

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

SECTION 1: Planning Applications

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

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, hedgerow works, advertisement consent, notices for permitted development under the General Permitted Development Order 1995 (as amended) responses to County Matters and strategic submissions to the Secretary of State.

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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.

Item **1.1**

Reg. No. **9/2015/0770/NO**

Applicant:
Mr Mark Sweet
Strata Homes Yorkshire Ltd
Quay Point
Lakeside
Doncaster
DN4 5PL

Agent:
Mr Mark Sweet
Strata Homes Yorkshire Ltd
Quay Point
Lakeside
Doncaster
DN4 5PL

Proposal: **ERECTION OF BALL STOP FENCING TO PERIMETER
OF FOOTBALL PITCHES ON RECREATION GROUND
AT CHESTNUT AVENUE MIDWAY SWADLINCOTE**

Ward: **MIDWAY**

Valid Date: **04/09/2015**

Members will recall deferring this item at the Committee of 17 November 2015 to enable a site visit to take place.

Reason for committee determination

The application is reported to Committee as the works are being undertaken on behalf of the Council.

Site Description

The site forms part of the community facility approved as part of planning application 9/2014/0158. The site consists of two football pitches and is bounded on all sides by residential properties.

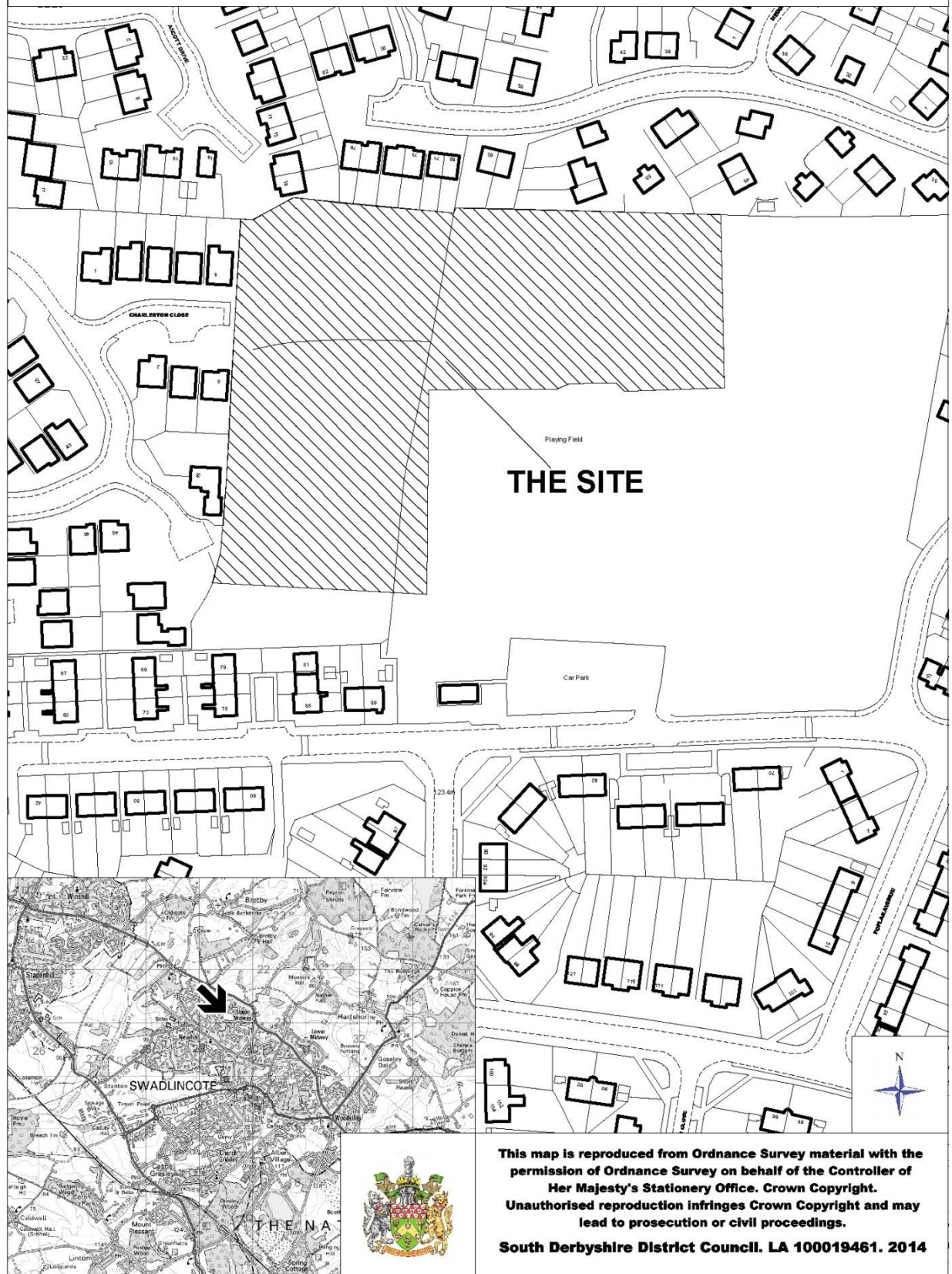
Proposal

Consent is sought for the erection of ball stop fencing around the necessary perimeters of the site. The proposed fencing is designed to be erected where there is the most risk of balls landing in neighbouring gardens from the football pitches.

Planning History

9/2014/0158 - The erection of 66 dwellings and associated infrastructure, development of new community facilities and sports hall and car park with demolition of existing pavilion, and installation of new play area and two new football pitches – Approved with Conditions - 15/05/2014

9/2015/0770 - Recreation Ground, Chestnut Avenue, Midway DE11 0EL



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Responses to Consultations

The Coal Authority has no comments to make.

The County Archaeologist advises that the proposed works would have no archaeological impact.

The Council's Open Space Officer has requested amendments to extend the line of the fencing in certain areas and reduce the height of the fencing.

Responses to Publicity

Two neighbour comments have been received which can be summarised as:

- a) Concerns about the proximity of the ball stop fencing to the existing dwellings.
- b) The football pitch needs to be reduced to stop balls coming into neighbouring properties completely.
- c) "Prison fence" appearance of fencing next to peoples windows.

Five further neighbour comments have been received following a re-consultation on amended plans and the following points have been raised:

- a) It is unclear how far the fencing will be from Charleston Close and Claymar Drive.
- b) Fencing should be erected around Claymar Drive to prevent people using the area to access the site.
- c) Cosmetic fencing should be erected at Claymar Drive to stop people observing the sports at this point.
- d) The fencing is an eyesore and is "prison like" in appearance.
- e) People already use the properties on Ascott Drive as a short cut to the fields, causing damage to the properties fencing.
- f) There is no fencing proposed to the properties on Ascott Drive. Therefore, these properties are not protected from damage.
- g) The pitch has been reduced. However, if the pitch was not so centred in the site it would negate the need for the fencing, or would mean that the fencing could be positioned as far away from the residential properties boundaries as possible.
- h) 6m fencing is too high.
- i) It was presumed that a brick wall would be erected along the boundary to reduce damage to neighbouring properties fencing and to address flooding issues.

Development Plan Policies

The relevant policies are:

South Derbyshire Local Plan 1998 Saved Recreation and Tourism Policies R1 and R4.

Emerging Development Plan Policies (Submission Local Plan Part One) include:

- S2 – Presumption in Favour of Sustainable Development

National Guidance

- National Planning Policy Framework (NPPF) paragraphs
 - 9 - Purposes of Sustainable Development
 - 14 - Presumption in favour of Sustainable Development
 - 17 - Core Planning Principles
 - 56 - Requiring Good Design
- National Planning Practice Guidance (NPPG) ID 26 Design

Planning Considerations

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

- Principle of the fencing
- Height and position of the fencing
- Other issues

Planning Assessment

Principle of the fencing

Consent has previously been obtained for the use of the site as a community facility with football pitches as part of permission 9/2014/0158. The proposed erection of the ball stop fencing is to limit the number of balls that could potentially be kicked into the gardens of neighbouring residential properties and therefore, the principle of the fencing would be acceptable as it would result in better amenity value for local residents.

Height and position of the fencing

Amendments have been sought that reduce the pitch by 1m in width in order to accommodate the position of the fencing. This has enabled the fencing to be moved further away from the boundary of neighbouring properties and the fencing has been reduced from 6m to 4m in height. This helps to reduce the feeling of overbearance and overshadowing that was previously posed by the possibility of a 6m high fence.

The ball stop fencing is not a solid boundary treatment and allows light to pass through, therefore, there would not be an issue posed whereby the fencing could block out light to neighbouring properties and would not be visually harmful. The fencing would therefore be of an appropriate scale and would be well integrated with the neighbouring surroundings.

Other issues

It has been raised as a concern by local residents that the visitors to the facility may wish to park on the hammerhead of Claymar Drive in order to watch the sport, instead of using the allocated parking facilities, and that there should be boundary screening erected to obscure the view from this position and stop this from happening. There would not be the scope to request this as part of the application, as consent is sought for the erection of the proposed fencing and it would not be possible to use this as an instance to address issues that are outside of the control of the application. On the basis that the facility accommodates sufficient parking for visitors on match days and that there is ample space available for viewing the sport within the facility, it would appear unlikely that this hammerhead would be used for this purpose and in addition, it would not appear to be reasonable to request that this area is screened.

Conclusion

The erection of the proposed fencing would result in better amenity value for local residents, as there would be fewer instances of balls being kicked into residents' properties. The fencing at 4m in height would be less visually intrusive and overbearing and would therefore comply with policies R1 and R4 of the Local Plan.

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

Recommendation

GRANT permission under Regulation 3/4 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. The development hereby permitted shall be carried out in accordance with plan/drawing Location Plan 01, received on 19th August 2015; plan/drawing 29148/02/01 Rev N (Amended Plan); and plan/drawing 29148/14/05 (Amended Plan); 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.

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.

Item **1.2**

Reg. No. **9/2015/0859/U**

Applicant:
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Park Road
Overseal
Swadlincote
DE12 6JS

Agent:
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Burton upon Trent
DE15 9FR

Proposal: **EXTENSION TO GYPSY CARAVAN SITE INCLUDING A
CHANGE OF USE OF LAND AND ASSOCIATED
ENGINEERING WORKS TO INCREASE THE OVERALL
NUMBER OF CARAVANS TO 16 AT THE CONIFERS
PARK ROAD OVERSEAL SWADLINCOTE**

Ward: **SEALES**

Valid Date: **15/09/2015**

Reason for committee determination

The item is presented to Committee at the discretion of the Planning Services Manager.

