

# **Report of the Strategic Director (Service Delivery)**

**[Section 1: Planning Applications](#)**

**[Section 2: Appeals](#)**

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

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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 2015 (as amended) responses to County Matters and strategic submissions to the Secretary of State.

Reference	Item	Place	Ward	Page
<a href="#">DMPA/2020/0422</a>	1.1	Woodville	Woodville / Midway	6
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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

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

## Glossary of terms

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

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

**Item No.** 1.1

**Ref. No.** [DMPA/2020/0422](#)

**Valid date:** 28/05/2020

**Applicant:** Sally Smith  
Bellway Homes (East Midlands)

**Agent:** Georgina Doyle  
Pegasus Planning Group  
4 The Courtyard  
Lockington  
Derby  
DE74 2SL

**Proposal:** Approval of reserved matters (layout, scale, appearance and landscaping) for erection of 148 dwellings along with creation of roads and public open space pursuant to outline permission ref. 9/2016/0882 (phase 3) on Land at Broomy Farm (east of Lincoln Way and Salisbury Drive), Woodville Road, Hartshorne, Swadlincote

**Ward:** Woodville / Midway

#### Reason for committee determination

*This application was deferred by the Committee at the meeting on 22 September 2020 in order to explore the potential for securing a school drop off/pick up area which could serve a new rear pedestrian access to Granville Academy. The report remains as previously presented except for changes in the appraisal section, shown in italics or ~~striketrough~~ where no longer relevant or applicable. Similarly, any addition conditions are shown in italics.*

This item is presented to the Committee at the request of Councillor Taylor as local concern has been expressed about a particular issue.

#### Site Description

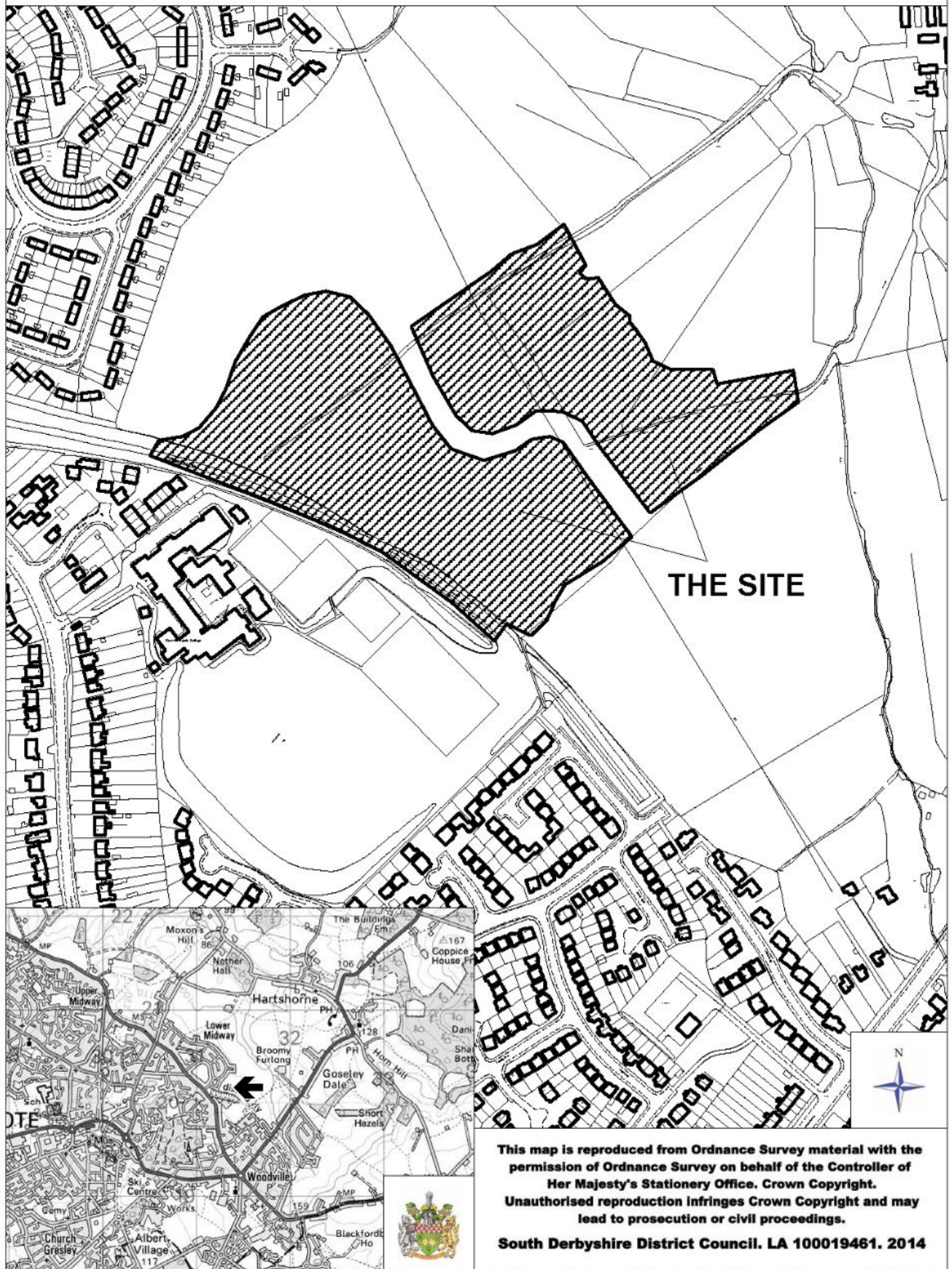
The site subject of the current reserved matters submission comprises phase 3 of the residential allocation known as Broomy Farm. This phase covers the parcel of land to the west of the allocation, which shares the majority of its external boundary with Granville Academy. Internally the parcel is sited in-between phase 1 (adjacent to Lincoln Way and accessed off the A511 (Burton Road)) and phase 2a (adjacent to and accessed from Hartshorne Road).

The allocation amounts to a total area of 27.5 hectares and occupies an area of former arable land, and a disused railway cutting to the east of Granville Academy. The site also falls within the National Forest and geographically it is adjacent to the settlements of Midway and Woodville. Land levels vary considerably across the site, with levels falling to the west. A mature belt of landscaping currently exists along the western boundary, but many internal landscape features have been cleared. The site accesses (approved under the outline) have been constructed and lead to this phase and the development of phases 1 (70 dwellings) and 2a (180 dwellings) are currently underway.

#### The proposal

This application seeks approval for the layout, scale, appearance and landscaping relating to Phase 3, for the erection of 143 dwellings along with the provision of open space facilities. The application proposes a mix of 1, 2, 3 and 4 bed detached semi-detached and terraced properties including 16 affordable dwellings arranged in two clusters across the site. A large open space accommodating the LEAP, sited to the east of the dwellings is illustrated along with two other parcels of open space; one adjacent to the western boundary and the other within the sites eastern tip. Formal and informal pathways are shown throughout the development connecting this phase to adjacent phases. Dwellings would front onto the tree lined spine road (previously approved) which meanders through the wider

**DMPA/2020/0422 - Land at Broomy Farm (east of Lincoln Way DE11 7LB and Salisbury Drive 7LE), Woodville Road, Hartshorne, Swadlincote DE11 7EY**





development, continuing the development pattern previously secured. Leading from the spine road would be range of more minor streets, including cul-de-sacs. The design of the dwellings are characterised by traditional details such as tile creasing eaves and brick heads combined with fascia and soffits eaves details and the window and door styles are a cottage style to pick up on vernacular references.

