which interferes with the free and safe flow of traffic.
- All proposals for development should incorporate adequate provision for access, (including public transport where appropriate) parking, manoeuvring and off-street servicing.
- Where appropriate, the Council will negotiate planning obligations under Section 106 of the Town and Country Planning Act, 1990 to meet the cost of any necessary improvements to the highway network.

In respect of the latter criterion the contributions sought by the City Council in respect of transport corridor mitigation would secure necessary improvements to the existing road



network. The City Council has requested a condition that no dwellings be occupied until the City Council's T12 relief road (off Holmleigh Way) has been completed and opened. This stance is justified because the DATM traffic model for the application site was applied on the basis of T12 being in place. However this is not entirely consistent with the City Council's recent decision to allow development of some 56 dwellings on the adjacent site off Woodlands Way. The applicant's highway consultant considers that the A514 could accommodate the whole development site with some minor junction improvements in the Derby direction. The applicant has indicated that a trigger point relating to the occupation of 200 dwellings would be acceptable to him and this appears reasonable in the circumstances. The City Council has been asked for further comments and any such views will be reported verbally.

The condition directed by the Highway Agency would ensure that the necessary improvements to the trunk road are undertaken at the appropriate time.

Whilst the development would have impact on the highway network and thus the potential to affect the wider transport infrastructure, the NPPF makes it clear in paragraph 32 that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. In this case there is no evidence that the cumulative impact would be severe.

Provision for safe, convenient and pleasant conditions for pedestrians and people with disabilities is indicated in the Masterplan and would be secured at reserved matter stage in accordance with Local Plan Saved Transport Policy 7. The Section 106 Agreement would also facilitate the bus service for the site and appropriate crossing points for pedestrians across the A514 which addresses the City Council's concerns with regard to sustainability and in particular connectivity. The Masterplan also indicates the provision of segregated cycle routes in accord with Saved Transport Policy 8.

#### Impact on the character of the area

Given the sloping nature of the site rising from the Trent Valley there would inevitably be impact on the landscape particularly when viewed from the south across the valley. Nevertheless the A50 provides a very strong physical boundary which could be reinforced with new landscaping to soften the edge of the development. Otherwise the development would appear as a logical extension to the existing urban area and appropriate detail design would be secured at reserved matters stage to ensure good design incorporating local distinctiveness in accord with paragraph 60 of the NPPF and Saved Housing Policy 11 of the Local Plan.

#### Urban design & open space

The application is in outline only. Therefore it is not possible to carry out a full Building for Life assessment at this stage. Nevertheless the site presents some key aspects that would form the basis of a good scheme in urban design terms. It is well served by the city's travel infrastructure and includes commercial and community facilities on site that would help to make it a sustainable development. The Masterplan indicates a main pedestrian/cycle /vehicle route through the site linking existing and proposed green infrastructure. It also clusters the commercial elements (supermarket and local shops) with community facilities (primary school and nursery) complemented by meaningful associated open space. Provision is made for pedestrian connection to a new

development site to the north east (Woodlands Way in Derby City) and thence to the local footpath network. The developer also proposes energy saving measures through building design and layout.

Issues relating to design and layout of the houses, how they relate to spaces, crime reduction measures and the provision of parking would be addressed through reserved matters submissions, although the principle objectives for these can be secured by conditions at this stage.

The open space on the site would be provided by the developer and maintained via a management company. Financial provision for playing fields and built facilities off site would be made. Sport England's objection is noted but the on-site provision and contributions for open space are in accord with the development plan and the SPG.

In view of the urban design and open space matters addressed above the proposal would accord with Chapter 8 of the NPPF and Saved Recreation and Tourism Policy 4 of the Local Plan.

#### Ecology

Subject to the recommended conditions of Natural England and Derbyshire Wildlife Trust biodiversity at the site would be protected and enhanced. In response to DWT's comments about skylarks, the applicant's ecologist has identified, by appropriate survey and analysis, that the site has low value for breeding skylark. As such the impact of loss of breeding habitat was considered to be negligible and would therefore not be expected to adversely affect the status of the local skylark population.

#### Archaeology

On the advice of the Development Control Archaeologist the site has the potential to retain significant remains of a Romano-British settlement. In this case the archaeological interest could be safeguarded by appropriate condition to secure further investigation and analysis. As such this issue would be compliant with Saved Environment Policy 14 and NPPF Chapter 12.

#### Flood risk and drainage

The site is not subject to high risk of flood in its current state. However the magnitude of the development is such that a flood risk assessment is required. The Environment Agency is satisfied that the development would not increase risk subject to a suitable sustainable drainage scheme being required by condition. The Agency notes that, as it is currently set up, the existing foul sewerage system is not capable of dealing with the development because it can lead to flooding and so foul sewage surcharging to the Cuttle Brook. Accordingly a condition is recommended to secure a separate scheme for the disposal of foul sewage from the site. Further protection to the water environment would be secured by condition requiring oil and petrol interceptors to be provided. Therefore, subject to the recommended conditions, the development would be in accord with Chapter 10 of the NPPF.

#### Residential amenity

The submitted Design and Access Statement indicates a minimum distance of 31m between proposed and existing dwellings. This is in excess of the normal distances sought by supplementary planning guidance and demonstrates that reasonable separation distances could be achieved. The site therefore provides ample scope for reasonable amenities in terms of light, air and privacy for, both existing and new dwellings; safe, functional and convenient layouts; private amenity space, and space for landscaping in accordance with Local Plan Saved Housing Policy 11.

The Environmental Statement addresses other impacts on amenity. In terms of air quality the development would have negligible impact. It acknowledges that construction of the proposed development may give rise to short term noise effects upon existing residents along Ridgeway living adjacent to the site. However once development is complete the increased activity at the site, particularly through additional traffic would not materially worsen the living conditions of existing residents in terms of noise. Residents of the new development could be affected by noise from the A50 but this would be mitigated by a noise embankment along the trunk road boundary, and with building design measures. This would be secured by conditions along with measures to minimise noise from the commercial elements.

### Education

Primary school education requirements generated by the development could be met by appropriate developer contributions. The County Education Authority supports the provision of a half-form entry school on site which is being offered by the applicant. A school on the site would also, in spatial planning terms, be capable of serving other strategic housing sites in the locality, within South Derbyshire and the city. However this would require further discussion with developers and the relevant LEAs.

There is currently no clear strategic option for secondary education provision. However, a process to find a solution is underway and discussions are currently in progress with the LEAs and through the local plan process. The LEAs have been aware of the need to provide large amounts of new housing on the southern fringe of the city for some years. Given the urgent need to provide housing in accordance with Chapter 6 of the NPPF, this unresolved problem is not of such weight as to completely prevent any further progress with the Council's ability to address the shortfall in housing supply. This will require careful wording the Section 106 Agreement so as to ensure that the LEAs are able to ensure that contributions will be targeted in the most strategically effective manner in secondary education terms.

### Section 106 Contributions

The applicant has undertaken a viability assessment which has been scrutinised by the District Valuer, and proposes contributions in excess of the surplus identified in the assessment, as follows:

Primary education	On site provision (or £1,025,910 in lieu of such)
Secondary education (see assessment above)	£1,159,391(based on current DfE multipliers)
Affordable Housing	25% -30%
Recreation Open Space	To be provided on site and maintained by management company
Recreation Outdoor Facilities	£303,820

Recreation built facilities	£168,482
Healthcare	£247,950
Public Transport	£100,000
A514 Corridor Improvements	£300,000 - £450,000
Waste Management	£12,883.50

A contribution would also be required for the maintenance of the SuDS scheme.

Derbyshire County Council also seeks contributions for Melbourne Library. The NPPF provides advice in paragraphs 203 and 204 with regard to planning obligations stating that: 'Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition' Planning obligations should only be sought where they meet all the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

The nearest County library is Melbourne. Given the site's spatial planning relationship with Derby the residents of the development are not likely to use Melbourne Library. The City Council seeks no library contributions. As such this contribution would not meet the tests.

The Council also seeks on site provision of public rights of way and greenways and broadband infrastructure. These would be secured by recommended conditions 4 & 52.

### Conclusion

The application is one of several relatively small strategic developments in the locality, which cumulatively could accommodate around 650 homes. There are constraints in respect of transport, although proposals for the new T12 road, coupled with local transport improvements would provide the capacity to accommodate this number of homes. Given the scale of the development it is likely that it could contribute to the early delivery of homes, helping the Council meet its requirement of a five year supply of deliverable housing. By reference to the NPPF's (Para 7) three sustainability dimensions (economic, social, environmental,):

- The provision of new housing would support economic growth, ensuring an attractive place to live for South Derbyshire's economically active population as well as helping to supporting the vitality and viability of Chellaston. Construction jobs and new jobs alongside the retail provision and primary school would be created. The development would also provide a financial contribution to ongoing work to provide a strategic secondary school solution to the current shortage of places. This is supported by the site's accessibility to Chellaston and the City, served by public transport. New on-site primary education, day nursery and convenience retail will all help to further reduce people's need to travel by car. Measures secured by condition and Section 106 Agreement would ensure that local road infrastructure has the capacity to accommodate the scheme.
- The proposed scheme would have a significant positive impact on local communities by providing new homes (market and up to 30% affordable) for

approximately 1,100 residents. In terms of healthy communities the illustrative masterplan includes extensive green infrastructure and open space. Pedestrian/cycle links would help to support active lifestyles and encourage alternatives to the car for accessing local facilities and employment opportunities. The provision of new local retail, including A1, A2 and A3 uses would also serve existing residents in Chellaston, enhancing the range of services and facilities on offer in the area. Developer contributions would also be made towards education and local health provision.