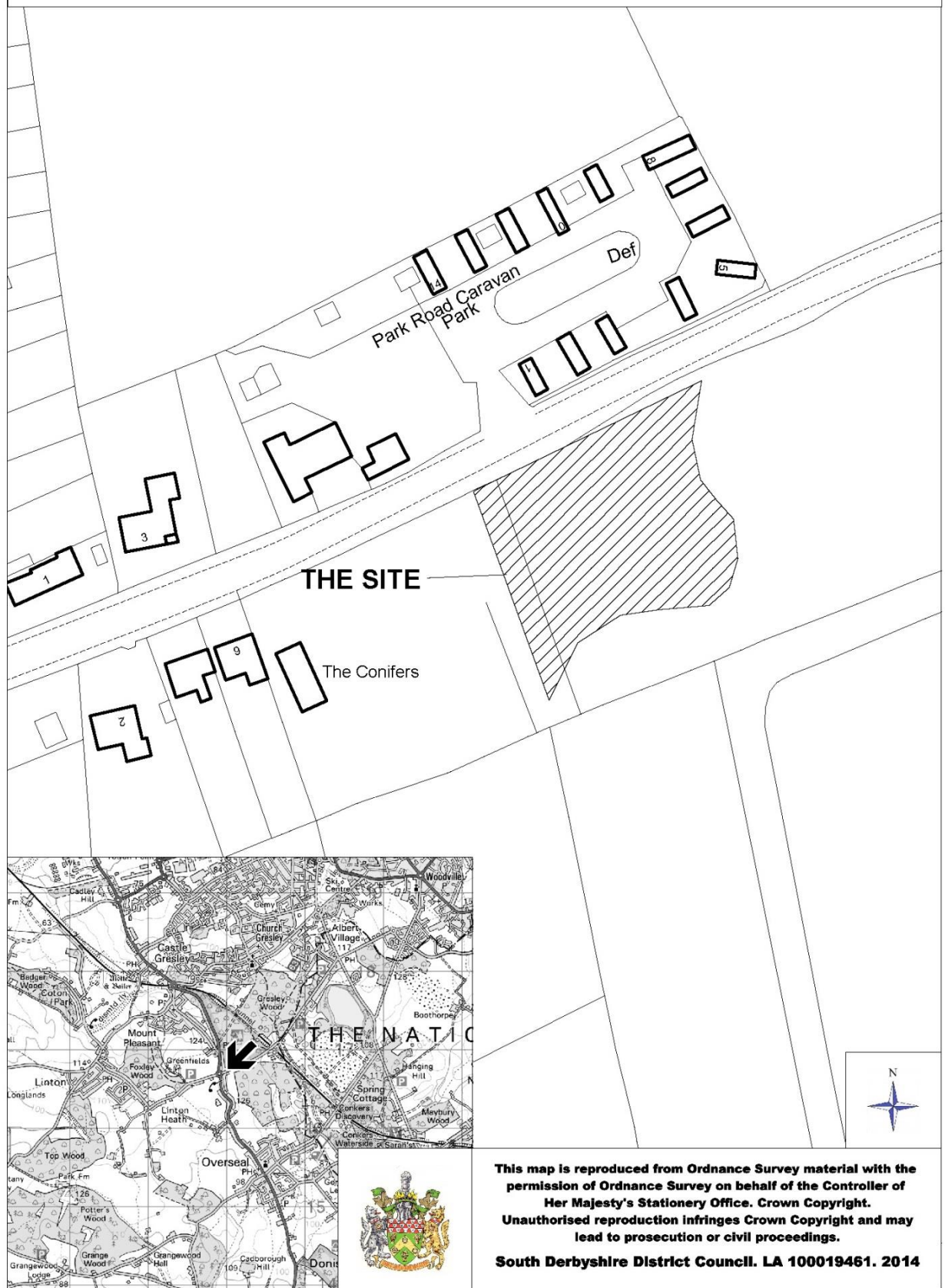
Site Description

The site comprises of some 1580m² of agricultural land and lies to the southern side of Park Road. The site is located adjacent to the existing site, with fields to the east and south eastern boundaries. To the west is a ribbon of existing dwellings which connects with the ribbon running along the A444 between Overseal and Castle Gresley. To the north of Park Road is a further caravan site catering for around a dozen caravans and a bungalow. The site falls from west to east, away from the existing site. An existing hedgerow with trees borders the site to the north along Park Road whilst an immature hedgerow sits behind existing fencing enclosing the existing site. Semi-mature National Forest planting lies to the south and east of the applicant's ownership.

Proposal

It is proposed to change the use of agricultural land to provide an extension to the existing gypsy and traveller site to accommodate 7 caravans. This would increase the overall total of caravans by just 6 if the concurrent application were also granted (which leads to the loss of 1 pitch). Drainage infrastructure would be installed to

9/2015/0859 - The Conifers, Park Road, Overseal DE12 6JS



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accommodate the extension of the wider site and landscaping also added to soften visual impacts of the scheme.

Applicant's supporting information

A Planning Statement sets out that the applicants have lived on the site for 10 years whilst managing the gypsy caravan site, which has been well run and maintained over the years. It is identified that the concurrent application would lead to the loss of a pitch on the site, and subsequent to submitting that application discussions have established that the Gypsy and Traveller Accommodation Assessment (GTAA) requires additional sites to be identified to provide a strategic approach within the District. The application would therefore mitigate the loss of an existing pitch due to the erection of the dwelling and provide an additional 5 pitches in a strategic approach helping to reduce the concerns of less favourable sites coming forward in inappropriate locations. The proposal also incorporates a large area of tree planting to provide screening and enhance the biodiversity of the land.

It is considered this small scale extension would not result in this well managed and maintained site coming dominant in this location. The site is not located within an area that enjoys the highest status of protection in relation to landscape and scenic beauty. It is advanced that the scheme accords with the provisions of National and Local Planning Policy, and would help deliver the identified requirement for additional pitches within the District and enhance the landscape character and biodiversity of the area without resulting in any adverse impacts which would significantly and demonstrably outweigh the benefits of granting planning permission.

The application is also supported by a Coal Mining Risk Assessment which concludes that seams may be present at shallow depth which has been historically worked. Historic surface extraction may also cause instability. It is recommended further intrusive investigation takes place to establish the presence, or not, of workings; and that if present remedial works are carried out or preventative mitigation is applied to the development.

Planning History

9/2015/0589: The erection of a bungalow – Pending

9/2013/0618: Extension of existing site including a change of use of land and increase in number of caravans to 10 – Approved November 2013

9/2013/0218: Extension of existing site including a change of use of land and increase in number of caravans to 10 – Refused July 2013

9/2011/0257: Change of use to a mixed use for general use for persons of non-gypsy status together with the addition of 3 mobile homes – Refused July 2011 and dismissed at appeal

9/2007/0804: Extension to caravan site to accommodate three families, a total of six caravans and the amenity blocks – Approved March 2008

9/2006/0724: Erection of toilet and shower block – Approved August 2006

9/2004/1306: Change of use to residential caravan site for one family with two caravans – Approved November 2004

Responses to Consultations

The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment (CMRA) that coal mining legacy potentially poses a risk to the development and that intrusive site investigation works should be undertaken in order to establish the exact situation regarding coal mining legacy issues on the site. A condition is recommended requiring these investigations prior to commencement of development, and in the event that investigations confirm the need for remedial works to treat the areas of shallow mine workings, this should also be conditioned to ensure that any remedial works are undertaken prior to commencement of the development.

Natural England raises no objection subject to conditions, considering that the proposal is not likely to have a significant effect on the River Mease Special Area of Conservation (SAC) or SSSI. The conditions would need to control foul drainage, with evidence that the development cannot be served by existing public sewers, confirmation of foul water handling design and discharge point, a maintenance plan for the use of a Package Treatment Plant (PTP) if a PTP is the only feasible option, and to ensure any PTP is of sufficient capacity. Surface water should not be directed to a mains sewer with a detailed soakaway plan, informed by infiltration tests, submitted before works take place. Further conditions are also required to ensure car parking areas are permeable, a Construction Management Plan is implemented to ensure no potential pollution impacts through surface drainage during construction, and that the proposed future toilet block be excluded from this application as it requires a separate planning application. It is advised that the scheme is compliant with the developer contributions scheme and any trees planted should be of native provenience which are sourced and grown within the East Midlands area.

The Environment Agency (EA) has no objections but notes that the applicant should ensure that the PTP is sized correctly to accommodate the increase in pitches, and that this discharge may also require a permit from the EA.

The Environmental Health Officer notes existing issues relating to surface water drainage and waterlogging affecting adjacent properties, and an impervious clay layer very close to ground level which exacerbates this. It is considered the proposed development could impact upon this problem, and a lack of surface water drainage provision could have implications for those residing on the site as well as those bordering it. A condition requiring a surface water drainage scheme is requested. Further observations are made in respect of the existing foul water PTP with the plan stating that the current system has capacity for only 24 people and the additional plots suggest a need to double this capacity.

The Environmental Protection Officer has comments to make in relation to contaminated land.

The County Highway Authority raises no objection subject to conditions as previously attached to consents, setting out the requirement for adequate visibility splays and parking provision on site.

The National Forest Company (NFC) notes that the proposal, given its scale, is not expected to incorporate National Forest planting. However it is noted a belt of tree planting is proposed and further details on the position, species mix and density of planting should be agreed by condition. The belt should be designed to connect to the extensive area of planting immediately to the south and act as an extension to this. The proposed species mix is also considered unacceptable, which includes Ash (which cannot currently be planted due to the restrictions imposed to combat ash dieback), and a broader mix of native species should be proposed.

Responses to Publicity

Overseal Parish Council objects on the following grounds:

- a) the origins of this site was a single caravan on compassionate grounds, but this has rapidly turned into a site of 10 caravans with shower block, etc.;
- b) future intentions to expand the site gradually to the east to turn it into a large caravan site occupying most or all of the land;
- c) extension of the site into open countryside forming part of the National Forest;
- d) there are several sites in South Derbyshire where caravans can be sited;
- e) there is a caravan site directly opposite;
- f) there are other sites just over the county border with Leicestershire;
- g) the site is remote from essential amenities such as shops, post office, school, etc.;
- h) there have been public order problems since the original site was developed and these continue, mainly affecting immediate neighbours;
- i) there is no proper system of refuse disposal;
- j) the reasons for the 2011 refusal still hold good today and the current application should be refused;
- k) the caravans will do nothing to enhance the local environment and are not sustainable development; and
- l) the application should be considered by Committee.

A single objection has been received, raising the following concerns:

- a) there has been many problems caused by gypsies during the summer in Overseal;
- b) there are several sites in the area already (one directly opposite);
- c) the original plan was for a single caravan on compassionate grounds and since then the site has grown rapidly;
- d) the limits on numbers of caravans are abused and more placed on the site encroaching further onto open countryside in the National Forest; and
- e) nothing has changed since the 2011 refusal.

Development Plan Policies

The relevant policies are:

- Saved Local Plan 1998: Housing Policy 15 (H15), Environment Policies 1, 9 and 10 (EV1, EV9 and EV10), and Transport Policy 6 (T6).

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H21 (Sites for Gypsies and Travellers and for Travelling Showpeople), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Delivering Sustainable Water Supply, Drainage and Sewerage), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport) and INF8 (The National Forest).

National Guidance

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Planning Policy for Traveller Sites (PPTS)

Local Guidance

- River Mease SAC Developer Contributions Scheme (DCS)

Planning Considerations

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

- The weight to be given to national and local planning policy;
- The need for gypsy pitch provision;
- Access to services and impact on local infrastructure;
- Highway safety;
- Impact on neighbouring amenity;
- Impact on character and visual amenity; and
- Drainage and land stability matters;

Planning Assessment

Weight given to national and local planning policy

The Development Plan forms the primary policy consideration for this application, although the NPPF, PPTS and emerging Plan are material planning considerations carrying varying degrees of weight. Whilst saved policy H15 is 'out-of-sync' to some degree with the PPTS, emerging policy H21 fully responds to the PPTS and has been subject to examination with no fundamental objections outstanding.

Accordingly a moderate degree of weight can be afforded to both Development Plan policies whilst the PPTS itself also carries considerable weight. It is also important to

note that H15 is not sensitive to settlement confines, recognising that such proposals often sit outside of settlements and/or adjoining them. The principle of development on this site is therefore acceptable. Notwithstanding the above consideration against EV1 is necessary given its intention to protect and enhance the character of the countryside, and this is discussed below.

The need for gypsy pitch provision

An updated GTAA has been published which sets out a need for 14 pitches over 5 years, and subsequent but lesser increases for each 5 year period thereafter. The GTAA takes no account of over supply from the previous period, where it is considered the Council had a surplus beyond its 5-year minimum requirement. Hence as of 1 April 2014, the effective date of the GTAA, the Council's rolling supply was 'reset' to zero and this represents a very material change in circumstances since previous proposals at the site. Without identified sites in the Plan, the need must be met by individual applications in the interim, such as this one, at a rate of 2 to 3 pitches per annum. Since April 2014 permission has been granted for 3 pitches.

The Council met and exceeded its former identified needs, and it is material that efforts are being made to 'keep up with the curve' ahead of sites being identified in the Local Plan process. However it is equally important to note that a 5-year supply does not exist and therefore under the PPTS, significant weight must be afforded to the proposal.

Access to services and impact on local infrastructure

The PPTS advocates very strictly limiting new traveller sites in open countryside that is away from existing settlements. This site is not necessarily away from existing settlements, but equally it is not within identified settlement confines. The availability of transport modes, promotion of community cohesion, and ease of access to health services, shops and schools are all important in assessing the sustainability of a site. Development Plan policies reflect this point. In this case services and facilities are available within reasonable distances in Overseal and Castle Gresley and the wider Swadlincote area. There are a number of infant and primary schools within 0.6 to 1.5 miles from the site, whilst the Pingle Secondary School is some 3.5 miles distant. In taking cues from appeal decisions for similar proposals elsewhere, the site is considered to be suitably located with respect to services and facilities, and indeed bus services are readily accessible for occupants of the site.

As to the impact on existing education, healthcare provision and community facilities; the development is not of a scale where contributions would normally be sought particularly given that the occupants are transient in nature such that existing provision is considered to suitably absorb any varying pressures arising.

Highway and pedestrian safety

The access has served the existing site for some time now without cause for concern. The response of the County Highway Authority is noted and given the prevailing speed limit along Park Road and the nature of vehicles using the site; it is not considered unreasonable to ensure that adequate visibility remains and suitable space is available within the site to reduce any likelihood of on-street parking.

Impact on neighbouring amenity

The PPTS notes that sites in rural areas should not dominate the nearest settled community. It is noted that the site would extend the gypsy community in this location, which includes the site across the road. However the site opposite, due to its age, is not limited to occupation solely by the gypsy and traveller community and there is an ongoing trend for those static caravans to be occupied by the settled community. In a sense the gypsy community is, with time, moving from one side of the road to the other or becoming settled (as evidenced by the concurrent application on this site) – maintaining the equilibrium with the existing settled community. With time it is considered this assists in ensuring the combined impact of both sites stops short of having a dominant effect (although this factor is always difficult to assess accurately).