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

The Design Compliance Statement provides a brief explanation of the minor deviations and enhancements to the outline scheme which, it is stated will result in a development that is not substantially different in scale and nature from the scheme identified on the original Masterplan/Outline submission. The document continues that a full site analysis and study of the surrounding context has previously been included in the Design and Access Statement submitted with the Outline. The document includes sections on use and amount, layout and scale, landscaping, appearance and access.

The Arboricultural Method Statement provides the methods of protection and pruning requirements for retained trees at the site. This statement is supported by an updated Tree Survey Plan and Tree Retention Plan produced in April 2020 and submitted alongside the reserved matters application. The report outlines the methodology by which construction will be undertaken in order to safeguard trees in a satisfactory condition during the construction. This method statement sets out a definitive account for the treatment of retained trees and specifies industry approved construction methods.

The Framework Travel Plan mirrors the approved Travel Plans prepared for the earlier phases of the development. It sets out the opportunities to travel by sustainable modes of transport that would be available to the new residents. It explains the forecast modal split of journeys to the whole development of 400 houses, using figures agreed during the outline planning application. Various objectives are set, along with a primary target of reducing single occupancy car journeys by 10%. Timescales for achieving that target, and further secondary targets are explained, along with a list of measures that Bellway are committed to implement to achieve the targets. Those measures include the appointment of a Travel Plan Co-ordinator to implement and monitor the Travel Plan process and the provision of travel information via travel welcome packs. A monitoring regime is also proposed to ensure that the Travel Plan achieves the objective and targets, including annual travel surveys and the preparation of annual monitoring reports. Finally an action plan summarises the various elements, who is responsible for them, along with their timescale.

The Drainage Statement explains that Phase 3 of the Broomy Farm development comprises part of a wider development area which is subject to a comprehensive drainage strategy. Specifically in relation to phase however the drainage would comprise of the following:

- Foul water drainage - Foul water flows will connect into a conventional sewer system and pass flows generally downhill towards the north east where they will connect onto an existing 375mm diameter foul sewer operated by Severn Trent Water Ltd.
- Land drainage - This phase of development would intercept an existing land drain from the railway cutting to the west. The diverted drain skirts around the development and falls with the topography of the site to an open section to the south of the proposed public open space. The existing open section of ditch would be retained within open space and its alignment is modified to allow it to meander. Downstream of this point a further piped section is returned to open channel to allow for ecological enhancement.
- Surface water drainage - Surface water flows would connect to a conventional sewer system and pass flows generally downhill towards the north east. At the extent of the development the sewers would discharge into a large attenuation feature permitted as part of a previous reserved matters phase. This feature includes areas of permanent water, varying bank slopes and bed swales to allow for water quality improvements and ecological enhancement. Flows will be attenuated to the pre-development greenfield run off rate as identified in the flood risk assessment that accompanied the Outline Planning Consent for this development. Surface

water will be attenuated up to the 1 in 100 year level plus a 40% allowance for climate change before being discharged into the Watercourse.

The Landscape and Ecological Management Plan (LEMP) provides guidance for the continued management of public open space/landscaped areas associated with the development. This LEMP covers phases 1-3 as phases 1 and 2 LEMPs have already been approved. Therefore this report seeks to demonstrate the management of phase 3 only (albeit phase 1 and 2 are included to provide context). The document sets out the management and maintenance regimes for the public open space (associated with residential phases 1, 2 & 3), including the structural landscape areas to primary highways, the linear green routes for pedestrian and cycle use, open space associated with the children's play area, the existing riparian corridors and proposed attenuation areas, existing retained field boundary tree, shrubs and hedgerows, and the areas of proposed National Forest planting, within the site and in the area to be known as Jessie's Wood. It is explained that the procedures set out are based on the initial five-year period, to enable the establishment of the landscape elements. In the long term it is explained that these procedures should be utilised and adjusted (where appropriate) to help provide ongoing maintenance methods that will serve to protect and enhance the landscape for years to come. It is explained that management procedures will be monitored in terms of their success in delivering the 'desired status' within the various landscape and ecological management areas, and if necessary alternative measures will be adopted/considered as part of an annual review of the management plan. In regards to the ecological and landscape objectives, it is explained that the key objectives of the landscape scheme that accompany this proposal are to enhance the existing landscape and ecological resource (retaining any existing vegetation of good quality where appropriate), provide public access as indicated on the plans and secure appropriate habitat for the wildlife identified/surveyed to be in existence on the site.

The Ecological Appraisal Update sets out that the Extended Phase 1 Habitat Assessment was completed on 14th April 2020 to identify any significant changes in habitat composition recorded on surveys undertaken in March 2013, April 2014, March 2017 and April 2018. The report initially provides a description of the site, its habitats and the species considered. It then continues to confirm that the site is not covered by any statutory designated site and that no statutory sites with local, national or European level designation exist within a 1km radius, that there are no SSSI's within a 2km radius and no Special Protection Areas, or Special Areas of Conservation within a 5km radius of the site.

In regards to Non statutory sites, it is identified that the Woodville Disused Railway (pLWS) is situated in the south west of the site, which has been highlighted as a potential unimproved grassland site. However within the assessment, the habitats in this area were not identified as meeting the criteria to be designated as unimproved grassland and therefore the loss of this was not considered to be detrimental. Further, through the implementation of areas of species rich grassland and future management of the species rich grassland, the development proposals were identified as ensuring no net loss to biodiversity and likely positive affects to biodiversity locally.

The report acknowledges that development of the site would result in loss of the waterbody which was present in the north of the site. It is explained that this habitat was of local level value only and its loss would therefore be unlikely to result in significant negative effects to the local biodiversity resource and that mitigation for this loss has been provided within the balancing facilities constructed as part of the wider development. It is also recognised that the layout has been designed to retain as much of the existing hedgerows on the boundaries of the site as feasible, and whilst there would be some loss of hedgerow within the central area of the site, to comply with the NPPF, mitigation for loss of the hedgerows will be provided through the creation of new native species hedgerow in the wider development. The report also identifies that the development would provide 30% of the site area as green space in-line with the planting guidelines detailed in The National Forest Strategy (2014-24). In regards to bats, the report identifies that no features have been noted on site with potential to support roosting bats and consequently the proposed development would not impact on roost sites. Great Crested Newts have not been recorded as present within the site or accessible neighbouring waterbodies during targeted surveys undertaken in 2013 and 2018 and therefore this species is not considered likely to be present and is not considered to be a constraint to development. Similarly no

evidence of reptile species has been recorded and therefore reptiles are considered likely absent from the site and are not considered to be a constraint to the development.