- The Environmental Statement explains how a range of environmental factors have been taken into account to ensure sustainable development (including landscape, ecology, air and noise pollution, archaeology, and water). Mitigation has been included within the scheme to ensure the conservation and enhancement of key features. The scheme also helps to mitigate future climate change through reducing CO2 emissions by building new homes in a highly accessible location and reducing the need to travel by car. In terms of resilience to climate change impacts, the scheme has been designed to take this into account, namely through provision of a sustainable drainage strategy and extensive network of green infrastructure.

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

## Recommendation

- a) To delegate authority to the Director of Planning and Community Services to deal with any new issues arising from the re-advertisement process.
- b) **Subject to A, GRANT** permission subject to the following conditions and subject to the applicant entering into a Section 106 Agreement with the Council to secure the contributions referred to in the body of the report:
  1. The development hereby permitted, within the land edged red on the plan notated RDC 861-100(location Plan) shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.  
Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.
  2. Application for approval of all reserved matters for the first phase of the development hereby permitted shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission and applications for approval of reserved matters for subsequent phases shall be made to the Local Planning Authority within 5 years from the date of this permission.  
Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.
  3. Approval of the details of the layout, scale, appearance, access and the landscaping (hereinafter called "the reserved matters") for each phase of the development shall be obtained from the Local Planning Authority in writing before

any development is commenced in that phase. Plans and particulars of the reserved matters for each phase of the development shall be submitted in writing to the Local Planning Authority and the development of each phase shall be carried out as approved.

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

4. Notwithstanding the information submitted with the planning application, details of the means of access to the proposed buildings, and recreation areas and of the proposed pedestrian and cycle routes road shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

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

5. The reserved matters submitted in accordance with condition 3 and details submitted in accordance with any other condition of this planning permission shall accord with the principles outlined in the concept master plan for application development RDC 861-97 Rev B , and shall be in general accordance with the Design and Access Statement dated September 2013.

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

6. No development shall commence until a scheme for phasing of the development has been submitted to and agreed in writing by the Local Planning Authority. The scheme for phasing shall show the boundaries of the proposed phases of the development and shall include reference to the provision of the children's play spaces and other open spaces shown on the master plan (drawing RDC 861-97 Rev B), and the pedestrian and cycle routes. The development shall be carried out in accordance with the approved scheme.

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

7. No development of any phase shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved, unless otherwise agreed in writing by the Local Planning Authority. These details shall include trees to be retained showing their species, spread and maturity; proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); retained historic landscape features and proposals for restoration.

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

8. Soft landscape works shall include planting plans; written specifications; schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and implementation programme.

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

9. All hard and soft landscape works shall be carried out in accordance with the approved details and finished not later than the first planting season following completion of the relevant phase of the development.  
Reason: In the interests of the appearance of the area.
10. A landscape management plan, including phasing and implementation strategy, long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority as part of the reserved matters submission in accordance with conditions 2 and 8. The landscape management plan shall be implemented as approved.  
Reason: In the interests of the appearance of the area.
11. Any tree or shrub which forms part of the approved landscaping scheme which within a period of five years from planting fails to become, established, or becomes seriously damaged or diseased, or dies, or for any reason is removed, shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved in writing by the Local Planning Authority.  
Reason: In the interests of the appearance of the area.
12. No site clearance works or development of a phase shall take place until there has been submitted to the Local Planning Authority for their written approval a scheme showing the type, height and position of protective fencing to be erected around each tree or hedgerow to be retained in that phase. The scheme shall comply with BS 5837:2005. No site clearance works or development of any phase shall be commenced in the vicinity of the protected tree or hedgerow until such a scheme is approved in writing by the Local Planning Authority and thereafter the development hereby permitted shall only be carried out in accordance with the approved scheme. The area surrounding each tree or hedgerow within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:  
(i) There shall be no changes in ground levels;  
(ii) No material or plant shall be stored;  
(iii) No buildings or temporary buildings shall be erected or stationed;  
(iv) No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow; and  
(v) No drain runs or other trenches shall be dug or otherwise created;  
without the prior written consent of the Local Planning Authority.  
Reason: In the interests of the appearance of the area.
13. No development of a phase shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected within that phase. The boundary treatment shall be completed in accordance with a timetable agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details.  
Reason: In the interests of the appearance of the area.
14. No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme

shall include a timetable for implementation. The drainage strategy shall demonstrate that the surface water run-off generated up to and including the 1:100 year climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details and timetable. The scheme shall also include: details of how the scheme will be maintained and managed after completion, including any arrangements for adoption by any public authority or body; sustainable drainage techniques or SuDS incorporated into the design; and details design of the proposed balancing pond, including cross sections and plans.

The surface water drainage system shall deal with the surface water runoff from the site up to the critical 1% Annual Probability of Flooding (or 1 in 100 year flood event), including an allowance for climate change (i.e. for the lifetime of the development). Drainage calculations shall be included to demonstrate this (e.g. MicroDrainage or similar sewer modelling package calculations which include the necessary attenuation volume).

Reason: To prevent increased risk of flooding, to improve and protect water quality and improve habitat and amenity.

15. No development shall take place until a scheme for the provision of foul sewerage for the development has been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for implementation. The scheme shall be implemented as approved and in accordance with the timetable.

Reason: In the interests of pollution control.

16. No development shall take place until a scheme for the installation of oil and petrol interceptors has been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for implementation. The scheme shall be implemented as approved and in accordance with the timetable.

Reason: In the interests of pollution control.

17. No development of a phase shall take place until details of the materials proposed to be used on the surfaces of the roads, footpaths, car parking areas and courtyards along with samples of the materials to be used on the external surfaces of the buildings have been submitted to and approved in writing by the Local Planning Authority. The development of each phase shall be carried out using the approved materials unless otherwise agreed in writing with the Local Planning Authority.

Reason: To safeguard the appearance of the buildings and the locality generally.

18. No more than 200 dwellings shall be occupied until the mitigation scheme, identified in the BWB Drawing NTW/495/013 Rev3, has been completed to the Highways Agency's satisfaction and is open to traffic.

Reason: To ensure that the A50 trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act 1980 by ensuring appropriate controls are in place to monitor and manage site boundary construction.

19. No development shall take place until a construction management plan or construction method statement has been submitted to and approved in writing by the local planning authority. The approved plan/statement shall be adhered to



throughout the constructions period. The plan/statement shall provide for the storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking of vehicles for site operatives and visitors, routes for construction traffic, hours of operation, method of prevention of debris being carried onto the highway, pedestrian and cyclist protection, proposed temporary traffic restrictions and arrangements for turning vehicles. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

21. Prior to any other works commencing (excluding conditions 19 & 20) the new vehicular access shall be formed to Swarkestone Road (A514). The access shall be laid out in accordance with application drawing RD1112/F1, being provided with a right turn harbourage, 10m radii, pedestrian refuges and 2.4m x 47 m visibility sightlines, the area forward of which shall be levelled, constructed and taken into the highway.

Reason: In the interests of highway safety. For the avoidance of doubt the developer will be required to enter into an Agreement under Section 278 of the Highways Act 1980 with the Highway Authority in order to comply with this condition.

22. The gradient of the new access to Swarkestone Road shall not exceed 1:30 for the first 10m in to the site from the highway boundary and 1:20 thereafter.

Reason: In the interests of highway safety.

23. Notwithstanding the submitted drawings, the internal layout of the site shall accord with the Highway Authority's policy document "6Cs Design Guide" and national guidance in "Manual for Streets".

Reason: In the interests of highway safety.

24. The reserved matters required pursuant to Condition 3 shall include swept path diagrams to demonstrate that emergency, goods and service vehicles can adequately manoeuvre within the site to avoid overlong reversing manoeuvres and excessive man-carry distances.

Reason: In the interests of highway safety.

25. The new buildings shall not be occupied or brought into use until the new estate street, between each respective plot and the existing public highway, has been laid out in accordance with the approved reserved matters drawings to conform to the County Council's design guide, constructed to base course level, drained and lit in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of highway safety.

26. The surface water drainage details required pursuant to Condition 14 above shall include measures to accommodate surface water discharged from the roads and

the timetable for implementation shall make provision for the drainage works to accommodate such discharges before each section of road is brought into use.

Reason: In the interests of highway safety.

27. Prior to the commencement of each phase, details shall be submitted to and approved in writing by the local planning authority, showing the means to prevent the discharge of water from the development onto the highway. The approved details shall be completed in accordance with approved details prior to the first occupation or use of any building in that phase.

Reason: In the interests of highway safety.

28. The details required pursuant to Condition 3 shall include areas for the parking of residents' and visitors' parking, and provision for covered cycle parking. Before the occupation or use of the buildings to which they relate, these areas shall be laid out and surfaced in accordance with a scheme that shall have previously been submitted to and approved in writing by the local planning authority and shall thereafter be maintained throughout the life of the development free of any impediment to their designated use.