Amenity concerns must be substantiated if they are to form a reason for refusal. In privacy terms, the distance between the proposed pitches and/or caravans is well in excess of the standards which would be applied between habitable windows for dwellings. The position of the additional caravans is also beyond the existing site such that any concerns over noise disturbance and so forth are not apparent. Control can be applied in respect of the pitches and wider site to prevent intensification of the use or commercial activities.

Impact on character and visual amenity

Local policies and national guidance seek to ensure that development should respond to local character and reflect the identity of local surroundings; create safe and accessible environments where crime and disorder, and the fear of crime, not undermine quality of life or community cohesion; and be visually attractive. Saved and emerging policies require the development to be acceptable in environmental terms and capable of sympathetic assimilation into its surroundings. The existing site has a limited degree of intrusion into the open landscape given the lack of public vistas towards the site and its setting behind existing and maturing National Forest planting. The proposal would be screened by further planting which can be controlled by condition, whilst lighting can also be appropriately controlled. Hence the degree of harm arising is moderated by the nature of the site and proposed mitigation.

Drainage and land stability matters

The applicant proposes to direct foul water to a Package Treatment Plant (PTP) with surface water to soakaways. The land does not fall within identified flood risk zones but is within the River Mease SAC, and ground conditions are known to be generally impervious in this location. The NPPF requires that development should enhance the natural and local environment by preventing new and existing development from contributing to or being adversely affected by unacceptable levels of water pollution.

In terms of foul water, the existing PTP is of some concern given it is only designed to cater for flows from 24 persons. However the applicant is conscious of the need to either install a further PTP or replace it with a system of greater capacity. The outfall from this system also needs to be carefully considered as part of the drainage strategy for the site, but given the consultation replies received it is considered that

conditions can appropriately mitigate any risks to the SAC. In assessing the scheme the locations of foul sewers in the vicinity of the site have been reviewed and it is considered the site cannot reasonably connect to the mains sewer due to a lack of infrastructure around the site.

As for surface water the use of soakaways does not fit comfortably with the ground conditions and it is possible that, following infiltration testing, sole reliance on soakaways may not be appropriate. Consequently there needs to be consideration of alternatives, such as attenuation with controlled discharge rates, but again conditions could alleviate these concerns to allow determination of the proposal at this time.

In terms of land stability, coal mining legacy potentially poses a risk and further intrusive site investigation works are necessary to establish the exact situation. The Coal Authority considers a condition can secure these investigations prior to commencement of development, and in the event that investigations confirm the need for remedial works to treat the areas of shallow mine workings, this can also be controlled by condition.

Other matters

Residents raise concern as to the lack of detail regarding waste and recycling collections. The pitches would need the same provisions as any other residential property in the district, and the right for bins and collections would be afforded to occupants. It is not unreasonable to assume that refuse wagons would collect in the same fashion as achieved for existing residents on Park Road.

Balancing of planning considerations

As outlined, the proposal attracts significant weight in favour by way of the lack of a 5-year supply of gypsy and traveller pitches – a supply which would be significantly boosted under these proposals. Added to this is further weight afforded by the ability for the site to be developed, with conditions where necessary, without causing undue impact on neighbouring or visual amenity, nor cause pollution to the natural environment – particularly the River Mease SAC. Hence whilst there would be an increase in the number of pitches in this particular location, and the site would intrude further into the countryside; these harms are not considered to significantly and demonstrably outweigh the benefits of the proposal.

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. The development hereby permitted shall be carried out in accordance with plan/drawing 215-38.02A, 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). For the avoidance of doubt, this permission does not authorise the erection of a toilet block as indicatively shown on the above referenced plan.

Reason: For the avoidance of doubt.

3. This permission does not authorise the use of the land as a caravan site by any persons other than Gypsies and Travellers as defined in Annex 1: Glossary of the Government's Planning Policy for Traveller Sites (August 2015), or any subsequent policy or guidance which replaces that definition.

Reason: To safeguard the site for occupation by Gypsies and Travellers.

4. No more than 16 caravans shall occupy the wider caravan site, as hereby extended, at any one time.

Reason: For the avoidance of doubt and to ensure the site (along with any others in the vicinity) does not dominate the nearest settled community, and to ensure occupiers of the wider site are afforded sufficient room for associated vehicles and amenity space.

5. The only caravans permitted to be stationed on the wider site as extended shall be those which comply with the definition as set out in the Caravan Sites Act 1968.

Reason: To safeguard the visual amenity of the countryside in accordance with Saved Environment Policy 1 of the adopted Local Plan.

6. No commercial activity or outside storage related to any trade or business shall take place on the site, and no vehicle shall be parked or stored on the site which exceeds 3.5 tonnes unladen weight.

Reason: To protect the visual and aural amenities of the locality.

7. The hardsurfacing to the site shall be constructed using porous materials.

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

8. No development shall commence on the site until a scheme of intrusive site investigation has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in full and a report of the findings arising from the intrusive site investigations, along with proposed remedial measures (if any), shall be submitted to and approved in writing by the Local Planning Authority prior to any works of construction commencing. The approved remedial measures shall be implemented prior to first occupation of the building hereby approved.

Reason: To ensure the stability and safety of the development to protect against coal mining legacy, noting that to commence development without proper investigation and/or mitigation may pose unacceptable risks.

9. No development shall commence until a construction management plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall provide detail on the containment and management of surface run-off along with suitable mitigation measures to ensure no

potential pollution impacts through surface drainage during the construction of the development. The approved CMP shall thereafter be adhered to at all times during construction works.

Reason: In the interests of pollution control, recognising that as the site falls within the catchment for the River Mease SAC & SSSI; drainage of the site needs to be carefully controlled.

10. Notwithstanding the approved plans, no development shall take place until further details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. This scheme shall include evidence of infiltration testing and details that proposed surface and foul water drainage means are of suitable capacity to accommodate flows, as well as demonstrating the site levels do not compromise the efficient operation of drainage runs. The scheme shall also provide a maintenance plan for the Package Treatment Plan (PTP) to guarantee it is in good working order throughout the period of use. The scheme shall be carried out in strict conformity with the approved details before the development is first brought into use and the PTP shall be managed in accordance with the approved maintenance plan thereafter.

Reason: In the interests of flood protecting and pollution control, recognising that as the site falls within the catchment for the River Mease SAC & SSSI; drainage of the site needs to be carefully controlled.

11. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 2015, prior to the installation of any walls, fences or gates plans indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

12. Notwithstanding the approved plans, prior to first occupation of the extended site revised details of the tree planting to the site edges shall be submitted to and approved in writing by the Local Planning Authority. Such details shall also include measures for the protection of existing trees (both their roots and canopies) during the course of development. All planting comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the site or the completion of the development, whichever is the sooner; and any trees which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the appearance of the area and National Forest objectives, recognising that groundworks could compromise the long term health of the trees/hedgerows affected.

13. Prior to the first occupation of any of the additional pitches space shall be provided within the site curtilage for the parking and turning of two vehicles per residential pitch, laid out and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

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 and seeking to resolve planning objections and issues. 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.

Where development is proposed over areas of coal and past coal workings at shallow depth, The Coal Authority is of the opinion that applicants should consider wherever possible removing the remnant shallow coal. This will enable the land to be stabilised and treated by a more sustainable method; rather than by attempting to grout fill any voids and consequently unnecessarily sterilising the nation's asset. Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: www.coal.gov.uk/services/permissions/index.cfm.

The existing package treatment plant is currently only sufficient for 24 people. The applicant therefore should consider either installing another treatment plant or installing a plant which is able to deal with any proposed increase in occupants. Please see guidance provided by the Environment Agency on Caravan and Camp Site pollution prevention at www.gov.uk/government/publications/caravan-and-camp-site-pollution-prevention.

A separate planning application will be required if it is intended to erect a toilet block.

You are also advised that if above ground surface water attenuation is required beyond the confines of the application site (as defined by the red line on the approved plan) in order to comply with the drainage condition, a further application will likely be required.

Item **1.3**

Reg. No. **9/2015/0589/FM**

Applicant:
Mr & Mrs S Calladine
The Conifers,
Park Road
Overseal
Swadlincote
DE12 6JS

Agent:
Mrs Aida McManus
AM Planning Consultants Limited
17 Derwent Road
Stapenhill
Burton upon Trent
DE15 9FR

Proposal: **THE ERECTION OF A BUNGALOW AT THE CONIFERS**
 PARK ROAD OVERSEAL SWADLINCOTE

Ward: **SEALES**

Valid Date: **26/06/2015**

Reason for committee determination

The item is presented to Committee at the discretion of the Planning Services Manager.

Site Description

The site comprises part of the existing caravan site which lies on the southern side of Park Road. There is a field to the southern boundary whilst to the west is a ribbon of existing dwellings which connect with the ribbons running along the A444 between Overseal and Castle Gresley. To the north of Park Road is a further caravan site catering for around a dozen caravans and a bungalow. The site falls slightly from west to east, away from the adjacent dwelling and is enclosed to the south, west and north by boundary treatments – mainly fencing. The site lies within the National Forest planting lies to the south and east of the applicant's ownership, with a tree protected by a TPO on the property to the west.

There is presently a static caravan on the site which has relatively recently replaced a more substantial park home. The hardstanding for the former home remains along with services, which are presently being used by the static caravan. An amenity block lies to the southern edge of the site, which services the remaining nine caravans on the caravan site.

The main map displays several numbered plots (1-9), buildings, and a hatched area labeled "The Conifers". A road at the top is labeled "Park Road Caravan Park". To the right, there's a building labeled "Def". The text "THE SITE" is prominently displayed in the upper right quadrant.

An inset map in the bottom left corner provides a wider geographical context, showing towns such as Linton, Overseal, and Donington. A black arrow points from a specific location on this inset map towards the main map. The inset map also includes labels like "Castle Gresley", "Church Gresley", "Albert Village", "Gresley Wood", "Boothorpe", "Spring Cottage", "Conkers Farm", "Meybury Wood", "Overseal", "Linton Heath", "Foster Wood", "Greenfields", "Mount Pleasant", "Bedford Wood", "Cadley Hill", "Top Wood", "Potter's Wood", "Grange Wood", "Grange Wood Hall", "Cockborough Mill", and "Donington".

A north arrow is located in the bottom right corner of the main map area.

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South Derbyshire District Council. LA 100019461. 2014

Proposal

It is proposed to erect a bungalow on the site of one caravan pitch – that described above to accommodate the applicant and his family, the operators of the wider site.

Applicant's supporting information

A Planning Statement outlines that the applicant and his family have lived on the site for 10 years in static caravans, whilst managing the gypsy caravan site. Although they could install a large static caravan to suit their family requirements they consider a permanent bungalow to be more desirable in this location as their long-term home. Of their 3 children, one also has to sleep at their grandmother's bungalow across the road due to the limitations of a static caravan. The Statement discusses the availability of education, healthcare, public transport, retail and employment within the locality; as well as the design and character of the area with a number of bungalows and two-storey dwellings in the vicinity. It is advanced that aside from foul and surface water drainage being dealt with in the usual manner, rainwater could be harvested for use whilst heating would be achieved through underfloor heating and a log burner. It is noted that, in the absence of a 5-year housing supply, relevant policies for the supply of housing cannot be considered up-to-date. Discussion focusses on the relevance of saved policies EV1, H5 and H8. The emerging Plan and SPG is also considered. The Statement is also supplemented by a number of supporting letters from neighbouring properties.

The application is also supported by a Coal Mining Risk Assessment which concludes that seams may be present at shallow depth which has been historically worked. Historic surface extraction may also cause instability. It is recommended further intrusive investigation takes place to establish the presence, or not, of workings; and that if present remedial works are carried out or preventative mitigation is applied to the development.

Planning History

- 9/2015/0859: Extension to gypsy caravan site and associated engineering works to increase the overall number of caravans to 16 - Pending
- 9/2013/0618: Extension of existing site including a change of use of land and increase in number of caravans to 10 - Approved November 2013
- 9/2013/0218: Extension of existing site including a change of use of land and increase in number of caravans to 10 - Refused July 2013
- 9/2011/0257: Change of use to a mixed use for general use for persons of non-gypsy status together with the addition of 3 mobile homes - Refused July 2011 and dismissed at appeal
- 9/2007/0804: Extension to caravan site to accommodate three families, a total of six caravans and the amenity blocks - Approved March 2008
- 9/2006/0724: Erection of toilet and shower block - Approved August 2006

9/2004/1306: Change of use to residential caravan site for one family with two caravans - Approved November 2004

Responses to Consultations

The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment (CMRA) that coal mining legacy potentially poses a risk to the development and that intrusive site investigation works should be undertaken in order to establish the exact situation regarding coal mining legacy issues on the site. A condition is recommended requiring these investigations prior to commencement of development, and in the event that investigations confirm the need for remedial works to treat the areas of shallow mine workings, this should also be conditioned to ensure that any remedial works are undertaken prior to commencement of the development.