### **Relevant planning history**

DMPA/2019/1327 - Approval of reserved matters for layout, scale, appearance and landscaping of outline permission ref. 9/2016/0882 (for the erection of 10 plots in lieu of 8 previously approved under reserved matters approval ref. 9/2018/0767, along with substitution of remaining housetypes and adjustment to plot boundaries, relating to former plots 117-120, 144-145 & 160-161) – Approved December 2019

DMPA/2019/0893 - Approval of reserved matters for layout, scale, appearance and landscaping of spine road through phase 1a and 1b (in part) and approval of reserved matters for layout, scale, appearance and landscaping of the public open space areas for phase 1a and 1b (in part) - Approved October 2019

9/2019/0382 - Approval of reserved matters for layout, scale, appearance and landscaping relating to phase 2a only for the erection of 70 dwellings, along with layout, scale, appearance and landscaping of public open space areas and layout, scale, appearance and landscaping of the spine road for phase 1b (re-plan) and 2a.under outline permission ref. 9/2016/0882 - Approved August 2019

9/2019/0355 - The erection of a boundary entrance feature – Approved August 2019

9/2019/0291 - Approval of reserved matters for layout, scale, appearance and landscaping of outline permission ref. 9/2016/0882 (substitution of housetypes relating to plots 82-87, 93-95, 110 and 113-114) – Approved May 2019

9/2019/0290 - Approval of reserved matters for layout, scale, appearance and landscaping of outline permission ref. 9/2016/0882 (substitution of housetype relating to plot 18) – Approved May 2019

9/2019/0289 - Approval of reserved matters for layout, scale, appearance and landscaping of outline permission ref. 9/2016/0882 (substitution of housetype relating to plot 3) – Approved May 2019

9/2018/0767 - Approval of reserved matters for layout, scale, appearance and landscaping relating to phases 1a and 1b only for the erection of 180 dwellings, along with layout & landscaping of public open space areas for phase 1 only (re-plan) under outline permission ref. 9/2016/0882 - Approved November 2018

9/2017/0730 - Approval of reserved matters (in so far as layout & appearance for the spine road for the whole site and layout & landscaping of public open space areas for phase 1 only) - Approved June 2018

9/2016/0882 - Variation of conditions of outline application ref. 9/2014/0740 - Approved June 2018

9/2014/0740 - Outline application (all matters except for access reserved) for the erection of up to 400 dwellings and provision of new school pick up/drop off area, together with associated highway works, public open space, landscaping, parking and attenuation facilities - Approved July 2016

### **Responses to consultations and publicity**

Derbyshire Wildlife Trust has raised no objection.

The County Highway Authority has raised no objection subject to conditions.

Peak and Northern Footpaths have raised no objection subject to the footpath adjacent to the site remaining unobstructed and a safe road crossing point being provided for users of the footpath.



The Council's Landscape Architect has requested that hedgehog access is incorporated into boundary wall and fences.

The Strategic Housing Officer has raised no objection.

The Police Architectural Liaison Officer has raised concerns in relation to the use of post and wire fencing as a form of boundary treatment on specific plots.

Hartshorne Parish Council objects to the application on grounds that there is not enough consideration to health and safety regulations with regard to the security of the site and that there appears to be no clear indication of the entrance from off the estate into Granville School.

Two representations have been received, one of neutral stance and one objecting. These raise the following points:

- a) Queries relating to landslip and associated boundary and landscaping issues (including falling branches) along with land ownership queries.
- b) There is no access from this development to Granville School, which would provide a safe route to the school and encourage them to access the school by foot.
- c) An administrative boundary between Woodville and Hartshorne dissects the site, the road layout should be realigned along this route to avoid future confusion in democratic processes.

### **Relevant policy, guidance and/or legislation**

The relevant Development Plan policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), H4 (Land at Broomy Farm, Woodville), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), INF2 (Sustainable Transport) and INF8 (The National Forest)
- 2017 Local Plan Part 2 (LP2): BNE7 (Trees, Woodland and Hedgerows)

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)
- Affordable Housing SPD

The relevant national policy and guidance is:

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

### **Planning considerations**

The wider site received outline planning consent for up to 400 dwellings and ancillary infrastructure in 2016. The outline permission 'fixed' the access points to Burton Road and Woodville Road. Since this time there have been subsequent applications made, including a variation of conditions application to the outline consent, along with a number of reserved matters submissions. The outline permission requires the submission of certain details alongside each reserved matters submission (in so far as relevant to that submission), including:

*"...(b) except where to the rear of existing dwellings, retained hedgerows and trees shall, as far as practicable, not form boundaries to proposed dwelling houses and be incorporated into public spaces/green infrastructure;*

*(d) a Landscape and Ecological Management Plan (LEMP) for all retained and created habitats outside of private areas, including grassland creation where feasible to mitigate for the loss of suitable habitat for ground nesting birds and details of the legal and funding mechanism(s) by which the long-term implementation of the LEMP will be secured by the developer with the management body(ies) responsible for its delivery;*

(e) a site wide Phasing Programme including details of the proposed sequence of development across the site, strategic drainage and SuDS infrastructure, the extent and location of individual development phases or sub-phases and the associated access arrangements, programme and methodology for infilling of the former railway cutting, and timescales for implementation thereof;

(f) a Framework Travel Plan, including Travel Plan targets (relating to each phase or sub-phase where relevant) comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car...;

(h) detailed design for the provision of bin stores within private land at the highway end of private shared accesses to prevent refuse bins and collection vehicles standing on the residential street for longer than necessary causing an obstruction or inconvenience for other road users...;

(j) details and specifications of improvements (to an adoptable standard of at least 2 metres width) of the existing footpaths within the site; and

(k) details of subterranean tree and hedgerow root protection/facilitation measures...".

Policy H4 also requires:

*"...iii) High quality pedestrian and cycle links shall be provided within the site and connecting to existing and proposed network..."*

This reserved matters submission relates to phase 3 of the wider development, proposing 143 dwellings. It encompasses the western most parcel of the site which largely shares its boundary with Granville School. A large central open space, encompassing the LEAP, along with a landscaped buffer along the western boundary and a smaller informal space to the eastern tip of the site make up the remaining open space provision for the wider development.

At the outline stage an opportunity was identified whereby the development could facilitate an improved parking and access solution for the adjacent Granville Academy, through the provision of a collection/drop off area. It was, however, not possible to secure this facility by way of legal agreement or planning condition as the necessary legal tests were not met. Whilst this facility was illustrated on the conditioned masterplan, in acknowledging the above, flexibility in terms of compliance with this document was built-in with future reserved matters being required to be 'broadly in accordance' with this document.

The facility does not form part of the current reserved matters submission. Discussions have taken place between the developer and the school in an attempt to secure this. However, despite considerable efforts, within a letter to the developer the school has confirmed that they do not wish to pursue the offer on grounds of site security and safeguarding mechanisms. As such, it is not considered reasonable to pursue the matter as this would require obsolete infrastructure to be provided by the developer. When considered as a whole, the drop off/collection facility comprises a very minor element of the overall development and thus in this context the development would still be considered as 'broadly in accordance' with the masterplan.