Reason: In the interests of highway safety.

29. Parking within the site for the retail elements of the development shall be laid out in accordance with the "6Cs Design Guide", surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

30. There shall be no gates or barriers within 5m of the nearside highway boundary and any gates shall open so as to open in wards only.

Reason: In the interests of highway safety.

31. Facilities for the storage of waste bins shall be provided within private land at the entrance to shared private access drives, in accordance with a scheme that shall have previously been submitted to and approved in writing by the local planning authority. The facilities shall be provided prior to the first occupation of the dwellings to which they relate and shall be retained thereafter free from any impediment to their designated use.

Reason: In the interests of highway safety and to prevent bins and vehicles being left for longer than necessary in the street.

32. Before development begins, or in accordance with a timetable agreed in writing with the local planning authority, a detailed Residential and Workplace Travel Plan with SMART objectives shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall set out proposals, including a timetable, to promote and monitor travel by sustainable modes, and shall be implemented in accordance with the timetable set out therein. Thereafter the Travel Plan shall be implemented, monitored and reviewed in accordance with the agreed Travel Plan Targets.

Reason: To minimise the need to travel by private car in the interests of sustainable development.

33. . No development of any phase shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority that specifies the provision to be made for dust mitigation measures and the control of noise emanating from the site during the period of construction of the

development. The approved measures shall be implemented throughout the construction period.

Reason: To protect the amenities of nearby residents.

34. During the period of construction of any phase of the development which abuts any occupied dwelling, no construction work shall take place outside the following times: 0730 - 1900 hours Monday to Friday and 0730 - 1330 hours on Saturdays and at any time on Sundays, Bank and Public Holidays.

Reason: To protect the amenities of nearby residents.

35. Before any of the retail or commercial uses (within Use Classes A1-A5) commence, a scheme designed to protect the living conditions of occupants of nearby buildings from noise, vibration and odours from the air ventilation and extraction system, including the methods of treatment of the emissions and the external ducting, shall be submitted to and approved in writing by the Local Planning Authority. Before the uses hereby permitted commence, the measures approved under the scheme shall be installed and brought into use. Thereafter the approved measures shall be retained, operated and maintained in accordance with the manufacturer's specifications.

Reason: To protect the amenities of nearby residents.

36. Before use commences of any building for retail or commercial uses (within Use Class A1-A5) or of the proposed community school or day care nursery centre, details of all external lighting equipment associated with the proposed use of those buildings shall be submitted to and approved in writing by the Local Planning Authority and the development implemented in accordance with the approved details. No other external lighting equipment may then be used on that building except with the approval in writing of the Local Planning Authority.

Reason: In the interests of the amenities of nearby residents and the appearance of the area.

37. No fixed plant or equipment (LAeq,t) associated with any building hereby permitted shall exceed the background level (LA90,t) as measured at the boundary of the nearest residential properties at any time.

Reason: In the interests of the amenities of nearby residents.

38. Before development begins a noise mitigation strategy shall be submitted to and approved in writing by the local planning authority. Thereafter and before commencement of each phase of the development detailed noise mitigation schemes for each phase shall be submitted to and approved in writing by the local planning authority. The approved schemes shall be implemented prior to the first occupation of any dwelling in the phase to which they relate.

Reason: To protect the occupants from intrusive noise.

39. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.

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

C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

40. 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 LPA 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.

41. No development shall take place until a Habitat Creation, Management and Monitoring Plan for a minimum period of five years has been submitted to and approved in writing by the local planning authority. This plan shall include appropriate drawings and plans and provided details on who will implement this work and how it will be funded. Habitat creation, management and monitoring works shall be undertaken in accordance with the plan.

Reason: To ensure that habitats are adequately protected and enhanced in accordance with Chapter 11 of the NPPF, Local Plan Saved Environment Policy 11.

42. The development shall be carried out in accordance with the mitigation and enhancement measures set out in Paragraph 6.5 of the Ecology and nature Conservation Section of the Environmental Statement produced by FPCR.

Reason: Reason: To ensure that habitats are adequately protected and enhanced in accordance with Chapter 11 of the NPPF, Local Plan Saved Environment Policy 11.

43. a) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing. The Written Scheme shall explain the proposed phases for the development. No development shall take place in any phase of the

development until the fieldwork element of the scheme for that phase is complete to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and on a phased basis:

- (1) The programme and methodology of site investigation and recording;
  - (2) The programme of post investigation assessment;
  - (3) Provision to be made for analysis of the site investigation and recording;
  - (4) Provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - (5) Provision to be made for archive deposition of the analysis and records of the site investigation; and
  - (6) Nomination of a competent person or person/organisation to undertake the works set out within the Written Scheme of Investigation.
- b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a);
- c) Unless otherwise agreed in writing by the Local Planning Authority, no more than 50% of the market dwellings within any development phase shall be occupied until the site investigation and post investigation assessment for that phase has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (a), and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.

44. No more than 200 dwellings shall be occupied in advance of traffic being able to access the T12 link road connecting Holmleigh Way with Wilmore Road, Chellaston, Derby.

Reason: To ensure that the road network has sufficient capacity for the development.

45. Prior to the first occupation of the development hereby permitted, measures to minimise the risk of crime to meet the specific security needs of the application site and the development shall be implemented in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area pursuant to the Council's powers under Section 2 of the Local Government Act 2000 and to reflect government guidance set out in PPS1.

46. The total gross internal floor space for the proposed foodstore shall not exceed 1,650 sq m, including any mezzanine floorspace.

Reason: To ensure that the commercial element is commensurate with the residential development in the interest of sustainability.

47. The total retail sales area of the floorspace for the proposed foodstore (excluding checkouts, lobbies, concessions, café, customer toilets and walkways behind the checkouts) shall not exceed 1,320 sq m, including any mezzanine floorspace.  
Reason: To ensure that the commercial element is commensurate with the residential development in the interest of sustainability.
48. The total sales area of the proposed foodstore devoted to the sale and display of convenience goods shall not exceed 1,120 sq m (maximum 85%), including any mezzanine floorspace.  
Reason: To ensure that the commercial element is commensurate with the residential development in the interest of sustainability.
49. The total gross internal floor space for the proposed commercial (A1/A2/A3) units shall not exceed 1,650 sq m, including any mezzanine floorspace.  
Reason: To ensure that the commercial element is commensurate with the residential development in the interest of sustainability.
50. The total gross internal floor space for the proposed D1 unit shall not exceed 450 sq m, including any mezzanine floorspace.  
Reason: To ensure that the commercial element is commensurate with the residential development in the interest of sustainability.
51. No deliveries shall be taken in or despatched from the proposed local centre outside the following times: 0700 hours to 1900 hours Monday to Saturday and at any time on Sundays, Bank and Public Holidays, unless otherwise agreed in writing with the Local Planning Authority.  
Reason: To protect the amenities of nearby residents.
52. Before development begins details of measures to achieve the objectives of the submitted Sustainable Energy Strategy Report shall be submitted to and approved in writing by the local planning authority. The approved measures shall be incorporated in the development.  
Reason: Reason: In the interest of sustainability.

#### Informatives:

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

To note the attached requirements of the Environment Agency.

12 Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 7595) before any works commence on the vehicular access within highway limits.

I33 The Highway Authority recommends that the first 5m of any proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

I10 Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures should be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Environmental Services Department at County Hall Matlock. The applicant is advised to allow at least 12 weeks in any programme of works to obtain a Section 278 Agreement.

Pursuant to Section 38, and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, legal, administrative and financial processes involved in achieving adoption of new residential roads may be obtained from the Environmental Services Department at County Hall Matlock.

Traffic management measures will be necessary throughout the works on Swarkestone Road (A514). All traffic management details shall be submitted to and approved by in writing by Derbyshire County Council's Traffic Section (01629 538592) prior to implementation.

The applicant is advised to ensure that all future maintenance responsibilities of shared access /driveways and visitor parking spaces is clearly defined within the deeds of the individual properties.

The applicant should be aware that a commuted sum will be payable to the Highway Authority for the future maintenance of the extra over carriageway provided for the parking bays and any other non-standard highway infrastructure within the site.

That the hedgerows on the application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to July inclusive. If you are in doubt as to requirements of the law in this regard you should contact English Nature, Peak District and Derbyshire Team, Manor Barn, Over Haddon, Bakewell, Derbyshire, DE4 1JE.

Further to Condition 35 any aspects of the required scheme that constitute development in their own right will need to be the subject of an application for planning permission. Any security measures implemented in compliance with the approved scheme should seek to achieve the 'Secured By Design' accreditation awarded by Derbyshire Constabulary. Written confirmation of those measures should then be provided to the

Local Planning Authority.

The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.

The highway mitigation works associated with the development involve works within the public highway, which is land over which you have no control. The Highways Agency therefore requires you to enter in to a suitable legal Section 278 agreement to cover the design check, construction and supervision of the works. Contact should be made with Highways Agency's Section 278 Business Manager David Steventon to discuss these matters on [david.steventon@highways.gsi.gov.uk](mailto:david.steventon@highways.gsi.gov.uk)

Any works undertaken to the Highways Agency network are carried out under the Network Occupation Management policy, in accordance with HA procedures, which currently requires notification/booking 12 months prior to the proposed starting date. Exemptions to these bookings can be made but only if valid reasons can be given to prove that they will not affect journey time reliability and safety. The Area 7 MAC's contact details for these matters is [area7.roadspace@aone.uk.com](mailto:area7.roadspace@aone.uk.com)

In granting planning permission the Local Planning Authority has taken into account the environmental information submitted in the Environmental Impact Assessment.