Natural England raises no objection subject to conditions, considering that the proposal is not likely to have a significant effect on the River Mease Special Area of Conservation (SAC) or SSSI. The conditions would need to control foul drainage, with evidence that the development cannot be served by existing public sewers, confirmation of foul water handling design and discharge point, a maintenance plan for the use of a Package Treatment Plant (PTP) if a PTP is the only feasible option, and to ensure any PTP is of sufficient capacity. Surface water should not be directed to a mains sewer with a detailed soakaway plan, informed by infiltration tests, submitted before works take place. Further conditions are also required to ensure car parking areas are permeable, a Construction Management Plan is implemented to ensure no potential pollution impacts through surface drainage during construction, and that the proposed future toilet block be excluded from this application as it requires a separate planning application. It is advised that the scheme is compliant with the developer contributions scheme if it is considered the proposal would result in increased foul water flows, and any trees planted should be of native provenience which are sourced and grown within the East Midlands area.

The Environment Agency (EA) has no objections but notes that, whilst there is an existing permit to discharge treated sewage effluent to ground at this site; the applicant should ensure that the existing package treatment plant has sufficient capacity to treat the anticipated volume from the new development.

Responses to Publicity

Overseal Parish Council is concerned that the proposal should not lead to an intention to extend the caravan site towards the county boundary, and that it is noticeable that the immediate neighbour has not submitted a letter of support whilst those who have appear to have a direct connection to the site.

Development Plan Policies

The relevant policies are:

- Saved Local Plan 1998: Housing Policies 5, 6 and 8 (H5, H6 and 8), and Environment Policies 9 and 10 (EV9 and EV10).

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Delivering Sustainable Water Supply, Drainage and Sewerage), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions) and INF8 (The National Forest).

National Guidance

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Planning Policy for Traveller Sites (PPTS)

Local Guidance

- Housing Design and Layout SPG
- River Mease SAC Developer Contributions Scheme (DCS)

Planning Considerations

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

- The principle of development;
- Impact on neighbouring amenity;
- Design and character; and
- Drainage and land stability matters;

Planning Assessment

The principle of development

The Development Plan forms the primary policy consideration for this application, although the NPPF and emerging Plan are material planning considerations carrying varying degrees of weight. Whilst saved policy H5 is 'out-of-sync' to some degree with the NPPF, the NPPF does advocate the careful control of housing development in the countryside as well as the protection of it from unsustainable development. Paragraph 55 sets out that isolated dwellings should be avoided except in special circumstances, and whilst located adjacent to an existing ribbon of dwellings; it is not considered that the proposal would enhance or maintain the vitality of a rural community. Hence consideration must be given whether special circumstances exist to outweigh the conflict with local and national policy.

Foremost is provision within the Local Plan for replacement dwellings and for infill housing development. The latter policy is not strictly applicable given the proposal does not "represent the infilling of a small gap...within small groups of houses...". The proposal is therefore not supported under saved policy H6. Saved policy H8

does however allow for the replacement of existing dwellings subject to certain criteria. Again, whilst not the intention of the policy given its design to support replacement of conventional dwellings – not static caravans; it is material that the existing static caravan could be replaced by a much grander mobile home and be compliant with the existing provision. Indeed that has occurred in the past. The proposed dwelling, whilst permanent, would offset the usual design concerns with temporary dwellings in the countryside by way of use of traditional materials and so forth.

Of additional merit is the recent Gypsy and Traveller Accommodation Assessment (GTAA) which, over the course of the next 20 years, identifies a need for some 6 bricks and mortar dwellings to meet the needs for the gypsy and traveller community (i.e. to become settled instead of travelling). Indeed recent changes to national planning guidance mean that the applicant would lose their gypsy status by occupying the dwelling given they would permanently cease to travel in the eyes of the Planning Policy for Traveller Sites (PPTS). Whilst argument has been advanced in respect of the healthcare of one of the children, this is not the only (the emphasis given in the PPTS) reason for ceasing to travel. In addition their permanence at the site for some 10 years now, as well as management of the site, demonstrates any nomadic habits of life are infrequent; whilst the desire for a permanent dwelling on the grounds outlined in the applicant's supporting information demonstrates little intention to recommence travelling in the future. Hence the proposal would directly provide for an identified and specialised need, and this carries weight in favour of the proposal although still not considered to be so substantial alone to overcome the prevailing policies.

Of further weight is the occupation of the dwelling by the applicant – the manager of the wider site. From the lack of Council involvement and anecdotal evidence, the site has been well operated throughout its lifetime. It is considered the presence of a managing party has contributed positively to this agenda. Housing Policy 8 and the NPPF recognise that isolated dwellings in the countryside may be supported where there is an essential need to live at the site. Whilst it is not considered the need is essential in this case, the existing presence of the manager and the ability to continue living at the site in any case, tapers significantly the degree of harm which arises. To further support the proposal, the applicant is willing to accept a condition to tie the occupation of the bungalow to the management of the wider site. This is considered to carry the additional weight necessary to support a deviation from the prevailing planning policies applicable here.

The loss of an existing pitch would be made up by way of the concurrent application, and hence Members will need to consider the implications of refusing permission for that proposal given that it would then reduce, by a single pitch, gypsy pitch provision in the District. As a proportion of overall identified needs, 1 pitch represents a considerable percentage (3.44%) of the requirements in the next 15 years; and this would have to be made up as an addition to that need when the current supply of pitches, as set out in the concurrent report, is already less than 5-years. This is a material consideration which needs to be weighed against the above discussion if it becomes relevant to do so.

Impact on neighbouring amenity

The proposal is designed to be largely outward facing across the wider site. Windows to the north and south elevations do not cause concern in respect of overlooking and there would be no unacceptable shading impacts to existing properties. Number 6 Park Road has a conservatory to the side but the SPG does not protect these windows. Furthermore it must be recognised the existing impacts which could lawfully occur by siting a different caravan here, as well as the fact that windows facing this conservatory have been designed to high level windows only.

Design and character

Local policies and national guidance seek that development should respond to local character and reflect the identity of local surroundings; create safe and accessible environments where crime and disorder, and the fear of crime, not undermine quality of life or community cohesion; and be visually attractive. As noted above the proposal would introduce a more visually 'acceptable' form of development in this location and the wider National Forest. The form and scale of the proposed bungalow is acceptable with conditions capable of controlling the finish and finer details of the dwelling.

Drainage and land stability matters

The applicant proposes to direct foul water to a Package Treatment Plant (PTP) with surface water to soakaways. The land does not fall within identified flood risk zones but is within the River Mease SAC, and ground conditions are known to be generally impervious in this location. The NPPF requires that development should enhance the natural and local environment by preventing new and existing development from contributing to or being adversely affected by unacceptable levels of water pollution.

In terms of foul water, the existing PTP is of some concern given it is only designed to cater for flows from 24 persons. The proposal would allow the family to live together once more. However, on its own merits, one dwelling in place of the existing static caravan and former mobile home is not considered to materially alter the status quo in respect of foul drainage. In assessing the scheme the locations of foul sewers in the vicinity of the site have been reviewed and it is considered the proposal cannot reasonably connect to the mains sewer due to a lack of infrastructure around the site. As for surface water the existing impermeable area of the site would not materially change such that existing use of soakaways is considered to be appropriate. As a consequence of the above the proposal is not required to contribute to the River Mease DCS.

In terms of land stability, coal mining legacy potentially poses a risk and further intrusive site investigation works are necessary to establish the exact situation. The Coal Authority considers a condition can secure these investigations prior to commencement of development, and in the event that investigations confirm the need for remedial works to treat the areas of shallow mine workings, this can also be controlled by condition.

Balancing of planning considerations

As outlined the proposal conflicts with both national and local planning policies. However the existing use of the site, the similarity of the proposal to that supported

in principle under saved policy H8, the provision of a particular need identified in the GTAA, and the securing of the continued management of the wider site are all material in outweighing the harm – harm which is largely confined to one of principle and not considered to significantly and demonstrably outweigh the benefits of the proposal.

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. The development hereby permitted shall be carried out in accordance with plans/drawings 215-38.02 and 215-38.03, 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.
3. The occupation of the dwelling hereby permitted shall be limited to the manager, and their family and/or dependents, of the wider caravan site to which the application site relates.
Reason: The site is within open countryside where the Development Plan provides that development shall be confined within the limits of an existing town or village, except where other overriding reasons justify a departure from that policy.
4. No development shall commence on the site until a scheme of intrusive site investigation has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in full and a report of the findings arising from the intrusive site investigations, along with proposed remedial measures (if any), shall be submitted to and approved in writing by the Local Planning Authority prior to any works of construction commencing. The approved remedial measures shall be implemented prior to first occupation of the building hereby approved.
Reason: To ensure the stability and safety of the development to protect against coal mining legacy, noting that to commence development without proper investigation and/or mitigation may pose unacceptable risks.
5. No development shall commence until a construction management plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall provide detail on the containment and management of surface run-off along with suitable mitigation measures to ensure no potential pollution impacts through surface drainage during the construction of

the development. The approved CMP shall thereafter be adhered to at all times during construction works.

Reason: In the interests of pollution control, recognising that as the site falls within the catchment for the River Mease SAC & SSSI; drainage of the site needs to be carefully controlled.

6. Notwithstanding the approved plans, no development shall take place until further details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. This scheme shall include evidence of infiltration testing and details that proposed surface and foul water drainage means are of suitable capacity to accommodate flows, as well as demonstrating the site levels do not compromise the efficient operation of drainage runs. The scheme shall also provide a maintenance plan for the Package Treatment Plan (PTP) to guarantee it is in good working order throughout the period of use. The scheme shall be carried out in strict conformity with the approved details before the development is first brought into use and the PTP shall be managed in accordance with the approved maintenance plan thereafter.

Reason: In the interests of flood protecting and pollution control, recognising that as the site falls within the catchment for the River Mease SAC & SSSI; drainage of the site needs to be carefully controlled.

7. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 2015, prior to the installation of any walls, fences or gates plans indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

8. Brickwork, roof tiles and eaves details shall be incorporated into the dwelling hereby approved as specified on plan/drawing ref: 215-38.03 unless prior to their incorporation alternative details have been first submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the appearance of the existing building and the locality generally.

Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues and suggesting actions to address policy conflicts. 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.

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

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

The existing package treatment plant is currently only sufficient for 24 people. The applicant therefore should consider either installing another treatment plant or installing a plant which is able to deal with any proposed increase in occupants. Please see guidance provided by the Environment Agency on Caravan and Camp Site pollution prevention at www.gov.uk/government/publications/caravan-and-camp-site-pollution-prevention.

Item **1.4**

Reg. No. **9/2015/0680/MAF**

Applicant:
Shortheath Solar Park Ltd
c/o Agent

Agent:
Mr Colin Virtue
Pegasus Planning Group Ltd
First Floor South Wing
Equinox North
Great Park Road
Almondsbury
Bristol
BS32 4QL

Proposal: **CONSTRUCTION OF 11HA SOLAR FARM TO INCLUDE
INSTALLATION OF GROUND MOUNTED
PHOTOVOLTAIC SOLAR ARRAYS WITH AN INSTALLED
CAPACITY OF CIRCA 5MW TOGETHER WITH
INVERTER/TRANSFORMER STATIONS, ACCESS,
INTERNAL ACCESS TRACKS, LANDSCAPING, CABLE
ROUTE CONNECTION TO GRID, ANCILLARY
INFRASTRUCTURE AND SECURITY MEASURES ON
LAND AT SK3014 3568 SHORTHEATH OVERSEAL
SWADLINCOTE**

Ward: **SEALES**

Valid Date: **22/07/2015**

Reason for committee determination

The application is reported to Planning Committee as it is a major development that has received more than two objections.

Site Description

The development site in which the proposed solar farm is located comprises three adjoining arable fields, which vary in size. The proposed solar farm covers an area of approximately 11 hectares. There is no boundary vegetation along the southern-eastern edge of the site, which lies approximately 50m short of Lockhart's Wood with an area of semi-improved grassland forming an intervening 'wedge'. Hedgerow vegetation along the north-eastern edge and the part of the south-western boundary is more intact and more densely vegetated, albeit with notable gaps in places. These boundaries continue downslope to join woodland beyond the site, including Seale Wood to the south-west. Several medium sized ash trees are located along the north-eastern boundary. The remaining boundaries, including the north-western

9/2015/0680 - Land at SK3014 3568 Shortheath, Overseal DE12 6BN



boundary and part of the south-western boundary, as well as field boundaries which cross the site, are typically hedgerows with occasional post and rail fencing.

A small drain/watercourse follows the south-western boundary and feeds into Hooborough Brook, which runs roughly parallel to the south-eastern boundary adjacent to Lockhart's Wood before flowing into the River Mease. Dry ditches follow the majority of the remaining field boundaries, along the site boundaries and across the site. Smaller rectilinear pastoral fields of improved grassland are located to the north and east; with larger more irregular shaped fields used for arable cultivation typifying farmland further north and north-west, where the proposed cable would run towards Moira Road and into Overseal to the north. A cluster of three residential properties and associated farm buildings are located close to the northern tip of the site. An existing access farm track currently leads off the A444 and follows field boundaries in a north-easterly direction to join the western corner of the site. This is the route of the proposed access and maintenance track.