In taking account of the application documents submitted (and supplemented and/or amended where relevant) and the site and its environs, and noting that the principle of development established such that matters relating to the impact on local services and facilities, ground conditions, ecology and flood risk have all been previously considered acceptable (subject to conditions and/or obligations); the main issues central to the determination of this application are:

- Layout and landscaping; and
- Scale and appearance of the dwellings.

## **Planning assessment**

### **Layout and landscaping**

The proposed layout ensures that key principles established under the outline consent are presented in detail within this submission.

During the course of this application, various amendments have been sought; throughout the development the extent of frontage parking has been reduced or its appearance enhanced through the provision of a more robust landscaping solution, providing a 'soft' edge. Dwellings have been realigned and set further back in their plots (where appropriate) to ensure they follow a consistent building line. Specific clusters of dwellings have been re-planned to reduce amenity impacts on adjacent dwellings, to enhance rear amenity space, to improve the usability of parking provision and to ensure views are terminated by a focal point. Bin storage and collection facilities has been identified within convenient locations and additional architectural detail has been provided to key elevations to add interest. More minor amendments have also been secured including the 'handing' of gabled plots to ensure a more rhythmical pattern of development and the addition of chimneys on key plots to enhance the roofscape. Boundary treatments have also been revised to ensure consistency between the different phases of the development.

The layout would achieve both well surveilled and strong frontages to routes and would ensure interest at key views/focal points. Corner properties would have dual aspects, whilst the orientation and separation between properties (both existing and proposed) would ensure occupiers would benefit from suitable levels of privacy and would not suffer any harmful overshadowing or overbearing impacts. Public routes and open spaces would be adequately overlooked through appropriately oriented dwellings, and connectivity between the housing parcels, the open spaces and the wider area would be secured through a comprehensive network of paths, routed where possible, along desire lines. Turning specifically to the layout of open spaces, these would provide for a range of uses. The LEAP has been conveniently positioned to benefit from natural surveillance, but also to ensure that there would be adequate areas remaining for more space intensive activities such as informal games of football or cricket. Other areas have been planted with clusters of trees which may better lend themselves to quieter pursuits such as reading, yoga or family picnics. The chosen landscaping, especially within the vicinity of the LEAP would also facilitate natural shading along with biodiversity enhancements.

Comments have been received requesting that hedgehog access points be provided within the boundary treatments. This request does not feature within the ecological report recommendations and has not been requested by Derbyshire Wildlife Trust. As such there are no reasonable grounds on which to impose this as a condition. As such the developer will be made aware of the request via an informative.

The principal route would be delineated by metal railings, with hedgerow set behind, and dwellings would be set back an equal distance from the highway edge - thus aiding legibility throughout. On corner plots, rear gardens would be enclosed by walls, aligned with the corresponding dwelling to ensure adequate space for landscaping. The perimeter of the development and the individual parcels of dwellings would also be framed by a soft landscaped border, supplemented by a timber knee rail, which would delineate public/private space and embed the areas character, strengthening its relationship with the National Forest.

Parking provision would be to the side of dwellings along the primary route, preventing this from becoming a dominant feature of the streetscene, and whilst there would be occurrences of frontage parking on secondary routes; adverse impacts associated with such would be mitigated by soft landscaping, including additional tree planting. Parking provision throughout would be compatible with the guidance as set out in the Design SPD in terms of its quantum and dimension. In regards to the proposed road layout and visibility splays, the County Highway Authority have raised no objection subject to the imposition of conditions. Each of these have been considered in detail to ensure they meet the necessary legal tests. One condition raises concern, however. This seeks to ensure that "the vehicular access shall be formed to the new estate street in accordance with the application drawings". There is no access proposed by the development and thus it is considered that this condition must have been suggested in error. The approved plans condition below requires adherence to the layout plans in any case, so the imposition of a further condition would not be necessary.

Affordable housing provision is proposed within two areas of the site. There has been discussion in respect of one cluster, which would marginally exceed the suggested number of 10 units, by 2. The

layout in this area has been reorganised to integrate additional market dwellings, and whilst there would remain 12 units within the wider area, their distribution would now be more dispersed. The mix and size of affordable units has also been addressed to better reflect local demand, resulting in the provision of bungalows, 1 bed and 4 bed properties. Concerns have been raised in regards to the proposed rear boundary treatment for these dwellings (post and wire fencing). This solution is not considered acceptable and a condition is proposed, requiring alternative details.

Overall the proposed layout and landscaping would result in a legible, well-connected and inviting development that would be complimentary to and in keeping with the areas existing characteristics. In this regard the proposal would be consistent with the intentions of policies BNE1 and the Design Guide SPD, and the overarching principles of the NPPF.

#### Scale and appearance of the dwellings

A mix of 1, 2 and 2.5 storey dwellings are proposed throughout, with those of greater scale reserved for the spine road. In terms of their individual design, the dwellings would take on a predominantly traditional appearance owing to their specific architectural features and materials. During the course of the application, amendments have been requested to a number of house types, predominantly to secure balanced and detailed elevations. Aside from those discussed below, the requests were addressed by the developer. Concern was raised with the maisonette house type owing to the inconsistent siting of its openings within its principal elevation. The developer has commented that this house type has been accepted on other phases and that there would be no practical way of amending the elevation. The openings have been considered in relation to the internal layout and although there may have been a workable solution, this would not have been straightforward. On this basis and on balance, the original elevations, when considered in the wider context of the development would not result in a significant degree of harm and a refusal could not be warranted on such grounds. It was also raised that the first floor window of the Blacksmith house type should be aligned with the porch. In response, the developer has provided a street scene illustrating how this house type would appear in context; on this account of this, the original elevational detail is considered acceptable.

Details of materials have also been submitted for consideration. Originally a combination of six brick variations were proposed along with two types of tile, with two colour finishes. Of the proposed materials, two brick types were not considered acceptable as they failed to reflect the local vernacular. The remainder of the materials have been considered in the context of the approved materials on other phases and the wider area and on this basis are considered compatible. When considering the distribution of materials across the site, however, some amendments have been requested to ensure a consistent pattern is achieved.

Overall, the dwellings would appear well balanced and would have a symmetrical appearance, resulting in an aesthetically pleasing and legible form of development. Adequate design detail has been secured including decorative brick detailing, including brick string courses, a variety of header and cill finishes, ground floor bay windows and porches (of varying style) finished in high quality materials. Fenestration would be set within a legible reveal and would be of narrower proportion at first floor, as common within traditional forms of architecture, and chimneys would be provided on key plots. The development would therefore be consistent with policy BNE1 and the Design Guide SPD and the overarching principles of the NPPF.