19/11/2013

**Item**                **1.2**

**Reg. No.**        **9/2013/0749/FH**

**Applicant:**  
**MR SIMON ROWLEY**  
**SOMERTON HOUSE**  
**MAIN STREET**  
**DALBURY LEES**  
**ASHBOURNE**  
**DE6 5BE**

**Agent:**  
**MR DARRYN BUTTRILL**  
**BIDESIGN ARCHITECTURE LTD**  
**79 HIGH STREET**  
**REPTON**  
**DERBYSHIRE**  
**DE65 6GF**

**Proposal:**        **THE ERECTION OF EXTENSIONS TO SIDES AND REAR,**  
                         **RE-CLADDING OF EXISTING BUILDING AND ERECTION**  
                         **OF DOUBLE GARAGE TO FRONT AT SOMERTON**  
                         **HOUSE MAIN STREET DALBURY LEES ASHBOURNE**

**Ward:**             **HILTON**

**Valid Date:**       **12/09/2013**

#### **Reason for Committee Determination**

The application is referred for committee determination as the proposal does not comply with the Council's adopted "Extending your Home" Supplementary Planning Guidance and the application is recommended for approval.

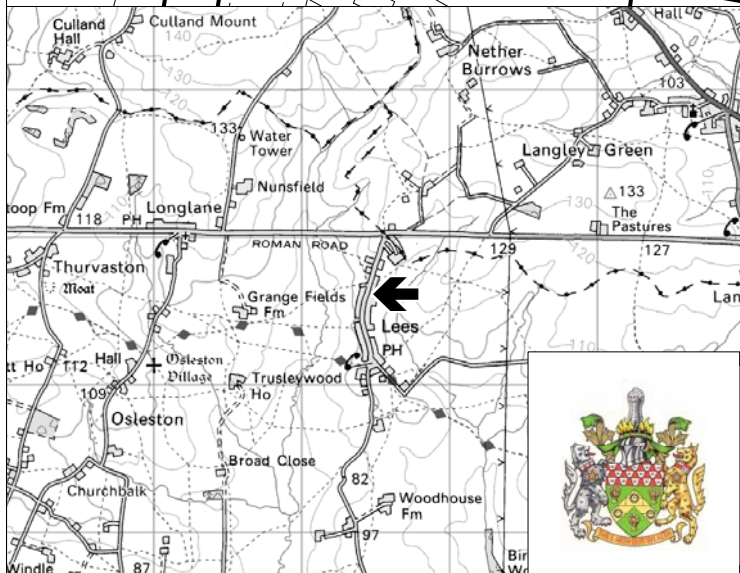
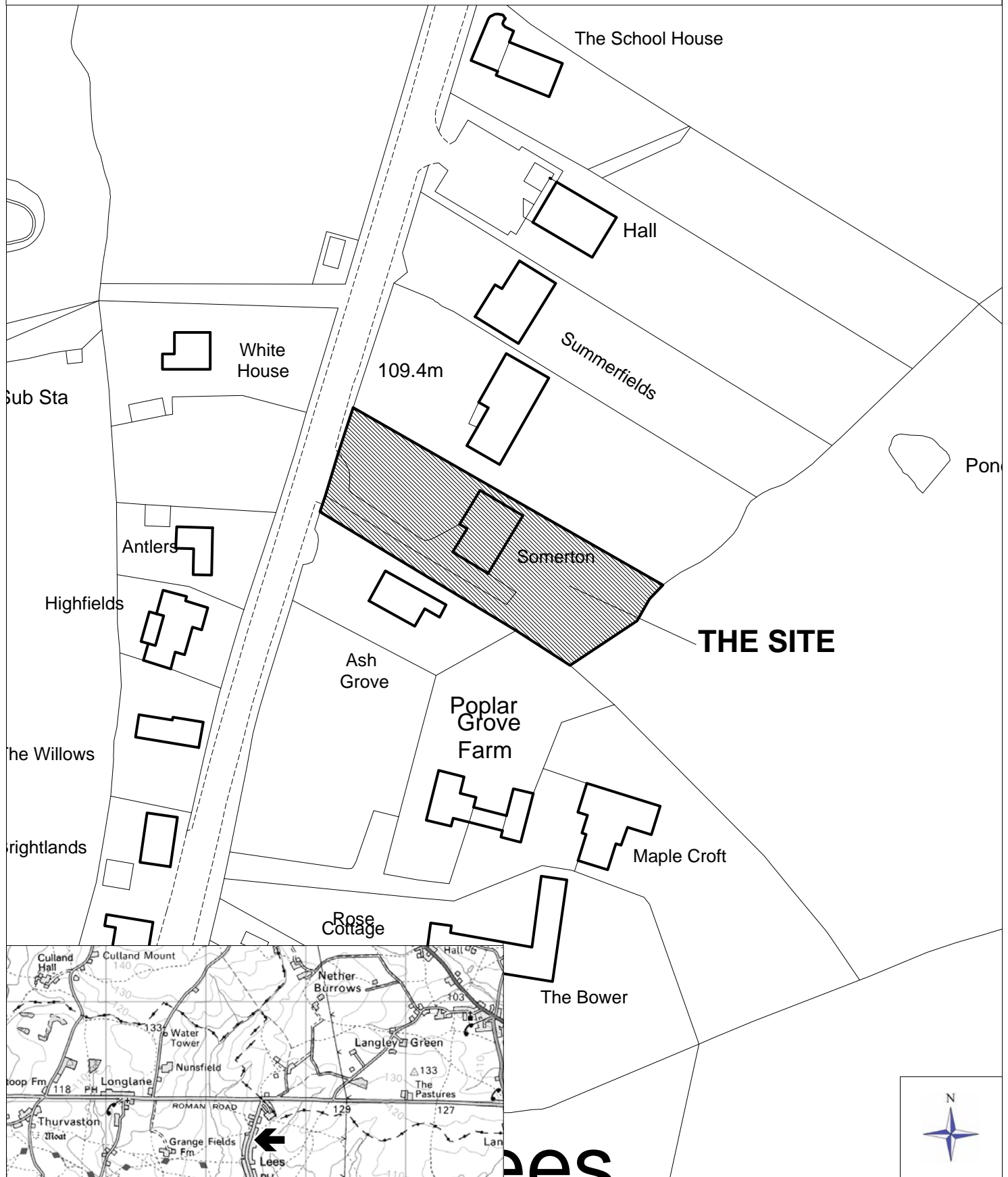
#### **Site Description**

The application site is a detached two storey dwelling located on the eastern side of Main Street. The existing dwelling is set back some 29m from the main road frontage and the site is generally level, although it is noted that the floor level of the property sits higher than the adjacent property to the south, Ash Grove. The property sits along a predominantly residential built up frontage within the village development boundary but backs on to open countryside.

#### **Proposal**

The application seeks permission to erect a two storey rear extension that would project out from the existing rear wall by approximately 2m with a width of approximately 5.3m and a pitched roof to a maximum height of 6.5m (5m to eaves). This would create a living room at ground floor and bedroom above, served by a Juliet balcony at first floor level. The application also seeks permission to erect a first floor side extension on the southern side of the property over the existing ground floor part of the dwelling, replacing the long, raking roof which contains a side facing, flat roof dormer with two dual pitched roofs. This would measure approximately 8.6m x 5.6m with a maximum

**9/2013/0749 - Somerton House, Main Street, Dalbury Lees, Ashbourne,  
Derby DE6 5BE**



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**South Derbyshire District Council. LA 100019461. 2010**

height of approximately 6.5m (5.2m to eaves) and would create an additional bedroom with en-suite and landing, as well as a dressing room and en-suite to the new bedroom resulting from the rear extension. On the northern side of the property it is proposed to replace the flat roof of the existing garage with a steeply pitched roof to a maximum height of approximately 6.5m to create an additional bedroom at first floor level with rooflights serving that room to provide light.

As part of the proposals a new entrance porch is provided on the front and the proposal seeks to transform the appearance of the property by altering the windows and doors, inserting a Juliet balcony at first floor level on the front well as applying render and cedar boarding, replacing the windows with powder coated aluminium and roofing the resulting building with standing seam aluminium sheets.

The application seeks permission for the erection of a detached, double garage on the front garden measuring approximately 6.6m x 6.6m with a pitched roof to a maximum height of approximately 4.2m (2.5m to eaves). The proposed garage has a pitched roof design with a gable on the west elevation facing Main Street.

### **Planning History**

No recent applications.

### **Responses to Consultations**

Dalbury Lees Parish Council – No comments received.

### **Responses to Publicity**

Neighbours notified, no representations received.

### **Development Plan Policies**

The relevant policies are:

Saved Local Plan: Housing Policy 13 (H13).

### **Supplementary Planning Guidance**

Extending Your Home (2004).

### **National Guidance**

The NPPF.

### **Planning Considerations**

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

- The design of the proposal
- Impact on neighbours.