Proposal

It is proposed to construct a solar farm with the capacity to generate up to 5MW of electricity. The solar farm would consist of arrays of photo-voltaic panels mounted on supporting framework, bored directly into the ground with some connecting underground cables between the rows and the substation, and orientated to face south. Consequently the panels are temporary in nature and could be removed with little long term effect. The arrays are a maximum of 2.5m in height above ground level which allows for vegetation to grow beneath the panels and for maintenance of vegetation to occur. To ensure that the panels can generate electricity even during the winter months with no overshadowing, there are aisles measuring between 3 and 7 metres between the arrays (depending on topography).

The rows of solar panels would be connected by underground cables to inverter stations (with transformers) located adjacent to the south-western boundary of the site. A further inverter station and switchgear building would be located adjacent in the western corner of the site, close to the access gates. The proposed substation would be located part-way along the proposed cable route, approximately 80m to the south of the junction of Moira Road and Hall Croft Avenue, to the east of Poplars Farm. All these ancillary structures are between 2.5m and 3m in height.

To secure and enclose the site it is proposed to erect a 2m high galvanised deer fence. The security fencing would be offset from existing and proposed field boundary vegetation by several metres to protect existing vegetation. Within the fenced area of the site, the edge of the solar array would be offset a further 4-5m on average to provide access and minimise the amount of over shadowing from boundary vegetation.

Applicants' supporting information

Alternative Site Search Report

The applicant has considered the availability of previously developed land and non-agricultural sites within the search area. At a strategic level, there is a shortage of brownfield sites in the South Derbyshire area given its predominantly rural context.

The search for brownfield sites encompassed a wide geographical area, and has been refined to a 5km search area to take account of the point of viable grid connection and other development constraints such as flooding, environmental designations, topography and agricultural land grade. The alternative site assessment demonstrates that there are no suitable, viable or available brownfield and/or non-agricultural sites that are capable of accommodating the development proposal. A greenfield site within the open countryside is required as there are no suitable brownfield sites available within or outside established development boundaries. From a planning policy perspective; the sequential approach set out in the PPG does not require applicants to search for alternative roof top sites. Furthermore, DECC recognises that the take-up of roof mounted solar has been low.

Landscape Visual Impact Assessment (LVIA)

In accordance with published guidance, landscape and visual effects are assessed separately, although the procedure for assessing each of these is closely linked. Landscape effects relate to the effects of the proposals on the physical and other characteristics of the landscape as a resource in its own right and its resulting character and quality; whilst visual effects relate to the effects on specific views experienced by visual receptors and on visual amenity more generally. Initially the study area was taken to be 5km from the site boundary however after further surveys it was established that beyond approximately 3km from the site, there was virtually no potential for the impact of the proposed development to result in any greater than a minor landscape or visual effect.

Due to the gently undulating topography, woodland screening and built form, any notable effects on local landscape character are restricted to a very small area in close proximity, up to approximately 250m from the site boundary. Beyond approximately 500m of the site negligible to no effects on landscape character are anticipated. The proposed hedgerow and tree planting would contribute to the structure of the local landscape, be sensitive to the character of the landscape and would provide ecological benefits through improved connectivity of green infrastructure. The strengthening of existing hedgerow and planting of new hedges will help to ensure that development is appropriately softened and integrated within the surrounding landscape, providing a stronger landscape framework in which the proposed development will be integrated.

There are relatively few publically accessible locations available within the wider landscape where the development proposals would be visible, owing to the gently undulating nature of the landscape, and effective screening features such as woodland, field boundary hedgerows and settlement development, in combination with the low level nature of the development. The visual effects of the proposal would be localised during construction/ decommissioning and on completion, and would reduce following the establishment of mitigation planting proposals. The most notable visual effects would be from very close proximity locations along part of footpath 28, from residential property at Woodview Farm, and from a small area of Seale Wood. Some elevated locations on the valley slope to the south east of the site where open views are available and from where the mitigation planting would not screen views of the solar panels due to the elevated angle of view would be affected; however these locations benefit from wider views which look across surrounding landscape and the proposed development would form a small component of the

view. Beyond these few locations, there would be very limited visibility of the proposed development.

Temporary adverse effects on land use have been identified during the construction and decommissioning phases, but during the operation of the site and in the long term, the effect on land use and on site vegetation would be beneficial. The LVIA demonstrates that the proposed development could be successfully accommodated and assimilated into the surrounding landscape without causing significant harm to the landscape character or visual amenity of the area.

Agricultural Land Classification

This report sets out the results of a survey to determine the quality of the agricultural land at the site, in accordance with the Agricultural Land Classification (ALC) system. A detailed ALC survey determines that the entire site is classified as grade 3b due to a soil wetness limitation. The site therefore does not constitute the best and most versatile (BMV) agricultural land.

Ecology Survey

The habitats at the field boundaries and adjacent to the site were considered to be the most valuable for wildlife. As such it is recommended that all hedgerows, including hedgerow trees, are retained and suitably protected in order to avoid detrimental impacts on bats, nesting birds and reptiles and other wildlife that may use these features. The preparation of a Construction Ecological Management Plan and a Landscape and Ecological Management Plan (LEMP) is recommended to ensure the protection of retained habitats, creation of new habitats and the maximisation of biodiversity value throughout construction and operation of the array. A LEMP is provided with the application which outlines that the recommended ecological enhancement measures would be incorporated and provided in accordance with the requirements of the NPPF.

Whilst an area of arable land will be removed as a result of the development, diverse grassland of a comparable area would be established and managed beneath the panels post construction which would constitute an overall enhancement of the site and will benefit a range of species including birds, invertebrates, bats, reptiles and small mammals. Habitats at the field boundaries and adjacent to the site, including hedgerows, grassland and watercourses, provide suitable habitat to varying degrees for amphibians, bats, badgers, potentially dormouse, birds, reptiles, hedgehogs and invertebrates. These features would be retained and protected during construction and the ecological receptors potentially present would remain unaffected. Further surveys and mitigation measures have been recommended to avoid impacts on great crested newts which represent potential constraints to the development. Mitigation measures have also been recommended in order to avoid and minimise impacts on bats, dormouse (if present in the area), nesting birds, reptiles and small mammals in order to minimise impacts on these species.

Historic Environment Desk-Based Assessment

No designated or non-designated heritage assets are recorded within the site boundary. During the late 18th to 20th centuries the wider local landscape, whilst in

part agricultural, was becoming more exploited for industrial purposes – predominantly coal extraction. During the mid-20th century the entire site and its immediate surrounds comprised an open cast coal mine. It is this activity specifically that would have removed any overlying deposits and as a result these activities will have also removed any potential for the survival of buried archaeological remains. Therefore the proposed solar development will not result in any harm associated with buried archaeological remains.

The potential effect of the proposed development upon the significance of designated heritage assets within the surrounding landscape has also been assessed. In its current form the proposed development will result in no harm to the significance of any designated heritage assets within the surrounding landscape and on that basis will not be contrary to national or local planning policy.

Flood Risk Assessment (FRA)

A FRA has been prepared to consider the impact of the solar farm on the hydrology and to ensure that flood risk is not increased by the development. It incorporates the results of consultations with the Environment Agency following previous solar farm applications to reduce the risk of surface water drainage leaving the site during construction and during operation. In conclusion, the proposed development would provide a real contribution to soil improvement and biodiversity, improve quality of water entering the environment, and result in a significant reduction in runoff; bringing significant overall benefits to the environment and renewable energy. The site will be safe and durable and is not at risk of flooding and therefore is appropriate in terms of the NPPF related to flooding.

Transport Technical Note

This Note focusses on the general operation of the solar farm. It is expected that there will be approximately one visit to the substation per month. This number falls well within the daily variation of traffic on the local highway network. As such the level of traffic associated with maintenance visits to the site is not considered to be material and it is considered that this will not have a detrimental impact on the operation or safety of the local highway network. The use of this access for maintenance purposes would have no impact on the adjacent footpath. It can be concluded that the proposed operational access including widths, the available visibility splays and the swept path assessment is appropriate for use by the size of vehicles likely to be using it for maintenance purposes.

Planning History

None relevant to this site.

Responses to Consultations

The County Highways Authority identified the fact that the visibility available at the proposed operational access onto Moira Road would be substandard and that application drawing only showed a narrow corridor of land within the control of the applicant. Further correspondence demonstrates that the applicant has control over the land to the east of the site (which has not been included in the red or blue

outline) and it is likely that a satisfactory access location could be provided, albeit with the loss of some hedgerow. Therefore a condition requiring an access of appropriate width and visibility splays should be conditioned in addition to the routing of construction traffic from the A444.

The County Archaeologist draws on the applicants historic desk based assessed that demonstrates that the site has been substantially disturbed by opencast coal extraction, and their records confirm this. It is very unlikely, therefore that the site retains any potential for below-ground archaeological remains.

The County Flood Risk Management Team has requested conditions for a management plan to demonstrate the maintenance methodology and detailing the likely organisation or authority that (where relevant) would adopt and maintain the features included in the FRA. The FRA makes note of an internal drainage ditch intersecting the site with this in mind it should be noted that any works in or nearby to an ordinary watercourse requires consent under the Land Drainage Act.

The County Rights of Way Officer advises that Overseal Footpath 28 abuts the north western boundary of the site, and in addition Footpaths 26, 24 and 14 are affected by the route of the proposed cable. No applications have been received to stop up or alter these routes. Informatives are advised in terms keeping footpaths clear and unobstructed.

Natural England advises that the proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the River Mease Special Area of Conservation (SAC) and SSSI and there is not a requirement to undertake an Appropriate Assessment. This advice is subject to ensuring suitable arrangements are in place to prevent any harmful discharges into the River Mease or its tributaries, and conditions are recommended to ensure the swales and buffer strips are in place and functioning before construction commences and that the track construction be such that run-off can permeate through the soil layer, and not be intercepted by any existing land drains whilst prevented from entering the neighbouring watercourses.

The Environment Agency has no objection subject to a condition to require the provision of a surface water drainage scheme for the site which demonstrates run-off generated will not exceed the run-off from the undeveloped site.

The Environmental Protection officer has no objections to make in relation to contaminated land.

Derbyshire Wildlife Trust has no objections subject to conditions. The trust agree that there are no statutory or non-statutory sites of nature conservation interest within the proposed development site or immediately adjacent. It is understood that the field boundaries will be retained and will remain unaffected by the proposed development and that the proposed security fencing will be off-set from the boundaries. The survey work has identified two active badger setts and evidence of badger foraging. The Trust supports the mitigation put forward to ensure that the badger setts remain unaffected. The Trust also supports the assessment in relation to nesting birds and given that the Phase 1 Habitat Survey was undertaken in May when species such as

skylark would have been recorded, their absence on the site is considered to be adequate in demonstrating that the likely impacts are low.

The National Forest Company (NFC) states that the development presents an opportunity for additional small scale woodland planting in the heart of The National Forest. The landscape mitigation plan shows some hedgerow tree planting and hedgerow planting and in-filling which are welcomed. This and the proposed grassland creation beneath the panels will improve the biodiversity value of the site above the current agricultural use. The NFC requests that these mitigation measures are secured by condition and that their implementation and maintenance is secured through the LEMP. The also NFC considers that the creation of a small woodland copse in the northern corner would further broaden the range of habitats being created through the development and contribute to the National Forest. Tree planting within this corner of the site would also create no issues with regards to overshadowing.

North West Leicestershire District Council raises no objection subject to the following matters being considered: that a Habitat Regulations Screening Assessment be carried out; that the Council complete a comprehensive assessment in terms of ecology, highway safety, contamination, drainage and flood risk and any other relevant matters; and that conditions are considered in respect of decommissioning, the height of the panels, the landscaping scheme, materials/finish, cables to be underground and the tracks to be made of permeable material.

Responses to Publicity

Overseal Parish Council has supported the application and suggests panels for the village hall roof and additional fitness equipment as benefits secured by a section 106 agreement.

Three representations have been received from local residents opposed to the development. The concerns raised can be summarised as:

- a) Object to their address being used as the application site which is owned by someone else;
- b) Do not object to renewable sources but this large proposal would have a high visual impact on the surrounding countryside;
- c) Not appropriate for the National Forest;
- d) Object to the road leading to Shortheath Farm being used either directly or indirectly;
- e) CCTV camera would invade privacy;
- f) Would decimate the countryside, particularly in terms of the effects from Donisthorpe;
- g) Overshadowed by development;
- h) Access along land would be obtrusive;
- i) Close to the SSSI to the south;
- j) Substations, inverter sheds and equipment housing are not aesthetically pleasing;
- k) Would cause severe highway disruption when installing the cable;
- l) Would effect a well-used footpath; and
- m) Should encourage panels on buildings/roofs instead.