#### The Drop off/Pick up area

*As noted at the meeting on 22 September, the indicative masterplan approved at the outline stage suggested the potential for a drop off/pick up area to serve Granville Academy. Whilst this could not be required under the outline consent due to reliance on third party land for its effective delivery, the Committee raised concern that this phase of the site represented the final opportunity to secure such a facility which would provide wider community benefit. Officers provided a verbal update that evidence had been supplied by the applicant demonstrating that the Deferrers Trust, landowner of the school site, has confirmed they did not want a connection from the development site. Following the committee meeting, officers met with local Councillors, both District and County, the applicant and representatives*

*from both the Academy and their parent Trust. At this meeting, the local concerns were made clear to the Trust and the Academy. It was stressed by Councillors that the new pedestrian entrance would not only benefit students coming from the Broomy Farm development, but also students from Hartshorne.*

*A further response has now been received from the Trust, representing a combined response of the Trust and the Academy. They state that, having reviewed the catchment area and spread of the current student population of Granville Academy across Swadlincote and the surrounding area, it is clear that the vast majority of students come from the south-west of the school and so would have to travel past the main school entrance to access the proposed new pedestrian entrance. It is therefore extremely unlikely that it would be used by these students. The only students to whom this does not apply are those coming from Hartshorne (or from Broomy Farm), and perhaps some from the eastern edge of Midway. The Trust advises, however, that only five students from Hartshorne joined the Academy in September 2020. The published admission number of Hartshorne Primary School is only 100 students, meaning there are only around 10 students in each year group there. It seems likely then that five students is indicative of a normal year and so only 25 of the total 780 students currently in the Academy come from Hartshorne. The rest are expected to come from housing developments which fall into the main catchment area described above.*

*The proposed pedestrian access would need to be behind the newly built Sports and Science building. This is not acceptable to the school or the Trust for two reasons:*

- 1. installing the gate behind a three-storey teaching block makes visibility impossible. Having an entrance hidden away behind the building is an open invitation for anti-social behaviour; and*
- 2. the back of the new Sports and Science building has been designated as 'out of bounds' and the small compound is purely to be used as a fire escape from the block.*

*The Trust and Academy have surveyed the site and an alternative location for the gate would involve accessing the site further along the school boundary. However, this would bring the students into the school grounds directly onto the newly laid staff car park which causes significant safety and safeguarding issues which could not easily be mitigated.*

*During the meeting, all parties agreed on the importance of safeguarding. The Trust strongly believes a pedestrian crossing (as well as a lay-by for buses) outside of the main school gate, which would be used by all students of Granville Academy, would be a much better use of funds than a new pedestrian access to the site which would only be used by a small proportion of students whilst creating additional unacceptable and unnecessary safeguarding risks.*

*Furthermore, it is apparent to them that one of the main concerns is around traffic congestion on the A511. This does not fit with the Trust's observations of traffic at either end of the school day - these being that traffic flow was not significantly affected by school traffic. In order to understand how students at Granville Academy travel to school, all students were surveyed on 5 November which found 77% walked to school whilst a further 9% travelled by bus or cycle. Car is therefore not the dominant method of, nor a significant contributor to, travel to the site. Furthermore, only 15% of students stated they might potentially use a new access at the rear.*

*The Academy Leadership Team have very high aspirations for the students at the academy - standards are set high and expectations are set before students walk through the school gates. The Academy Leadership Team staff the main entrance every day as students are entering and leaving the site, and this has proved invaluable in ensuring standards are maintained and for addressing some of the potential anti-social behaviour which can occur at those times of the day. Adding a second gate to the site would stretch the Academy staff too thinly and this robust monitoring of students would not be able to be maintained.*

*Thus, the original response by the Trust citing school security and safeguarding as their key concerns have not changed. The safeguarding and management concerns are balanced against the small proportion of students who would use this facility. They are, however, agreeable to the installation of*

*infrastructure to facilitate the pedestrian entrance and undertake to review its use, should circumstances change. The position of the gate would require more consideration by the developers and agreement with the school because the current proposal is not acceptable, regardless of the numbers of students who might use it. It is also noted that the full cost of installing the required infrastructure would need to be met by the developer (or the Council) since there is no funding available for the school to carry out the works themselves. This must include a secure, mag-locked gate linked to the current security systems of the school together with a new CCTV camera trained on the gate. It must also include a pathway from the gate to the relevant entrance to school buildings (across the school site). Finally, the Trust and Academy strongly advocate and work with the Council to develop a pedestrian crossing at the main entrance to the school, together with a lay-by for school buses.*

*Whilst understandably the response will be disappointing to Councillors, the position of the Trust and Academy is fully understood. Ultimately, it is a balance between safeguarding and the likely usage of any facility - an element of which also bringing about additional cost not presently catered for, and thus the likely limited benefits which would arise in terms of congestion and highway safety. The research undertaken clearly demonstrates that the majority of pupils do not bring about vehicular movements, as would be expected for a secondary school. At the same time, any requirement imposed on the developer must be reasonable whilst any long term effects must also be manageable for all parties affected.*

*Thus, amendments have been received to provide the footpath link up to the most favourable position on the school boundary, as determined through discussions between the applicant and the on-site team at the Academy. A condition is proposed below to require the provision of the footpath before the occupation of a certain percentage of dwellings arising from this phase. It has also been suggested that the possibility of securing a financial contribution from the new application for additional dwellings at Broomy Farm (ref. DMPA/2020/1004) be given consideration - this to provide for the on-site works at the Academy in the future. Such a sum could be held for a sufficient period so that the school may review the situation as to pupil origin/destination at regular intervals, as well as any future growth around Swadlincote, and repaid should it still not be considered appropriate to provide the access. However, as is the case with any off-site works secured pursuant to a planning application, it would be necessary to demonstrate a link between the increased pressure created by a particular development and the proposed mitigation in order to be CIL compliant. This is a matter for consideration under the new application, however, and not this reserved matters submission.*

*It should also be noted that a pedestrian crossing would be provided on the A511 as part of the access arrangements to Broomy Farm (which will reconfigure the Lincoln Way junction). This is some 180 metres north of the school access and is not an unreasonable distance to walk. It also connects directly with a cycle route running out from the Swadlincote Woodlands development to the west. There is also an existing lay-by outside the school access for busses.*

## Conclusion

On balance, this reserved matters submission would result in a well detailed and laid out development, enhanced through the use of appropriate landscaping rendering it both complementary to, and consistent with existing development within the vicinity. The proposal would be broadly consistent with the details of the approved masterplan, with the relevant policies of the Local Plan, with the NPPF and the Council's SPDs. *Whilst it is regrettable that the drop off/pick up area would not be secured, it is now evident that the public benefit of such infrastructure would be limited whilst providing security and safeguarding concerns to the Academy. As mentioned at the meeting in September, to insist on its provision would lead to obsolete infrastructure being delivered, and this is not a reasonable requirement.* The resultant scheme would therefore comprise of sustainable development and would assist in the delivery of the Council's identified housing need, both in terms of market and affordable homes.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or



obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

## **Recommendation**

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

1. The development hereby permitted shall be carried out in accordance with the drawings and plans listed in the Drawing Schedule dated ~~09/09~~ 03/12/2020 unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

2. Notwithstanding the approved drawings, all boundary walls erected pursuant to this approval shall include the use of a bullnose brick of a matching colour in the header course where changes in ground levels need to be accommodated.