### **Planning Assessment**

In terms of the design of the scheme, the proposal would result in the appearance of the existing property being transformed as a result of both the increased size of the property, the external alterations to the windows and doors as well as the proposed materials, resulting in a more modern appearance. However, there are a variety of house types within the village that reflect its development over the years and whilst the design of the existing dwelling is one of its time, given the design and appearance of the existing house, the loss of that character would not be detrimental to the character of this part of the village. Whilst the resulting dwelling would be larger in mass the way the project has been designed, that apparent mass has been reduced through the use of small-scale elements that help to break down to the overall appearance of the resulting building, such a different roof slopes, contrasting materials and projecting gable.

Whilst a garage is proposed on the front garden the main house is set some distance back from the public highway and a reasonable distance to provide an adequate buffer. It is noted that there are other detached garages on the frontages of the properties in the vicinity of the site including the property immediately to the side, Ash Grove. Accordingly, the presence of the garage is considered acceptable in design and streetscene terms.

In terms of the impact of the proposed extensions on neighbours the proposal would not result in a significant adverse impact on the amenity that the occupiers of the adjacent property to the north, known as Cheylesmore, could reasonably be expected to enjoy by way of loss of light, overshadowing or overbearing to reasonably justify refusal of the application and the orientation of the windows in the proposal will not lead to any significant overlooking or loss of privacy to that property.

The main impact of the proposal would be on the amenity of the occupiers of the adjacent property to the south, Ash Grove, as that property, which is a bungalow that has been designed such that there are bedroom windows on their northern elevation facing sideways across the application site. The requirements of Housing Policy 11 are that new housing should be of a standard that does not affect the residential amenity of neighbours, highway safety, and is of a safe and functional layout. To assist in assessing these issues, the Housing Design and Layout SPG has been adopted by the Council. This requires minimum separation distances between habitable rooms and ensure that private amenity space is not affected by new housing in a manner that would be unduly detrimental to the occupation of the adjacent dwelling. In this case there is a blank elevation, save for first floor bathroom windows that can be required to be obscure glazed and a more distant kitchen window in the proposed extension. The distance between the nearest bedroom of the neighbour and the side of the proposed extension is approximately 8.2m, below the required 9m as set out in the Council's space standards and furthermore the distance between the proposed garage and another bedroom window is approximately 5m, instead of the required 9m (although strictly speaking the bedroom windows are side windows which should be treated on their merits according to the SPG). It is also noted that the garden level of the application site is also slightly higher, approximately 600mm, than that of Ash Grove, however there is the applicant's own detached garage in front of one of the bedrooms in close proximity to it and a projecting element of the neighbours' property also projects out close to the other bedroom window. It is noted that a proposed kitchen window on the side elevation of the proposal is facing south towards the rear garden of Ash Grove at ground floor level, this is 6m from the boundary and could be inserted without the need for planning permission. Looking at the interrelationship as a whole, it is considered that, notwithstanding the standards set out in the Council's adopted space

standards, the impact on the amenity that the occupiers of the adjacent property, Ash Grove, could reasonably expect to enjoy by way of overbearance is not considered to be so great so as to reasonably justify refusal of the application.

In light of the above it is considered that the proposal would result in a suitable design that would not adversely affect the amenity of neighbours to a significant degree and as such is acceptable.

## **Recommendation**

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the submitted details, the development shall not commence until samples of the proposed materials to be used in the external construction of the development have been submitted to, and approved in writing by, the local planning authority and the development shall only be undertaken in accordance with the materials so approved and shall be retained as such thereafter.  
Reason: To ensure a satisfactory standard of external appearance.
3. This permission relates to the drawing number 06 received on 5th November 2013 and any variation to the approved drawings may need the approval of the local planning authority.  
Reason: For the avoidance of doubt as to what is approved.
4. Large scale drawings to a minimum scale of 1:10 (or other details as agreed by the Local Planning Authority) of eaves and verges, cills, headers, rainwater goods, and external windows, doors and balconies shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The development shall be implemented in accordance with the approved drawings.  
Reason: In the interests of the appearance of the building, and the character of the area.
5. Before the first occupation of the building/extension hereby permitted the windows serving the en-suite bathrooms in the south-western elevation of the building shall be glazed with obscure glass which shall thereafter be permanently retained in that condition unless planning permission has first been granted by the Local Planning Authority.  
Reason: To avoid the possibility of overlooking in the interests of preserving the amenity of residents.
6. Notwithstanding the provisions of Part 1 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any Order revoking and re-enacting that Order) no window or opening (other than any that may be shown on the approved drawings) shall be formed in the south-

western or north-eastern elevations of the building unless planning permission has first been granted by the Local Planning Authority.

Reason: To avoid the possibility of overlooking in the interests of preserving the amenity of residents.

Informatives:

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

19/11/2013

**Item**                **1.3**

**Reg. No.**        **9/2013/0759/NO**

**Applicant:**  
**ZOE SEWTER**  
**SOUTH DERBYSHIRE DISTRICT**  
**COUNCIL**  
**CIVIC OFFICES**  
**CIVIC WAY**  
**SWADLINCOTE**

**Agent:**  
**MR WESLEY BUGG**  
**SURFACING STANDARDS**  
**1A PERTH HOUSE**  
**CORBYGATE BUSINESS PARK**  
**CORBY**  
**NORTHAMPTONSHIRE**  
**NN17 5JG**

**Proposal:**        **THE DEVELOPMENT OF A FA COMPLIANT 7V7**  
                         **ARTIFICIAL TURF PITCH WITH ASSOCIATED FENCING,**  
                         **FLOODLIGHTING AND ACCESS PATHWAY AT**  
                         **MELBOURNE RECREATIONAL GROUND COCKSHUT**  
                         **LANE MELBOURNE DERBYSHIRE**

**Ward:**            **MELBOURNE**

**Valid Date:**        **09/10/2013**

**Reason for committee determination**

The Council is the applicant.

**Site Description**

The application site is part of a multi-sport outdoor playing field facility which covers an area of approximately 10.6 hectares, situated to the south east of the settlement. The playing fields are presently being developed pursuant to the last three grants of planning permission identified in the Planning History section below.

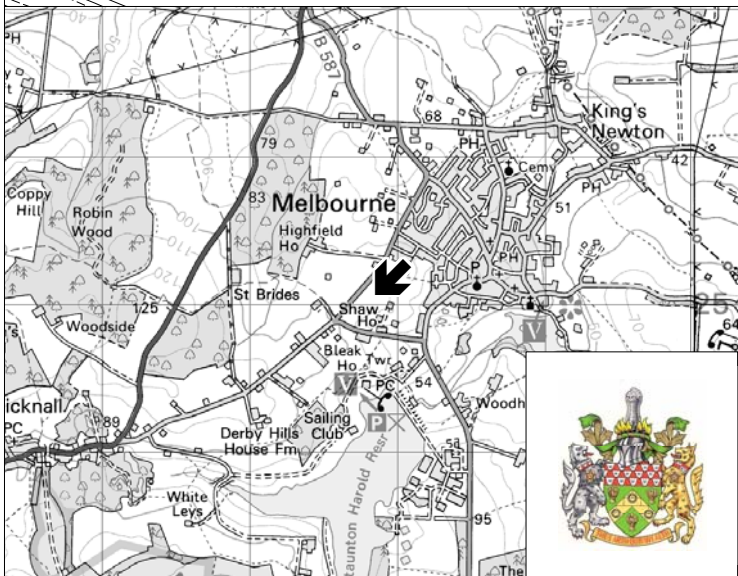
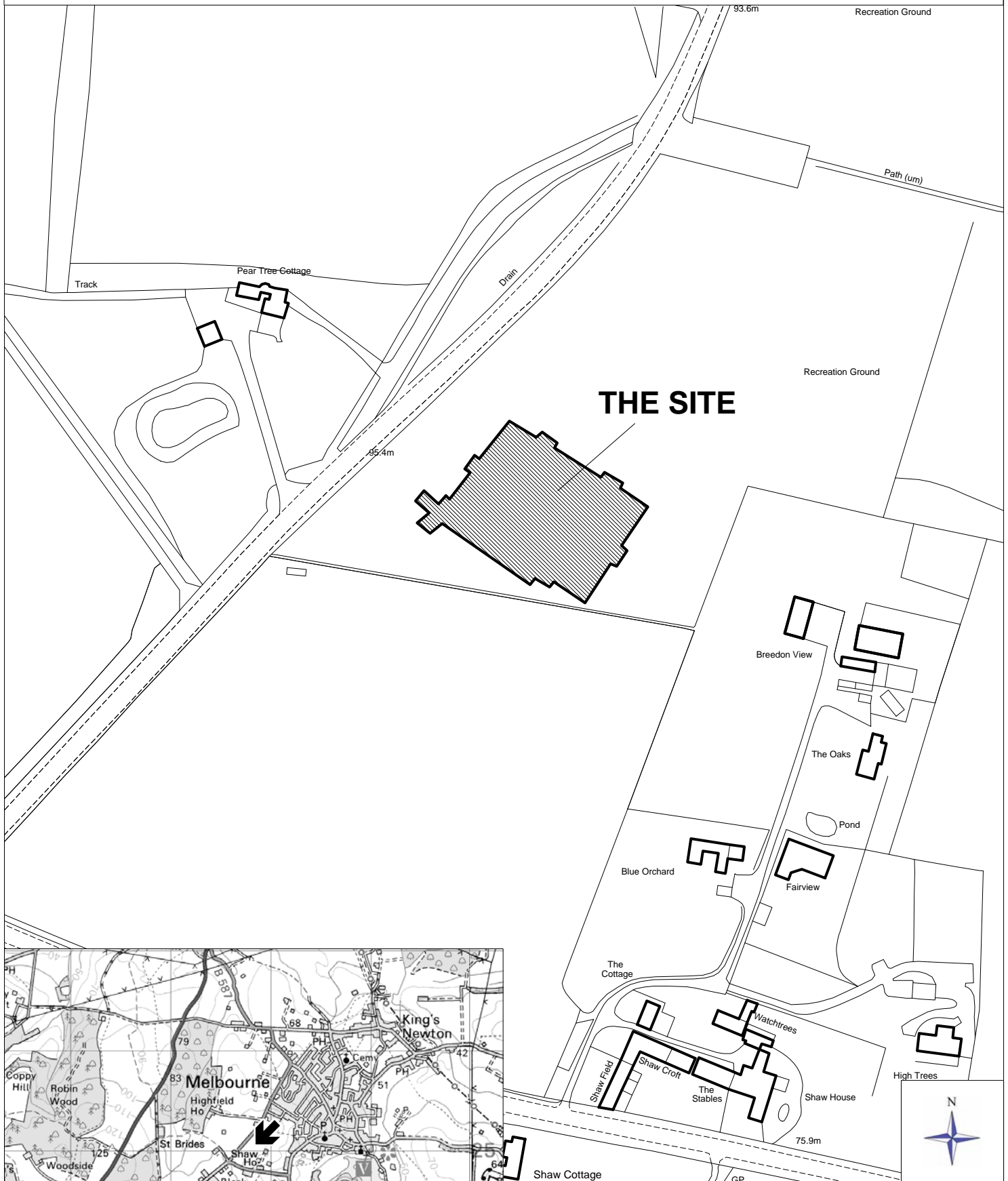
**Proposal**