Development Plan Policies

The relevant policies are:

- Saved Local Plan: Environment Policies 1 (Development in the Countryside), 9 (Protection of Trees and Woodland) and 10 (The National Forest); Recreation and Tourism Policy 8 (Public Footpaths and Bridleways), and Transport Policy 6 (New Development).

The emerging Local Plan Part 1 policies include:

- S2 - Presumption in Favour of Sustainable Development, SD1 - Amenity and Environmental Quality, SD2 - Flood Risk, SD6 - Sustainable Energy and Power Generation, BNE1 - Design Excellence, BNE3 – Biodiversity, BNE4 - Landscape Character and Local Distinctiveness, INF2 - Sustainable Transport, INF8 - The National Forest and INF9 - Open Space, Sport and Recreation.

National Guidance

National Planning Policy Framework (NPPF) – relevant paragraphs/chapters include:

- Paras 6-10 (Achieving sustainable development)
- Paras 11-14 (The presumption in favour of sustainable development)
- Para 17 (Core principles)
- Chapter 10 (Climate Change)
- Chapter 11 (Natural Environment)
- Para 196 & 197 (Determining applications)

National Planning Practice Guidance (NPPG) – relevant chapters include: ID:21a, ID:5, ID:6, ID:9, ID:8 and ID:37.

Environmental Impact Assessment (EIA)

The development has been screened under the EIA Regulations. The proposal is considered to fall within paragraph 3a of Schedule 2 to those Regulations, being an installation for the production of energy. However having taken into account the criteria of Schedule 3 to the Regulations, the proposal is not considered to provide any fundamental alterations of the conclusion previously reached that significant environmental effects would not arise in the context and purpose of EIA. Accordingly the application is not accompanied by an Environmental Statement.

Habitat Regulations

The development has been screened under the Habitat Regulations and it is considered the proposed development would not likely have a significant effect on the River Mease SAC. As such there is no requirement to undertake an appropriate assessment for the proposed development.

Planning Considerations

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

- The principle of development
- Visual and landscape impacts;
- Highway safety and capacity considerations;
- Biodiversity impacts;
- Effect on footpath users and neighbouring occupiers; and
- Flood risk.

Planning Assessment

The principle of development

The site sits within a wider area of mixed farmland, with arable cultivation dominating, and interspersed with woodland, which lies between the villages of Overseal to the north west, Donisthorpe to the south east, and Moira to the north east. The smaller linear settlement of Shortheath lies close to the north eastern boundary. The Development Plan, comprising solely of saved policies under the 1998 Local Plan, is silent on renewable energy projects. However large scale installations, such as this one, are invariably unavoidable outside of settlement confines given their need for large and unshaded expanses. Accordingly the primary test of saved policy EV1 is satisfied.

A core principle of the NPPF is to support the transition to a low carbon future in a changing climate and encourage the use of renewable resources. The NPPF and NPPG states local planning authorities should support the delivery of renewable and low carbon energy, and that this is central to the economic, social and environmental dimensions of sustainable development. It also states that local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy whilst recognising that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions (para.98). Significant weight should be afforded in favour of the proposals and assessment turns to consideration of other impacts to establish the degree of harm arising (if any) and whether the proposal is sustainable development in the round.

Visual and landscape impacts

There are no formal landscape policy designations applicable to the site or its immediate surroundings. The site has varied topography, scattered National Forest project woodlands, ancient woodlands and tree lined valleys, a well maintained pattern of hedged fields enclosing pasture and arable fields which all add to the strong rural setting – set away from the settlements of Donisthorpe and Overseal. The applicants have demonstrated that other sites have been considered but no other alternative site is appropriate or available for this form of development.

The landscape mitigation plan has been amended which shows a denser planting scheme to the western corner of the site to improve the green boundary that cocoons the site and would minimise the viewpoints into the site from the neighbouring footpath. To the north of the site a small triangle of land remains open and void of panels, due to the proximity of the neighbouring bungalow. The NFC suggests some woodland planting in this corner which positioned to the north would

not result in overshadowing of the panels. However, it has been decided that a scrub planting scheme would be more appropriate given the visual amenity currently enjoyed from the neighbouring property and which would better preserve the sense of openness whilst adding texture to the edge of the site and landscape setting.

The southern boundaries are well screened by existing woodland. The eastern and northern boundaries are elevated as the topography starts to climb towards Shortheath, and as these boundaries are semi-mature with gaps it is proposed to enhance these hedgerows and add trees to further enhance its screening capabilities and biodiversity potential. The development would not be visible from Footpath 27 when adjacent to the site. This part of the site will however be visible when walking along a section of Footpath 28 to the south-west of the site, but this is for a short length and before it drops down the hill slope and is not considered to cause adverse harm to the visual amenity of the locality as other views and vistas or open countryside are widely visible from the path due to the natural contours of the land.

Some long distance glimpses of the site and solar arrays would be possible from further afield on Footpath 27 when approaching from Donisthorpe and from Acresford Road when nearing the settlement of Donisthorpe. However these are intermittent glimpses from approximately 1 km away on a clear day. It would not be realistically possible to make out that the site is a solar farm but would alter the colouring of the landscape in part. However, due to the sloping nature of the site and proposed landscape enhancement strategy, the predominant character of the landscape would remain as arable fields and woodland with glimpses of the development becoming less apparent over time as planting matures on both the site and the neighbouring National Forest woodlands.

The development would not be readily visible from the wider setting in particular the neighbouring settlements within and bordering South Derbyshire. This is due to the scale of the proposed development, the nature of the landform, the scarcity of viewpoints, and the vegetated nature of the local landscape. The findings of the LVIA are therefore agreed in that beyond the study area, even with good visibility, the proposed development would be barely perceptible in the composite landscape and therefore has a neutral impact upon the landscape setting of this locality. It is not considered therefore that a significant adverse visual or landscape harm arises.

Highway safety and capacity considerations

The focus here is on the construction and decommissioning phases, with traffic generated during the operation of the solar farm considered to be relatively low. There are two points of access – one from an existing access off the Acresford Road (A444) (along the route of Footpath 28) and another for the cabling route and substation from Moira Road to the north. Both routes provide adequate width for construction vehicles. The Highway Authority has considered the proposals in detail, and sought provision of a revised access point at Moira Road to ensure adequate visibility splays; but both accesses are considered acceptable or can be made acceptable under condition. In addition a construction management plan is provided, setting out the route of vehicles to and from the site in addition to delivery and equipment stores and any wheel washing facilities.

Biodiversity impacts

Derbyshire Wildlife Trust is satisfied that the nature of the development is such that any disturbance to wildlife habitats would be minimal and of short duration. The development is considered unlikely to have an adverse impact on any protected or priority species or habitat, subject to appropriate control. It is noted that the proposed habitat management for the site would potentially benefit birds by providing increased feeding opportunities through the encouragement of seed rich plants (that are retained throughout the winter) and insect flora (via the sowing of nectar-rich wildflower mixes). This should result in an overall biodiversity gain for the proposed development site. The solar panels would also be non-reflective reducing the scope for them mimicking a water feature which may cause disturbance to birds.

The NFC advises the principle of the solar farm is not unacceptable and due to the siting of the arrays set of the boundary there is unlikely to be any issues of shading or threats of removal and continual pruning of trees. Seale Lodge and Lockharts Wood provide a high degree of amenity value, uplifted by the fact that there is full public access; and both woodlands form prominent features in the landscape and collectively constitute high ecological value. Elsewhere hedgerows have been maintained by landowners although they still maintain a moderate ecological value and provide some aesthetical amenity; however the development provides the opportunity for enhancement and a biodiversity gain. The existing hedgerows that subdivide the fields are to be maintained and enhanced in part and would provide a visual 'break' in an otherwise regular pattern of solar panels and supporting framework when viewed from the public footpath. The additional tree and scrub planting would assist in assimilating the proposal into its National Forest setting.

The site lies within the catchment for the River Mease. The river is a SSSI and a Special Area of Conservation (SAC) for its intrinsic qualities and species residing therein, and there is a collective effort by the relevant local authorities to improve water quality entering the River. The proposal would alter the rate at which run-off would occur and thus potentially alter the dynamics for nitrates to enter the Hooborough Brook, which in turn flows to the Mease. However the swales are proposed to capture run-off from the array and ensure infiltration occurs on site. On this basis there is no objection from Natural England as set out above.

Effect on footpath users and neighbouring occupiers

There would be no obstruction of the legal line of Footpath 28 there is no need to divert its route – particularly when any alternative would be less convenient and direct, and potentially attract objection from other interested parties. Footpaths 26 and 24 are likely to be affected by the works to lay the cable; however this would only result in the need for a temporary diversion. Overall there would be no long term impacts on public footpaths.

Views from footpaths are already limited to the immediate to middle distance by way of topography and vegetation such that there are no key local and regional vistas which would suffer considerably. The arrays and fencing would be set back sufficiently and buffered by existing and enhanced hedgerow, trees and scrub so to reduce any 'corridor' effect or adverse visual harm. Over time, enhanced hedgerow and dense tree planting would help to screen the array from users of the footpaths

such that whilst they might be aware of its presence, their enjoyment of their walk overall would not be significantly reduced.

There were concerns surrounding the visual outlook from the bungalow adjoining the development site to the north (Woodview Farm) as the current garden is devoid of a solid boundary treatment allowing open views of the surrounding landscape. The applicants have left this part of the site free from solar panels and introduced scrub planting that remains low, preserving the sense of openness from the neighbouring property – hence the decision not to include woodland planting which would have led to an increased sense of enclosure. The first row of panels closest to the property would be set down away from the property and not visible behind the proposed hedge due to the sloping topography. Therefore the amenity of neighbouring residential occupiers is not considered to be adversely harmed by the development.

Flood risk

The change in nature of the site from open ground to a series of solar panels creating a hard surface has an impact on the rate of discharge. Whilst run off from the array would in turn fall onto permeable ground, the rate would be more concentrated. However the Environment Agency advises that, subject to condition to secure sustainable drainage, this impact can be satisfactorily mitigated and there is no reason to consider this could not be achieved.

Other

The Parish Council have made reference to wanting contributions towards play equipment and fencing and also for solar panels on the village hall. The development would not attract contributions under the Local Authorities Section 106 guidance or CIL regulations and therefore a contribution cannot be requested from the development. However it is understood that the agent/applicant are in discussions with the PC about possible solar panels on the village hall.

Conclusion

The proposal should be afforded significant weight in favour given the meaningful contribution it would make towards the provision of renewable energy on both a local and national basis. Highway safety, biodiversity and drainage matters can be satisfactorily addressed by way of condition. The River Mease SAC and SSSI would not be harmed. The landscape impacts are not considered to be significant in the context of the landscape character affected, leaving just the visual impacts weighing against the proposal. As noted above, immediate views could be softened by way of supplemental hedgerow and scrub planting whilst middle distance views of the arrays would be partially screened by way of supplemental tree planting around the southern and western edge of the site. With the majority of views in and out of the site limited by topography and/or well screened by semi-mature and dense woodland; the overall visual impact is considered to be limited in scale. When balanced against the environmental and economic gains of the proposal, including biodiversity enhancements; it is considered the proposal represents sustainable development and should be supported.

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. The development hereby permitted shall be carried out in accordance with plans/drawings TYP-AB-A-20, TYP-AB-E-EQ-01 Rev 1, TYP-AB-A-11-A Rev 1, TYP-AB-E-EQ-02 REV 1, 0000-PL-06 Rev 01, 0000-AB-E-EQ-08, 3086-PL-03 Rev 06, 3086-PL-01 Rev 04, PL-09 Rev 01, 1506-86 Figure 2.1 Rev C, and BRS.6034.007 Rev E; 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.

3. This permission shall be for a limited period only, expiring 30 years after the date on which electricity is first generated by the installation, on or before which date the arrays and associated buildings, structures, tracks and fencing shall be removed and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period. The applicant shall inform the Local Planning Authority within 10 working days of the first date on which electricity is first generated.

Reason: In the interests of the visual amenities of the area, so not to risk redundant equipment, structures, buildings and boundary treatments being left in place in perpetuity and compromise the effective use of the land thereafter.

4. Prior to the premises being taken into use, the operational access shall be formed to Moira Road, laid out in accordance with plan ref: 1506-86 Figure 2.1 Rev C. The access shall have a minimum width of 4m and be provided with visibility sightlines of 2.4m x 43m, the area forward of which shall be cleared and maintained thereafter clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge; have a gradient not exceeding 1:20 for the first 5m into the site from the highway boundary and any gates shall be set back 10m into the site from the highway boundary. The access shall be used solely for maintenance and operation of the DNO (substation), and not for construction, operation, maintenance or decommissioning purposes of the remaining site.

Reason: The provision of the visibility sightlines prior to the use of this access is fundamental to the provision of a safe access, which is heavily trafficked throughout the day.