Reason: In the interests of securing a high quality finish reflective of local vernacular.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no further boundary treatments shall be erected forward of any walls, fences or other means of enclosure which are exposed to a highway, footpath, shared courtyard or driveway or public open space/forest planting.

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

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

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

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

Reason: In the interests of highway safety.

7. Prior to any works commencing on site, excluding site clearance, details of the residential estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

8. Prior to the first occupation of any new dwelling hereby permitted, the carriageways and footways between the dwelling and the existing highway shall be constructed up to and including base course surfacing to ensure that each dwelling has a properly consolidated and surfaced means of access. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surface course within twelve months (or three months in the case of a shared surface

road) from the occupation of such dwelling, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

9. No part of the development shall be occupied until each junction has been provided with visibility sightlines extending from a point 2.4m from the carriageway edge, measured along the centreline of the junction, for a distance of 25m in each direction measured along the nearside carriageway edge. The land in advance of the sightlines being levelled, constructed as footway and not being included in any plot or other sub-division of the site.

Reason: In the interests of highway safety.

10. No dwelling shall be occupied until space has been provided within the site for the parking of residence and visitors vehicle, laid out in accordance with the application drawings and maintained throughout the life of the development free of any impediment to its designated use.

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

11. The gradient of the new estate streets shall not exceed 1:30 for the first 10m into the site from the existing highway boundary and 1:20 thereafter.

Reason: In the interest of highway safety.

12. The proposed access driveways to the new estate streets shall be no steeper than 1 in 14 for the first 10m from the nearside highway boundary and 1 in 10 thereafter.

Reason: In the interests of highway safety.

13. Notwithstanding the plans hereby approved, prior to the construction of plots 45-50 (inclusive) plots 79 – 81 (inclusive) and plots 89 – 94 (inclusive) details of the rear boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwelling is first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

14. The development shall be constructed in accordance with the materials and details specified on the approved materials layout plan which shall thereafter be retained.

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

15. *The footpath leading to the boundary with Granville Academy shall be installed prior to the occupation of 85% of the dwellings approved within this phase of the wider development, made accessible for use in accordance with the timescales set out in the associated section 106 agreement and subsequently maintained in accordance with the approved landscape management plan.*

Reason: *In order to facilitate future pedestrian access to the school site.*

#### Informatives:

- a. The developer may wish to provide hedgehog access within boundary walls and fences having dimensions of 150mm x 150mm.

**Item No.** 1.2

**Ref. No.** [DMPA/2020/0915](#)

**Valid date:** 27/08/2020

**Applicant:** V Kotecha

**Agent:** Ian Ray  
a.i.architecture  
66 Barlich Way  
Lodge Park  
Redditch  
B78 7JP

**Proposal:** Two-storey side and single storey rear extension along with detached garage at 247 Hearthcote Road, Swadlincote, DE11 9DU

**Ward:** Swadlincote

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

This item is presented to the Committee at the request of Councillor Neil Tilley based on local objection.

#### **Site Description**

The site has an area of 0.6ha and is roughly rectangular in shape. The site is host to a large detached dwelling set back from the highway by a hard surfaced parking area and driveway. A mature belt of landscaping, including a number of protected trees, of which some have been removed, forms the front boundary of the site; this feature provides substantial screening. The property has an extensive garden which is host to two large ponds along with clusters of protected trees. The garden is predominantly enclosed by mature conifers, again of which some have recently been removed. The land levels fall to the north.

The application site is situated within a mixed use area host to building that are highly varied in terms of their design. Dwellings along Hearthcote Road consist of a mixture of traditional and relatively modern properties, semi-detached and detached properties, two storey properties and bungalows. Dwellings are set back from the road at varying intervals and are finished in a range of materials including facing brickwork and render of various colours.

#### **The proposal**

The application seeks permission for the erection of a garage to the west side, a two storey extension to the east side (following demolition of existing garage) and two storey extension to the rear with balcony.

During the course of the application, amended plans have been received. The proposed garage has been relocated from the front of the site to join the side of the dwelling, and a 2m high parapet wall has been incorporated to the west side of the balcony.

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

None submitted save for the proposed plans.

#### **Relevant planning history**

2003/0962 - The erection of 39 dwellings with associated garages and an access road - Application Withdrawn.



2018/0774 - Outline application (all matters except for access to be reserved) for the residential development of up to 15 dwellings - Resolution to approve following consideration at Planning Committee in June 2019 however, the Section 106 Agreement remains unresolved.

### **Responses to consultations and publicity**

Four letters of objection have been received from one neighbour (pre and post amended plans). The objections raised are as follows:

- a) loss of privacy;
- b) overlooking;
- c) out of character;
- d) overbearing;
- e) close proximity to the boundary;
- f) party wall agreement would be required;
- g) construction traffic would cause a highway hazard; and
- h) additional vehicles entering the site would cause a highway hazard.

### **Relevant policy, guidance and/or legislation**

The relevant Local Plan policies are:

- 2016 Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), INF2 (Sustainable Transport)
- 2017 Local Plan Part 2 (LP2): H27 (Residential Extensions and Other Householder Developments), BNE7 (Trees, Woodland and Hedgerows)

The relevant National Guidance is:

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

The relevant Local Guidance is:

- South Derbyshire Design Guide SPD (Design SPD)

### **Planning considerations**

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

- Design;
- Impacts on amenity;
- Highway safety; and
- Landscaping/Protected Trees.

### **Planning assessment**

#### **Design**

In terms of the proposed garage, the proposed plans have been amended to reduce the size of the garage and relocate it to adjoin on to the side of the house rather than it being detached to the front of the house. This now fits with the aspirations of the Design SPD, given that originally the proposed garage appeared too large for the proposed location – the Design SPD acknowledging that the front of the dwelling is the most sensitive to alteration and extensions/buildings to the front are not acceptable where there is an obvious 'building line'. The original location would have resulted in the garaging being forward of the building line quite significantly.

In terms of the two-storey side extension, it would replace an existing single storey extension/garage. It

would measure 7.7m wide from the side elevation of the host dwelling, which given the size of the original dwelling and the size of the plot this is considered to be in keeping in terms of scale. It has been designed with a pitched roof which reflects the existing house, with all new materials to match. In addition, the site is situated within an area of varied character (in terms of building design, siting and mix).

The proposed two storey rear extension would project from the rear wall of the host dwelling by 6m, at ground floor level it would act as an infill extension and would not project any further than the rear wall of the proposed garage and proposed side extension. At first floor level a balcony is proposed which would stretch along over the single storey rear extension as well as the two-storey side extension. The materials proposed will be finalised via a condition. In addition, it would be secluded from public vantage points. Taking on board the points raised above, it is considered that the proposal complies with the requirements of policies BNE1 and H27.