The proposal is for an artificial turf pitch enclosed by a 4.5 m high mesh fence. Six floodlighting columns and luminaires are also proposed, each being 10.5 m in height.

The application is accompanied by a Design and Access Statement and Lighting Impact Assessment, the latter demonstrating that there would be no light spillage to either neighbouring dwellings or to the public highway.

**Planning History**

**9/2013/0759 - Melbourne Recreational Ground, Cockshut Lane, Melbourne,  
Derby DE73 8DG**



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9/2013/0458 - the removal of condition 7 and variation of conditions 9, 10, 17, 20, 21 & 26 attached to planning permission 9/2011/0910 - granted  
9/2011/0910 – new facilities for rugby, football, cricket, tennis and bowls, the erection of a new clubhouse floodlighting and creation of parking facilities - granted  
9/2011/0179: the erection of a two lane all weather cricket net - granted  
9/2011/0018: the erection of a two lane all weather cricket net - withdrawn  
9/2010/0220: importing inert soil to restore an unusable sloping field and improve drainage - granted  
9/2009/0538: the siting of 5 portacabins and floodlight for side of main pitch - granted  
9/2004/0062: erection of a club sign - granted  
9/2003/0320: The erection of a new cricket score box – granted

### **Applicant's supporting information**

The Design and Access Statement makes it clear that the development would comply with Football Association and FIFA guidelines and also Sport England advice and requirements. The Lighting Impact Assessment concludes that the lighting system would be suitable for meeting the most stringent of light control parameters whilst maintaining the specified luminance levels for the sports pitch.

### **Responses to Consultations**

The Highway Authority has no objection subject to the lights being shielded from traffic.

Sport England has no objection in principle but recommends that conditions imposed on the grants of permission for re-development of the playing fields be carried over.

### **Responses to publicity**

Melbourne Parish Council and the Civic Society have no objection.

### **Development Plan Policies**

The relevant policies are:

South Derbyshire Local Plan Saved Environment Policy 1(Development in the Countryside), Community Facilities Policy 1(New Community Facilities), Recreation and Tourism Policy 1 (Recreation and Tourist Facilities

### **National Guidance**

Paras 6-10 (Achieving sustainable development)  
Paras 11-14 (The presumption in favour of sustainable development)  
Para 17 (Core principles)  
Chapter 7 (Requiring good design)  
Chapter 8 (Promoting healthy communities)  
Paras 186 &187 (Decision-taking)  
Para 196 & 197 (Determining applications)  
Paras 203-206 (Planning conditions and obligations)  
Annex1 (Implementation)

### **Planning Considerations**

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

- Impact on the countryside
- Impact on neighbours
- Highway safety

### **Planning Assessment**

The principle of re-developing the playing fields is established through the recent grants of permission. The proposed artificial turf pitch would be an enhancement to the facility and is in the location shown for such a pitch on the master plans. There is no need to repeat Sport England's recommended conditions applicable to the development of the wider playing field facility.

There would be some visibility of the perimeter fencing from the road, albeit filtered by roadside hedges. The fencing would be seen in the context of a landscape character heavily influenced by the sport and recreation usage of the site. The lighting columns would be of slender design and although they would be visible, the impact would be minimised by their design and would not have an unduly harmful impact on the countryside. The lights have been designed to accord with the Institution of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Light 2011. In particular the limitations relevant to Environmental Zone E2 (rural) have been applied. In this context the night-time environment would not be unacceptably affected. A condition would require the lights to be switched off when not in use (curfew).

The lighting specification demonstrates that light would not spill onto adjoining residential property. Therefore the impact of the lights on neighbours would not be unreasonable. The recommended curfew condition would further protect neighbours. Noise impacts from the development would not be materially greater than the current potential of the site as a sport and recreation facility.

The design of the lighting would avoid light spillage on to the public highway. As such drivers would not be subject to undue distraction from the floodlights.

For these reasons the proposal is in accord with the local and national policies referred to above.

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

### **Recommendation**

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

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

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

2. Subject to Conditions 3 & 4 below the floodlights shall be installed in accordance with submitted Lighting Impact Statement and shall be retained and maintained as such thereafter.

Reason: In the interests of the appearance of the area and to protect residential amenity and highway safety.

3. All external light sources shall be shielded from highway traffic.

Reason: To prevent danger to road users.

4. The floodlighting shall be turned off no later than 9:30pm and shall not be turned on again until the following afternoon.

Reason: To preserve amenity.

**Informatives:**

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

19/11/2013

**Item**                **1.4**

**Reg. No.**        **9/2013/0748/TP**

**Applicant:**  
**SOUTH DERBYSHIRE**  
**DISTRICT COUNCIL**  
**CIVIC OFFICES**  
**CIVIC WAY**  
**SWADLINCOTE**

**Agent:**  
**MR MARTIN P BUCKLEY**  
**SOUTH DERBYSHIRE**  
**DISTRICT COUNCIL**

**Proposal:**        **THE PRUNING OF LIME TREES COVERED BY SOUTH**  
                         **DERBYSHIRE DISTRICT COUNCIL TREE**  
                         **PRESERVATION ORDER NUMBER 132 AT**  
                         **PLAYGROUND SWAN HILL MICKLEOVER DERBY**

**Ward:**            **ETWALL**

**Valid Date:**     **11/09/2013**

**Reason for committee determination**

The land on which the tree is located is owned by the District Council and is therefore the applicant.

**Site Description**

The trees are two mature Lime trees which are located on an area of public open space in a prominent position in the rear corner of the Swan Hill playground and are located to the north of 4 Swan Hill.