5. Prior to any works commencing on site, the detailed scheme for the temporary signage and traffic management measures shall be implemented in full in accordance with the Technical Note No.3 (Proposed Right of Way Mitigation Strategy) received 3 December 2015 and thereafter maintained throughout the period of construction. All deliveries and construction works shall take access from the A444.

Reason: Highway Safety to avoid unsuitable routes that may result in conflict with other users of the highway.

6. Before any other operations on site are commenced, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of site operatives' and visitors' vehicles, laid out and constructed in accordance with plans ref: 3086-PL-03 Rev 06, PL-09 Rev 01 and the Construction Traffic Management Plan (July 2015). 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 in avoiding waiting vehicles on the highway.

7. Prior to any works on site commencing, the condition of the access route shall be inspected and recorded by representatives of the applicant and the Highway Authority and, within 28 days of the completion of the construction works, details of remedial works shall be submitted to and approved in writing by the Local Planning Authority. The approved reinstatement works shall be carried out within 3 months of the completion of the works.

Reason: In the interests of highway safety

8. 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 in avoiding mud being taken onto the highway

9. Prior to any works being carried out to decommission the site, a Traffic Management Plan, site access, routing and remedial works' program shall be submitted to and approved in writing by the Local Planning Authority and implemented throughout the decommissioning period.

Reason: In the interests of highway safety

10. No development involving the construction of a structure or building shall take place until the swale system proposed within the Flood Risk Assessment Version 4 (dated 9th July 2015) and as shown on the site layout plan 3086-PL-03 Rev 06 is implemented in full and available to receive surface water flows. All of the other recommendations within the Flood Risk Assessment in relation to surface water management and the maintenance of the swale shall be followed during construction and during the operation of the site thereafter.

Reason: In the interests of flood protection both on and off the site.

11. Security measures for the site shall be carried out in accordance with the Supplementary Security Management Plan received 12th November 2015.

The approved measures shall be installed and thereafter maintained alongside any management/operation practices also approved to minimise the risk of crime.

Reason: In recognition of criminal activity linked to solar energy installations and the proposed measures presently being inadequate.

12. Prior to the first operation of the solar arrays all equipment and switchgear housing, inverter and substation has be painted and finished in a Holly Bush Green colour (BS4800 14-C-39) and retained as such thereafter for the life of the development.

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

13. All mitigation measures detailed in the Ecological Survey dated June 2015 and the Landscape and Ecological Management Plan dated August 2015, including measures to protect nesting birds and buffer strips, shall be implemented in accordance with the recommendations therein and adhered to for the life of the development.

Reason: To secure and ensure the long term biodiversity benefit on habitats on or adjacent to the site.

14. All landscape mitigation works shall be carried out in accordance with the plan ref: BRS.6034.007 Rev E. The works shall be carried out in the first available planting season after commencement of work on the solar array or in accordance with a programme agreed with the Local Planning Authority. Any plants which within a period of five years (ten years for 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.

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

Informatives: You are advised:

- a. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and issues, suggesting amendments to improve the quality of the proposal and promptly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
- b. The application site is affected by a Public Right of Way (Footpaths 14, 24, 26 and 28) as shown on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further information can be obtained from the Rights of Way Duty Officer in the Economy, Transport and Environment Department at County Hall, Matlock.
 - Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.
 - If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 08456 058058 for further information and an application form.

- If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order.
- Any development insofar as it will permanently affect a public right of way must not commence until a diversion order (obtainable from the Planning Authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.
- To avoid delays, where there is reasonable expectation that planning permission will be forthcoming, the proposals for any permanent stopping-up or diversion of a public right of way can be considered concurrently with the application for the proposed development rather than await the granting of permission.

- c. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- d. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 12 weeks prior notification should be given to the Environmental Services Department of Derbyshire County Council before any works commence on the vehicular access within highway limits; please contact 01629 538537 for further information.
- e. The application has been screened in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended) and the Authority is satisfied that the development will not give rise to significant environmental effects.
- f. Any works in or nearby to an ordinary watercourse require consent under the Land Drainage Act (1991) from Derbyshire County Council (DCC) (e.g. an outfall that encroaches into the profile of the watercourse, etc). Upon receipt of any application (including the legislative fee) DCC has an 8 week legislative period in which to make a decision and either consent or object the proposals. If the applicant wishes to make an application for any works please contact Flood.Team@derbyshire.gov.uk.
- g. 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.
- h. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com.

- i. The applicant is required to contact Derbyshire County Council's Traffic and Safety section (Mike Wells - 01629 538664) regarding the temporary traffic management on Acresford Road.

Item **1.5**

Reg. No. **9/2015/0688/MAF**

Applicant:
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Agent:
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Proposal: **PROPOSED INSTALLATION OF PHOTO-VOLTAIC
PANELS, INVERTERS AND TRANSFORMERS TO
PRODUCE RENEWABLE ELECTRICITY ON LAND AT
SK1930 5342 SCROPTON ROAD SCROPTON DERBY**

Ward: **HILTON**

Valid Date: **01/09/2015**

Reason for committee determination

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

Site Description

The site is 9.53 hectares of agricultural land to the north east of the centre of Scropton associated with Hawthorne Farm. Existing farm buildings are located to the south between the site and existing residential properties. The site is relatively flat with a 2m difference in levels within the site. Footpaths Foston and Scropton FP 11 and 17 are within the site. FP 11 traverses the site to the south and FP17 to the west.

Residential properties follow a linear pattern of development along Scropton Road and the nearest property would be 95m south of the application boundary.

Proposal

Planning permission is sought for the installation of a 4.6 Mega Watt Peak (MWp) ground mounted solar array. The proposal includes the installation of ground based framing systems, 16,984 mounted solar panels, 5 power inverters, two substation structures, security fencing, access gates and CCTV security camera system mounted on 6 freestanding 3m high support poles.

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The height of the frame and panels would be 2.3m and the frames legs are pile driven into the ground. Perimeter deer / wire mesh stock fencing of a height of 2.4 m is proposed.

Access to the site would be via an existing farm track directly off Scropton Road. The track runs approximately 75m north before entering the landowner's fields.

Construction traffic would then proceed along a purpose built track to the site itself, entering in the south western corner of the west field

Applicants' supporting information

Planning Policy Statement states that the proposal is the culmination of an extensive screening process undertaken by the applicant, during which time the sites suitability and environmental characteristics and constraints were assessed. This process has influenced the design of the scheme as part of an interactive process. Targets to reduce greenhouse gases and increase renewable electricity capacity continue to be endorsed by the Government. It states the EIA screening was undertaken and it was not considered EIA development. It describes the layout and appearance of the proposal and the plant required. It details the construction process and decommissioning. The report outlines the national commitment of achieving 15% of its energy consumption from renewable sources by 2020, detailed in the 2009 Renewables Directive and the UK Solar PV Strategy. It details all the relevant national and local planning policy. It lists Part 1 of the Solar PV Strategy (2014) four guiding principles and Part 2 of the strategy focuses on delivery, and sets out the Solar Trade Association's "10 Commitments" for solar farm developers. In respect of Local Plan Policy EV1 it considers the proposal 'rural' development which is 'unavoidable in the countryside' and is 'farm diversification'. EV5 Agricultural Development is also considered relevant to the scheme. EV9 Trees and R8 Footpaths and Bridleways are also assessed.

The Design and Access statement outlines the site description, policy context, design, scale, layout, landscaping and access. It states that the majority of the vehicle movements associated with the solar park would occur during the construction of the park, which would take approximately 3-4 months. Approximately 36 heavy goods vehicles (HGVs) would be used to deliver the equipment and materials for construction. This would equate to 1-2 HGV visits per day at the busiest period of the build.

The Agricultural Land Classification report identifies that 74% of the land is classed as 3a (good quality) and 26% as 3b (moderate quality).

The Assessment of Alternatives report states that the approach to site selection has taken into account a multitude of constraints, both landscape, cultural, environmental and grid-related. Solar PV is highly constrained by the requirement to be close to a suitable grid connection point. The report considers that it the site has been demonstrated to be preferable to the alternative sites identified as it is available, deliverable and avoids impacts on ecological or landscape designations. The site is located 2.45km from the point of grid connection to the 11kV line, which provides a viable electricity network connection point, and does not lie within any ecological, heritage or landscape designation areas. Land within 2.45km is the search area. The report concludes that the constraints identified severely limit the available land within

the surrounding districts for solar PV development, and indeed, in avoiding nature conservation sites, Green Belt and AONB land, the vast majority of the three districts not constrained by these designations is agricultural land classified at grade 3 and 4.

An Arboricultural Statement of Intent has been provided in lieu of an arboricultural survey as the maximum 15m radius root protection areas (RPA) as recommended by BS 5837 are to be implemented. This protection would avoid any shading impacts. Exclusion zones within the RPAs would be enforced with protective fencing.

The Archaeology and Cultural Heritage Assessment concludes that no designated heritage assets would be physically or indirectly impacted upon by the proposals. In respect of buried archaeological remains the baseline assessment undertaken as part of this report has indicated that the site is located within an area which was settled from at least the Iron Age/Romano British period, although known activity within the boundary of the site is limited to medieval agricultural use. The report recommends further work is undertaken and this be a condition.

The Geophysical Survey identified a possible prehistoric enclosure in the south-west corner of the site, although only its eastern boundary and a possible small annex or internal structure were visible within the survey area. To the north of the possible enclosure was circular feature that may be contemporary. The survey did not detect the alignment of medieval ridge and furrow cultivation and the east-west cultivation lines in the north and south of the survey area are possibly later. The survey also identified likely imported material, possibly for improved drainage, and known former field boundaries extant in the 1990s.

The Ecology Survey considers that due to the absence of aquatic habitats within the site and distance of the site from the SSSI, the proposed works within the site are considered unlikely to impact directly or indirectly on the qualifying features of Old River Dove, Marston on Dove SSSI. It recommends that a minimum operational 10m buffer strip is maintained adjacent to the ditches, tall ruderal vegetation and orchard area during the construction phase of the proposed development in order to avoid causing death, injury or disturbance to species present/potentially present within the local area. Skylarks were recorded during the site visit.

The Flood Risk Sequential Test concludes that it has demonstrated the difficulty of finding suitable alternate sites for PV development in the search area. The test highlights that distance from the 33kV power lines and land owner permission are the primary constraints. Secondary factors including topography, environmental, historical and flood defence make it problematic to find alternate sites.

The Flood Risk Assessment concludes that the development is located in an area of Flood Zone 3a protected by flood defences up to a 1 in 100 year storm event. There remains a residual risk of the breach or overtopping of flood defences in an extreme flood event, but the probability of such an event is considered to be very low. The vulnerability class of the proposed development is 'Less Vulnerable' which are considered suitable for sites within Flood Zone 3a. The risk of flooding to the development from fluvial, surface water, groundwater, sewers and artificial sources is considered to be low. There will be a negligible increase in impermeable ground at the site as a result of the proposed development. The continued management of grass around the solar panels, along with precautionary attenuation provided in the

form of linear swales/open ditches, will ensure that flood risk from the site is not increased by the proposed development.

The Landscape and Visual Impact Appraisal concludes that the proposed solar scheme would not result in prominent effects upon the surrounding landscape beyond ; 800m to the north and east, 400m to the south and 350m to the west. The site itself would experience direct landscape effects that would be prominent, these would be reduced during the operational phase and reversible in the long term. Additional planting would be beneficial to the landscape character in the long term. The development would result in prominent effects from one settlement within the study area, for some properties within Scropton village. One property it is considered would experience severely adverse effects, on account of proximity and lack of existing screening. A limited number of other properties, within close proximity it is considered would experience prominent effects; Over time with new planting and management these effects would be reduced. There would be no prominent views from the road, the national cycle network, or recreational receptors and visitor attractions. Footpath routes across the site would experience prominent views, though site assessment indicated that these footpaths are not well used, marked or defined. Footpaths beyond the immediate area would not experience prominent views. The addition of land at Hawthorn Farm to the existing solar scheme adjacent Leathersley Lane would not result in prominent cumulative landscape or visual effects due to the intervening distance, low-lying topography and vegetation.

The Noise Statement states that the noise level of the inverter is 65dBA @ 1m and a distance of 30m away the noise pressure drops down to 35dB. This is the background noise level of a suburb area. So at a distance greater than 30m, the inverters are not expected to cause any noise effect. It should be noted that these calculations do not factor in the surrounding landscapes /vegetation's ability to screen/block noise. A typical 1MW inverter emits noise between 60-90 dBA when it operates at full power. The inverters usually operate at less than 100% of their nominal power so those noise levels refer to the worst case scenario. The noise levels of the transformers within the substation are similar, ranging between 70-90dBA. The type of noise is a low humming sound and the apparatus are housed in buildings or enclosures which provide sound-proofing. The noise is audible by someone immediately next to the inverters/substation but the noise drops significantly with distance.