### Impacts on Amenity

In terms of the proposed balcony, the Design SPD states that balconies should be well screened to prevent any unacceptable overlooking. Amended plans have been received which provide a 2m high parapet wall to the west side of the balcony, thus providing screening to the neighbour to that side. To the east, there are no residential properties but there are several mature protected trees which act as a natural screening.

All new windows and doors will be installed to either the front or rear elevation, looking directly into the amenity space of the host dwelling and therefore comply with the minimal distance guidelines set out in the SPD.

It is considered that the proposed two storey extensions would not cause any undue overshadowing to the neighbour given that they are set away from this property and therefore do not breach the 45 degree area. The single storey garage, which is the element closest to this shared boundary, would be set in from the boundary by 2m, with an eaves height of 2.85m and an overall height of 4.5m. The neighbour currently has an extension to the rear, along this boundary. There is a boundary fence in situ which would screen the garage. There would be no glazing on this elevation. Given the points raised above, subject to the addition of restrictive conditions related to the use of the area above the garage and the ensure the installation of screening to the proposed balcony it is considered that the proposal complies with the requirements of policies SD1 and H27 such that there would be no demonstrable impact on the amenity of nearby dwellings.

### Highway Safety

As a result of the proposed extensions the property would become a 7 bedroom dwelling; the Design SPD states that houses of 4 or more bedrooms should provide a minimum of three car parking spaces. The property currently benefits from a large driveway and hard landscaped area to the front as well as a minimum of three spaces within the proposed garage, easily complying with the Design SPD requirements. The access would remain as existing. An objection was raised in relation to additional vehicles entering and leaving the property, however this is not considered to cause any addition risk to the highway. The proposal is therefore considered to be compliant with policy INF2 and would not result in any material detriment to highways safety.

### Landscaping/Protected Trees

A mature belt of landscaping, including a number of protected trees, some of which have been removed, forms the front boundary of the site; this feature provides substantial screening of the site from Hearhcote Road. During the considering of this application the applicant was advised to cease any undergoing work, including the maintenance of the landscaping and trees. An amended plan was received which indicates that the landscaping to the front will be retained. It is understood that some has been cut away due to the property being vacant for some time and the landscaping growing either out of control and/or of being of poor health. The proposal itself would not require the removal of



protected trees and a condition requiring the submission and approval of a landscaping scheme is recommended in order to ensure and appropriate scheme of landscaping is implemented to Hearthcote Road.

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

## **Recommendation**

**Approve** subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the following drawings;  
Proposed Elevations PL0005 B, Proposed Ground Floor Plan PL0001 J, Proposed First Floor Plan PL002 N and  
Proposed Garage Site Plan PL007 C; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

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

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

4. Prior to the first use of the extensions hereby approved a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. Details of soft landscaping should evidence compliance with British Standard (BS) 3936: 'Part 1 - Specification for trees and shrubs', BS3969 - 'Recommendations for turf for general purposes' and BS4428 - 'Code of practice for general landscape operations (excluding hard surfaces)'. All hard landscaping shall be carried out in accordance with the approved details prior to the first use of the extensions, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first use of the extensions or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

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

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the roof area of the attached garage hereby approved shall not be used as a balcony, roof garden or similar amenity area.

Reason: To maintain control in the interest of the effect upon neighbouring properties.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the balcony hereby approved shall not be used until a screen to its western boundary edge has been installed in accordance with the approved plans. The screen shall thereafter be retained in situ and maintained as such.

Reason: To maintain control in the interest of the effect upon neighbouring properties.

**Item No.** 1.3

**Ref. No.** [DMOT/2020/1052](#)

**Valid date:** 01/10/2020

**Applicant:** Leah Reed  
South Derbyshire District Council

**Agent:** N/A

**Proposal:** **Retrospective application for the pruning of an Oak covered by South Derbyshire Tree Preservation Order 199 on land at 83 Wood Lane, Newhall, Swadlincote, DE11 0LX**

**Ward:** Newhall and Stanton

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

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

#### **Site Description**

The tree is situated on land to the rear of 83 Wood Lane, Newhall located close to the rear of dwellings on Bretby Hollow.

#### **The proposal**

The proposal is to seek approval for the reduction in the height of the tree (to approximately 15m), reducing its width (to 8m approximately); thereafter selective shortening to give a crown lift to 3.5m and deadwooding.

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

The applicant sought professional tree advice from an independent arborist prior to the submission of the application.

#### **Relevant planning history**

The tree is covered by TPO 199 - in force since 2002, protected for both its visual offer but also for its wildlife habitat offer.

#### **Responses to consultations and publicity**

No comments received.

#### **Relevant policy, guidance and/or legislation**

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness)
- Local Plan Part 2 (LP2): BNE7 (Trees, Woodland and Hedgerows)

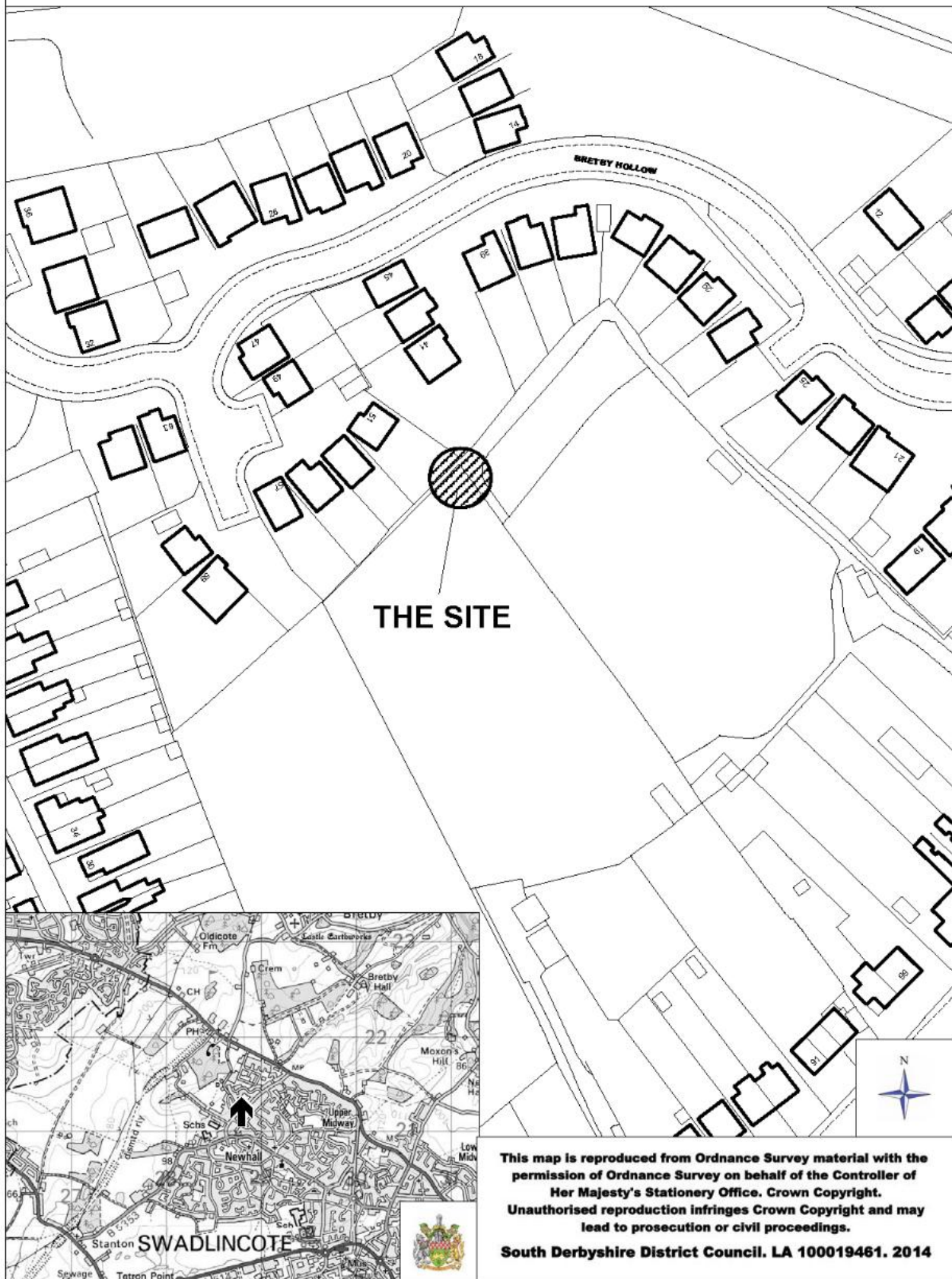
The relevant national policy and guidance is:

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

The relevant legislation is:

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

DMPA/2020/1052 - 83 Wood Lane, Newhall, Swadlincote DE11 0LX



## **Planning considerations**

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

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

## **Planning assessment**

### Whether the works are justified

This tree recently failed; a huge part of it recently falling into the adjacent residential garden. The tree has since (with significant Council intervention) had immediate hazards removed (by way of exemption to the requirements of the Town and Country Planning (Tree Preservation) Regulations 2012). Other works however outside of usual exemptions were carried out around that time, namely a major crown reduction, selective work thereafter resulting in a smaller but more consolidated crown and thus in turn resulting in a tree with a safer, lower centre of gravity. The works were undoubtedly justified given the unusual set of circumstances here - i.e. an absent tree owner and the poor condition of the tree. The works were considered however to modestly move away from those allowed by exemption, in terms of Health & Safety and appropriate approval sought hence this application.

### Whether the resultant biodiversity and amenity value remains acceptable

The biodiversity gains here (by way of retaining the tree) outweigh any notable loss of amenity, oaks trees (of which there is little in this context) sustaining a high level of local insect life which in turn contributes to wildlife offer.

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

## **Recommendation**

**Approve.**

## 2. **Planning and other Appeals**

(References beginning with a DMPA, DMPN, DMOT or 9 are planning appeals and references beginning with an ENF or E are enforcement appeals)

Reference	Place	Ward	Outcome	Decision level
<a href="#">DMOT/2019/1276</a>	14 Alderslade Close, Aston-on-Trent	Aston	Dismissed	Delegated



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## Appeal Decision

Site visit made on 17 August 2020

**by I Radcliffe BSc(Hons) MRTPI MCIEH DMS**

an Inspector appointed by the Secretary of State

Decision date: 23 November 2020

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**Appeal Ref: APP/TPO/F1040/7779**

**14 Alderslade Close, Aston-on-Trent, Derby DE72 2AY**

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to fell a tree protected by a Tree Preservation Order.
  - The appeal is made by Mr J Thompson against the decision of South Derbyshire District Council.
  - The application Ref: DMOT/2019/1276, dated 4 November 2019, was refused by notice dated 24 December 2019.
  - The work proposed is the felling of one silver birch.
  - The relevant Tree Preservation Order (TPO) is South Derbyshire District (land at Nos. 12 & 14 Alderslade Close, Aston-on-Trent) Tree Preservation Order No. 230 (2004), which was confirmed on 11 April 2005.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. On the basis of Planning Practice Guidance<sup>1</sup>, the main issues in this appeal are:
  - the amenity value of the tree and the likely effect of its removal; and,
  - whether sufficient justification has been provided for the proposed felling.

### Reasons

*Amenity value of the tree and the likely effect of its removal*

3. The silver birch, which is the subject of the appeal, sits by the front boundary of No 12 with a low laurel hedge on either side. It is a tall, mature specimen with a full low canopy and long drooping branches characteristic of the species.
4. The tree is the most significant one to the front of dwellings on the Close and by itself gives this short cul-de-sac a verdant character in public views from the road and pavement. As a result, it is of significant amenity value. The felling of the tree would allow the hardstanding associated with the road, pavements and driveways on the Close to dominate and give the cul-de-sac a more urban appearance that would cause material harm to its suburban character. A replacement cherry tree would be planted if the silver birch was felled. However, this would take years to grow large enough to begin to compensate for the adverse effects caused as a result of the loss of this tall mature tree.

*Whether sufficient justification has been provided for the proposed felling*

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<sup>1</sup> Tree Preservation Orders and trees in conservation areas, Paragraph: 089 Reference ID: 36-089-20140306 'Taking Decisions on applications for consent under a Tree Preservation Order'

5. The appellant is concerned that the roots of the tree are causing damage to the pavement and his drive and that this is creating a trip hazard. However, no written technical evidence from an appropriate expert has been submitted to substantiate these concerns or to consider possible solutions that fall short of felling. The roots of the tree appear to be having a very minor effect on the tarmac pavement with the surface undulating slightly and the beginning of some cracks appearing. A localised area of the drive has some more pronounced undulations. In my judgement though, and in the absence of expert evidence to the contrary, both issues can be managed by appropriately designed repairs that would not harm the health and longevity of the tree.
6. During the year trees litter the ground beneath them with seeds, leaves and twigs. This is normal and expected, and in itself does not provide a cogent reason for felling a tree. If it did, the result would be a loss of many trees and the erosion of the visual amenity that they provide to an area. When it rains fallen leaves can be slippery. However, the Close is quiet and there are pavements on both sides of its road. As a result, any concerned person could safely avoid the fallen leaves by walking on the opposite pavement, or by briefly walking on the carriageway.
7. Reference has been made by a local resident to the tree regularly bringing down telephone lines that pass through its canopy. I saw though that the telephone lines are stout and in good condition. In the absence of evidence from the company responsible for maintaining telephone lines on the Close that the tree is causing damage that cannot be managed other than by felling, this consideration is a matter of only limited weight in favour of the appeal.
8. With the harm to amenity that would occur, I find that the matters put forward in favour of the appeal are insufficient to justify the felling of the tree. The proposal would therefore be contrary to policy BNE7 of the South Derbyshire Local Plan (Part 2) which, amongst other matters, requires that applications to fell trees are considered in accordance with relevant national guidance and regulations. The appeal should therefore be dismissed.

*Ian Radcliffe*

Inspector