**Proposal**

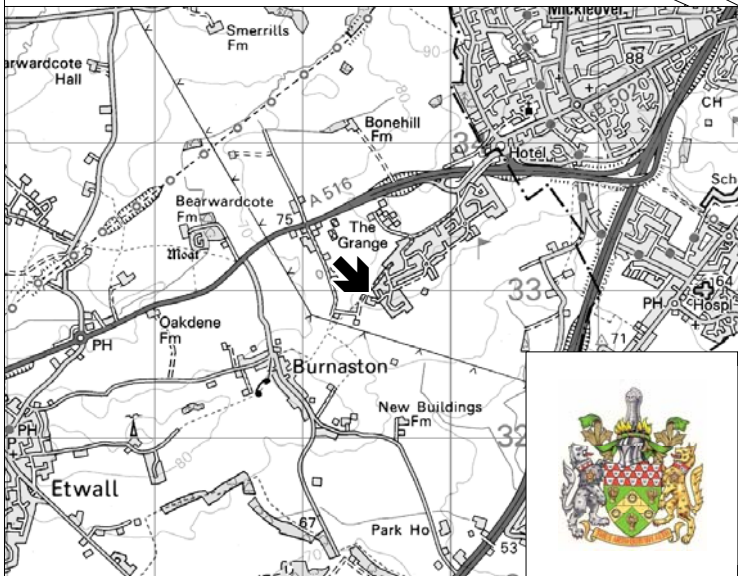
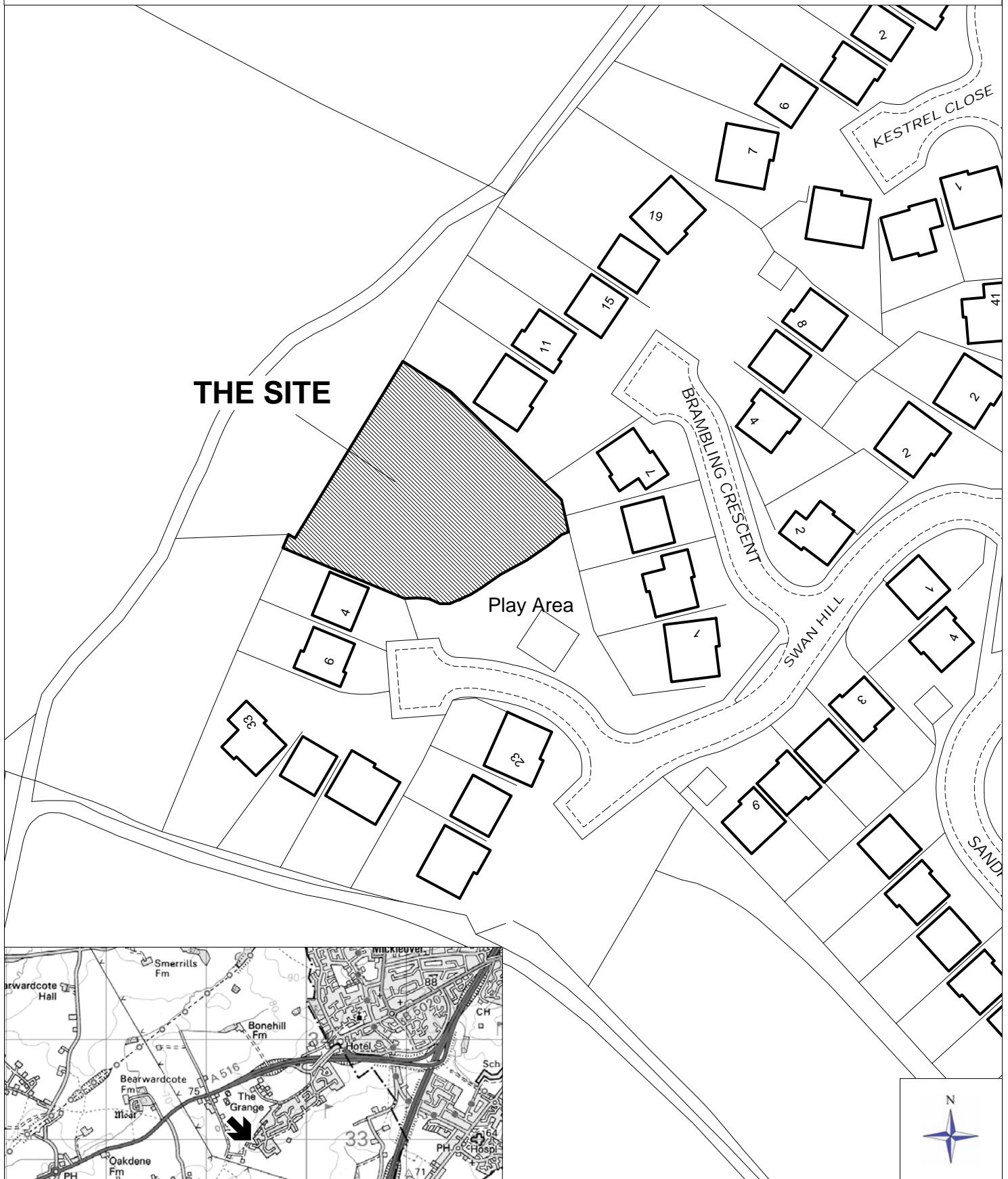
The proposal is undertake pruning works to the trees including a through crown clean to remove all dead wood and defective material and the selective reduction of limbs with excessive end weight. It is also proposed to remove epicormic growth from the base and main trunk of the Lime tree closest to 4 Swan Hill.

**Planning History**

None relevant.

**Responses to Publicity**

Burnaston Parish Council – No comments received.



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## **Development Plan Policies**

The relevant policies are:

Local Plan: Saved Environment Policy 9.

## **National Guidance**

Protected trees - A guide to tree preservation procedures

## **Planning Considerations**

The main issue central to the determination of this application is the acceptability of proposed works.

## **Planning Assessment**

### Acceptability of proposed works

These are mature Ash trees that appear to be in good health and are located in a very prominent position, making a significant positive contribution to the visual amenity of the area. As such it is important to ensure that the works undertaken do not either unacceptably reduce the contribution that the trees make to the character and appearance of the area, or adversely affect the health and vitality of the trees.

The Council's Tree Officer is fully supportive of the proposed works and will be overseeing their implementation.

### Conclusion

The proposed works are considered to be appropriate.

## **Recommendation**

**GRANT** consent.

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

Reason: To enable the local planning authority to consider any proposals beyond this period in the interests of safeguarding the amenity value of the trees.

2. The work shall be carried out in accordance with BS3998:2010 - Tree Work.

Reason: To safeguard the health of the trees.

19/11/2013

**Item**                **1.5**

**Reg. No.**        **9/2013/0767/TP**

**Applicant:**  
**SOUTH DERBYSHIRE**  
**DISTRICT COUNCIL**  
**CIVIC OFFICES**  
**CIVIC WAY**  
**SWADLINCOTE**

**Agent:**  
**MR MARTIN BUCKLEY**  
**SOUTH DERBYSHIRE**  
**DISTRICT COUNCIL**  
**CIVIC OFFICES**  
**CIVIC WAY**  
**SWADLINCOTE**

**Proposal:**        **PRUNING WORKS TO AN ASH TREE COVERED BY**  
                         **SOUTH DERBYSHIRE DISTRICT COUNCIL TREE**  
                         **PRESERVATION ORDER NO. 132 ON PUBLIC OPEN**  
                         **SPACE WILSON CLOSE MICKLEOVER DERBY**

**Ward:**                **ETWALL**

**Valid Date:**        **16/09/2013**

**Reason for committee determination**

The land on which the tree is located is owned by the District Council and is therefore the applicant.

**Site Description**

The tree is a mature Ash tree which is located on an area of public open space in a prominent position on the corner of Wilson Close and Woodcock Square. The Ash tree is located in front/at the side of number 1 Woodcock Square and is in close proximity to that property.

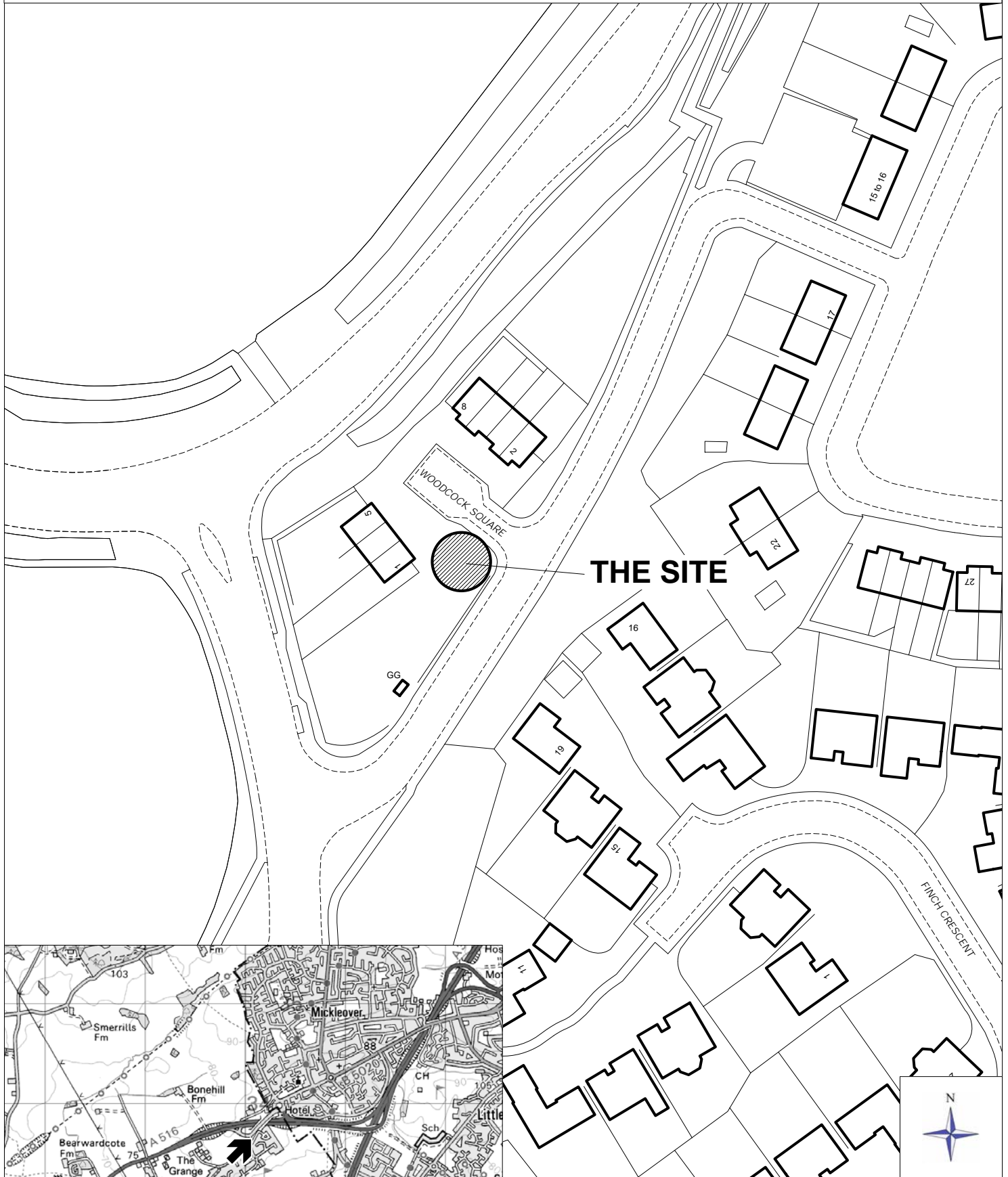
**Proposal**

The proposal is undertake pruning works to the tree including a through crown clean to remove all deadwood and defective material, crown lift the tree to 4m, clear branches obstructing the street lighting column as well as cut the branches away from number 1 Woodcock Square to leave 2m clearance.

**Planning History**

None relevant.

**Responses to Publicity**



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South Derbyshire District Council. LA 100019461. 2010



Burnaston Parish Council – No comments received.

One letter received from a neighbour in which they state that they have no objection to the proposal but ask for all the trees on Wilson Road and Woodcock Square to be checked as the size of them is encouraging squirrels on the roof which could lead to then getting in the roof and causing damage. They also state that the Oak tree at the back of their property is now overhanging the garden.

### **Development Plan Policies**

The relevant policies are:

Local Plan: Saved Environment Policy 9.

### **National Guidance**

Protected trees - A guide to tree preservation procedures

### **Planning Considerations**

The main issue central to the determination of this application is the acceptability of proposed works.

### **Planning Assessment**

#### Acceptability of proposed works

This is a mature Ash tree that appears to be in good health and is located in a very prominent position, making a significant positive contribution to the visual amenity of the area. As such it is important to ensure that the works undertaken do not either unacceptably reduce the contribution that the tree makes to the character and appearance of the area, or adversely affects the health and vitality of the tree.

The Council's Tree Officer is fully supportive of the proposed works and would be overseeing their implementation. The comments of submitted in the letter from the neighbour are noted but are not relevant to the consideration of this application.

#### Conclusion

The proposed works are considered to be appropriate.

### **Recommendation**

**GRANT** consent.

## **2. PLANNING AND OTHER APPEALS**

(References beginning with a 9 are planning appeals and references beginning with an E are enforcement appeals)

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/Delegated</b>
9/2013/0234	Walton	Seales	Dismissed	Delegated
9/2013/0256	Newhall	Newhall & Stanton	Dismissed	Delegated



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## Appeal Decision

Site visit made on 3 September 2013

**by Anne Jordan BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 11 September 2013**

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**Appeal Ref: APP/F1040/D/13/2201044**

**10 and 12 Bells End Road, Walton on Trent, Swadlingcote, Derbyshire, DE12 8ND**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr John Orton and Mr James Moore against the decision of South Derbyshire District Council.
  - The application Ref 9/2013/0234/FH, dated 24 March 2013, was refused by notice dated 5 June 2013.
  - The development proposed is erection of a fence and gates to front of properties.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application was made by Mr John/James Orton/Moore and relates to development at two residential properties. It is clear from the documentation that the application and appeal have been made by two individuals and I have therefore referred to the appellants separately.
3. The description of development has been abbreviated by the Council and altered to reflect the fact that part of the proposal is already in place. However the reference to the development being part retrospective is superfluous and I have left it out of my formal decision.

### Main Issue

4. The main issue is whether the proposal would preserve or enhance the character or appearance of the Walton on Trent Conservation Area.

### Reasons

5. Nos 10 and 12 Bells End Road are a pair of modern semi detached houses which are separated by long gardens from the road. Their extended curtilage is similar to the modern dwellings evident on Orchard Close and parts of Bells End Road and contrasts with the tighter urban form in the village centre which falls within the Walton on Trent Conservation Area. This more generous spacing of dwellings, the open frontages and the established planting provides an attractive streetscape and setting for the Conservation Area.
6. The appeal relates to the erection of a boundary fence and gates at both properties. The proposal includes a timber panel fence on a concrete base, located immediately

along the front boundary with the footpath along Bells End Road. Timber gates to the drives of both properties and further fencing along the boundary between Nos 10 and 12 are also proposed. Some, but not all elements of the proposal were in place at the time of my visit.

7. The Council's concerns relate to the stretch of boundary treatment immediately adjoining the highway. The timber fencing is of conventional design but extends to a height of 2.1 metres immediately adjacent to the footpath. This presents a harsh and utilitarian frontage which due to its height and position appears incongruous in the context of the open and landscaped frontages in the wider area. Although the existing planting adjoining Orchard Drive largely screens the appeal site in longer ranging views from the east, in views from within the Conservation Area at Ladle End Lane and from the direction of Main Street the fencing already on site forms a visually prominent and intrusive feature in the streetscape. This would be made worse by the further enclosure of the boundary with the proposed gates at a height of 1.8 metres.
8. Other instances of timber panel fencing are already in evidence in the immediate vicinity. However, these are generally set further back from the road or their appearance is softened by established planting so they appear less prominent in the streetscape. The height of the proposal and its position hard against the footpath provides limited scope for any planting which in the longer term might soften its visual impact. The proposed fence and gates would be clearly visible from within the Conservation Area from which it would be viewed as an intrusive and overly prominent feature. As a consequence the proposal would impact upon its setting and this would amount to material harm.
9. I therefore conclude that the proposal would fail to conserve or enhance the character or appearance of the Walton on Trent Conservation Area. It follows that it would be contrary to the provisions of Environment Policy 12 of the *South Derbyshire Local Plan (Adopted 1998)* which seeks to resist development which would have an adverse impact on the character or appearance of the Conservation Area. It would also conflict with guidance contained within the *National Planning Policy Framework* (the Framework) which has similar aims.
10. The harm identified would amount to "less than substantial harm" which the Framework advises must be weighed against the public benefits of the scheme. Taking into account the visual impact of the proposal within the streetscene, and based on the information before me, I am not aware of any public benefits which would outweigh the harm the proposal would cause to the Walton on Trent Conservation Area and its significance as a heritage asset. The appellants have advised that a fence is necessary for the safety of young children. However, a less visually intrusive boundary treatment could serve the same function, and the personal benefit derived from the proposal would not in any case represent a public benefit that would outweigh the harm identified above. I therefore conclude the proposal would also fail to comply with national policy outlined in the Framework.
11. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Anne Jordan*

INSPECTOR

# Appeal Decision

Site visit made on 8 October 2013

by **C J Checkley BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 October 2013

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**Appeal Ref: APP/F1040/D/13/2203214**

**15 Farm Side, Newhall, Swadlincote, Derbyshire, DE11 0RP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Martin John Latham against the decision of South Derbyshire District Council.
  - The application Ref 9/2013/0256/FH was refused by notice dated 30 May 2013.
  - The development proposed is demolish attached garage, build new two storey side extension, pitched roof over rear single storey existing extension.
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## Decision

1. The appeal is dismissed.

## Main issue

2. The main issue is the effect of the proposal upon the living conditions of the residential occupants of Nos 17 and 19 Farm Side, with particular regard to levels of outlook and visual impact.

## Reasons

3. The appeal site includes a semi-detached two-storey house with a pitched roof that has a single-storey flat-roofed garage attached to its north flank. It stands at the head of a cul-de-sac within a relatively modern housing estate. The north side of the garage and the first floor of the house gable face towards the front elevation of both No 17 and No 19 Farm Side, which are two-storey terraced houses that stand at right angles to the appeal property. Both these neighbouring houses have small front porch projections.
4. Saved Housing Policy 13 of the South Derbyshire Local Plan (adopted May 1998) (LP) seeks to avoid residential extensions that would be detrimental to the amenities of adjoining properties. The Council's Supplementary Planning Guidance: House Extensions (adopted April 2004) (SPG) indicates that there should be a minimum distance of 12m between a blank elevation in one dwelling and a facing lounge/dining room window in a neighbouring dwelling.
5. In this instance the new gable wall would rise over two-storeys in height at a distance of only some 9m from the front reception room windows of both No 17 and No 19. Therefore, the SPG 12m guideline would be significantly breached. Since the affected windows are the sole source of light and outlook to the main reception rooms concerned, the reduction in levels of outlook would be associated with an overbearing visual impact for the neighbouring residents,

especially in the case of No 17 where its ground floor reception room window would look out between the porch projections either side directly onto the two-storey blank gable wall.

6. I have taken account of the fact that neither of these neighbours have raised objections to the proposal. However, the planning system seeks to take a longer-term view in the public interest, the National Planning Policy Framework (NPPF) advising (paragraph 17) that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
7. I conclude that the reduction in outlook and the overbearing visual impact that would result from the side extension of the height and width proposed would result in harm to the living conditions of the neighbours at both No 17 and No 19 Farm Side, contrary to the provisions of LP Housing Policy 13, the SPG and the NPPF.

*C J Checkley*

INSPECTOR