The Statement of Community Involvement stated that a public consultation exercise was held on Thursday, 25th of June 2015 at Foston and Scropton Parish Hall, Scropton, prior to the submission of the planning application. Approximately 25 people attended the event.

The Transport Statement states that movements associated with the proposed development will be largely restricted to deliveries of materials and components for use in the construction of the Solar Park and as such will be relatively low. All movements will be spread over a period of approximately 12 weeks, which will also serve to reduce the potential for congestion. It is therefore considered that the potential impact of the proposed development can be appropriately mitigated by implementing the measures recommended in the report.

Planning History

None

Responses to Consultations

The County Highways Authority states that the access to the site is from Scropton Road, a classified highway subject to a 7.5T weight limit, except for access. The weight limit extends from Station Road in Hatton to the Watery Lane/A50 junction to the north. HGV vehicles will be able to access the site and once constructed the development will generate very little traffic. There are no objections in principle, however, the Highway Authority need to be satisfied regarding the routing of construction traffic and adequacy of traffic management measures at the site access. The Transport Statement refers to the site being accessed from the A515 Station Road to the west (actually the A511) and Scropton Road. No details are provided about the route prior to this or reason for this route. The applicant is required to provide this information and any justification from using the built up route through Hatton rather than the more direct route from the A50 and Watery Lane. Conditions are recommended in respect of a traffic management plan, construction site compound, wheel washing facility, inspection of the condition of the route and decommission management plan.

The Environmental Health Officer has no objections in principle and recommends conditions in respect of noise from inverters and fixed plant being controlled, construction phase restricted to hours of operation, restriction on generators or pumps use and a scheme for dust control during construction.

East Midlands Airport has been consulted on the application but no response received to date.

Derbyshire Wildlife Trust concurs with the recommendations of the Extended Phase 1 Habitat Survey. Conditions are recommended in respect of mitigation for ground nesting birds and badgers and submission of a biodiversity management plan.

The County Minerals Authority states that as this would be a temporary use of the land, it would not lead to the permanent sterilisation of the sand and gravel resource; the sand and gravel would still be available once the development has been removed. Also, the site has not been put forward, or identified as being required, for sand and gravel extraction in this plan period to 2030. Therefore there are no objections.

The Council's Tree Officer notes the retention of the trees and considered the protection of the RPAs to be sufficient.

The Environment Agency states that the site lies within Flood Zone 3 of the Flood Map for planning (Rivers and Sea), an area with a high risk of flooding if it were not protected by the Lower Dove Flood risk management Scheme completed in 2013. Therefore, there are no objections subject to Figure 1.1 of the FRA being corrected.

The County's Flood Risk Management team has no objection subject to a condition requiring details of the implementation, maintenance and management of the perimeter swale.

The County Rights of Way Section states that there are two public footpaths recorded within the site, these being footpaths 11 and 17 in Foston & Scropton Parish. The proposal is to fence the paths in as corridors, and the amenity aspect of this should be considered. If it is deemed acceptable it would wish to have a width of at least two metres between the fencing throughout. Regarding the construction phase, if works could affect footpath users the developer should apply to DCC for a temporary closure.

The County Archaeologist states that the site appears to be under arable production with no surviving earthworks, presumably due to the impact of modern ploughing. The geophysical survey has identified an area of archaeological potential at the western side of the site, possibly representing prehistoric activity. The scheme proposals could be achieved were the applicant to adopt a 'no-dig' construction over this area of interest, e.g. by ballasting arrays and cabling above ground, and it is recommended that the applicant pursue this option in the first instance in line with NPPF para 131. If this should not prove possible then it would be necessary to establish the significance of the buried archaeological remains in this area through a scheme of archaeological field evaluation by condition (NPPF para 128).

The Police Crime Prevention Design Advisor has no objections in principle, however, there have been thefts from solar farms in the vicinity recently. A condition requiring further details of the CCTV system is recommended.

The Peak and Northern Footpaths Society objects to this application. The applicant has acknowledged that the effects on the Footpaths which cross the site would be "severe adverse" and that this would remain the case even after the proposed planting. The paths would run between high security fences and users would be surveyed by CCTV cameras. Views would be only of the very unattractive solar panels. Views from the numerous footpaths near the site would also be severely affected.

Responses to Publicity

Foston and Scropton Parish Council objects to the application. Increased flood risk is a concern as research is being carried out to mitigate flooding on Watery Lane which may involve channels towards the site and the panels would increase surface water run-off. There are concerns regarding the agricultural land loss, as a high percentage of the site is classified as good quality for crop production. The visual impact of the site in the winter months when screening is reduced is a concern. The lifespan of 25 years means that after this period the site will be returned to agricultural use. Evidence suggests that the site could take 5-10 years for it to repair itself to the current grade of 3A/3B. Whilst solar panels are currently profitable, it is a concern as to what would happen should the scheme be not viable due to a change in feed in tariffs etc. from the Government. There are concerns over health and safety of the panel material as some photovoltaics contain harmful material. A similar scheme in Sudbury can be heard buzzing and as this is closer to residential properties noise impacts are a concern. Maintenance of the site should be controlled as the nearby installation now appears untidy. Two footpaths currently run across the proposed site and residents and footpath users should not be subject to CCTV surveillance.

Ten letters of objection have been received and they are summarised as follows:

- a) The government's position on solar energy is that they should be sited on unproductive land, brown field sites and on roof tops.
- b) The site is good agriculture land 75% 3a and 26% 3b and is used for crop growing of potatoes and wheat.
- c) There are already 2 solar farms within 5 miles and 5 within 10 miles of Scropton.
- d) The proposed location would result in the industrialisation of the residential area of a quiet rural village and would have a substantial negative visual impact in the area.
- e) The proposal will adversely affect the drainage in the area.
- f) There are concerns regarding noise from inverters and transformers and any planning permissions should condition that they be housed in sound proof buildings.
- g) The landscaping details provided are not sufficient and provision of landscaping to screen the development from residential properties should be a condition of any consent.
- h) Footpaths run through the site and they should not be compromised.
- i) There is a concern regarding reflection of the panels as their property is to the south of the site and suitable screening on this boundary may reduce this impact.
- j) An alternative site opposite the food industry building would concentrate industrial development away from the residential centre.
- k) There may be a risk to aircraft safety due to reflection.
- l) There are two mature trees in the centre of the site which require assessment.
- m) There are health risks as construction of the panels involves toxic / hazardous chemicals and it is in close proximity to residential properties.
- n) If planning permission is granted conditions to restrict the hours of construction to 8am to 6pm and panels restricted to 1 row high should be imposed.
- o) The country currently has 3 days reserve of food and agricultural land used for crops should not be lost.
- p) The Campaign to Protect Rural England (CPRE) believes the most suitable location for solar is on the roofs of large industrial premises.
- q) The soil over the development period of 25 years would not be the same grade as now, it would become weaker and may take 10 years for the soil to recover.
- r) Soil analysis is required to inform the application progress.
- s) There are potential health risks in terms of lack of oxygen as a result of dormant land.
- t) Increase in HVG movements in the village on top of those from the existing food producer.
- u) Parked cars may reduce the visibility at the site access.
- v) Commencement of development in December includes hazards such as highway safety and conflict with pedestrians on dark mornings.
- w) Hedges and ditches have been removed and filled reducing the site's capacity to absorb and drain water.
- x) The landowner has alternative land that is not within the flood plain that should be considered.

- y) A long term plan for future development of the village should be drawn up and agreed.
- z) The developer should make a contribution to a village project or charity as a matter of goodwill.

One letter of support has been received which states that the development would provide green renewable energy to large users nearby, would keep farms sustainable for future generations and the proposal would hardly be seen.

Additional objections have been received in light of information the agent has supplied to the Parish Council and a further meeting by the Parish Council to discuss the scheme on the 1st December. These are summarised below:

- aa) The access to Hawthorne Farm was deemed unsafe in a previous application (9/2010/0775)
- bb) The agent's comment that the crops from the site are used as fuel for anaerobic digestion plants is misleading as any crops can be used as fuel or enter the food chain.
- cc) Evidence as to why brownfield land was not considered is not sufficient.
- dd) A proposed flood mitigation scheme for Watery Lane would have channels in the direction of the site and its development would increase ground flooding.
- ee) Grazing of sheep around the panels may not be possible and the grass quality poor for grazing.
- ff) The safety of aircraft should be considered and the airport consulted.

Development Plan Policies

The relevant policies are:

Local Plan: Environment 1 and 9, Transport 6, Recreation and Tourism 8,

Emerging Local Plan:

SD1 - Amenity and Environmental Quality,

SD2 – Flood Risk

SD6 Sustainable Energy and Power Generation

BNE 3 - Biodiversity

BNE4 - Landscape Character and Local Distinctiveness,

National Guidance

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)

Paras 11-14 (The presumption in favour of sustainable development)

Para 17 (Core principles)

Chapter 4 (Promoting sustainable transport)

Chapter 10 (Meeting the challenge of climate change, flooding and coastal change)

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)

Annex1 (Implementation)

National Planning Practice Guidance (NPPG)

5 - Renewable and low carbon energy

8 - Natural Environment

21b - Determining a planning application

37 - Open space, sports and recreation facilities, public rights of way and local green space

Planning Considerations

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

- Principle of development
- Landscape impact and footpaths
- Benefits of renewable energy
- Loss of Agricultural Land
- Flooding
- Ecology and trees
- Highways issues
- Residential amenity

Environmental Impact Assessment (EIA)

The development has been screened under the EIA Regulations. The proposal is considered to fall within paragraph 3a of Schedule 2 to those Regulations, being an installation for the production of energy. However having taken into account the criteria of Schedule 3 to the Regulations, the proposal is not considered to provide any fundamental alterations of the conclusion previously reached that significant environmental effects would not arise in the context and purpose of EIA. Accordingly the application is not accompanied by an Environmental Statement.

Planning Assessment

Principle of development

The NPPF in paragraph 98 advises that Local Planning Authorities should recognise that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions. It goes on to state that applications should be approved if its impacts are (or can be made) acceptable.

The Planning Policy Guidance on Renewable and Low Carbon Energy states that *“The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively”*. It then details the particular factors to consider which are: use of brownfield land and if greenfield land is proposed using poorer quality land in preference to higher quality land, encouraging biodiversity improvements around arrays, temporary nature of development, visual and landscape impact, security measures, mitigation measures and energy generation.

The application site is located in the countryside and thus Local Plan Environment Policy 1 applies. This policy restricts new development to that essential to a rural based activity, unavoidable in the countryside and provided that the character of the countryside, landscape quality, wildlife and historic feature are safeguarded and protected. Section B of the policy states that if development is permitted it must be sufficiently mitigated.

‘Solar farms’ are a relatively recent phenomenon and there is no reference in the Local Plan to where they are best located. A development of this scale (9.53 hectares) could be considered to be unavoidable in the countryside and thus the impacts on character, landscape, loss of agricultural land and ecology in this case require assessment in order to inform whether the proposal complies with the above mentioned policies and if so is sufficient mitigation proposed.

Landscape impact and footpaths

The site lies within the National England National Character Area 68 Needwood and South Derbyshire Claylands within the sub-division of Lowland Village Farmlands and Riverside Meadows. The site and the surrounding area (1-2km) is low lying land associated with the River Dove floodplain.

The submitted LVIA identifies that the impact on the surrounding landscape is limited to that within 800m of the site and over time this impact would be reduced by hedging increasing to 3m in height. The nearest viewpoints benefit from an existing screen of hedging and from long distance views the proposal would be imperceptible. Thus, the cumulative impact in respect of similar developments in the area would be minimal. Therefore due to existing screening and the sites low lying topography and that of the surrounding area the proposal is not considered to have a significant impact on the landscape character of the area and as such is in compliance with Local Plan Policy EV1, NPPF paragraph 109 and PPG on Renewable and Low Carbon Energy.

There are two public footpaths that traverse the site, footpath 11 through the southern part of the site and footpath 17 through the south western part of the site and along the western boundary. The proposal is to provide 3m wide paths enclosed by deer / wire mesh stock fencing of a height of 2.4 m. In this case the footpaths are not well used and the experience of walkers would be changed for small distances with the panels not immediately adjacent to the path (nearest panels would be 5m from the fencing). The longest section affected of FP17 would be enclosed by a fence to the east, an existing hedge to the west and would be 10m in width.

Recreation and Tourism Policy 8 requires protection of the existing network of footpaths and bridleways and states that new development will not be permitted unless established routes are safeguarded or suitable alternatives are provided. This proposal has safeguarded the routes and provided a minimum of 3m wide path, where the County Council required 2m. The panels adjacent to the footpaths would be a suitable distance from the fencing and as such the impact on the footpaths would not be significant. The impacts on these routes are also reduced by the low lying topography as the views of the surrounding countryside are confined due to existing hedge and tree screening.

Benefits of renewable Energy

The proposal would generate power to supply the energy needs of 1370 homes (based on an average annual consumption of 3,300 kWh of electricity per house).

One of the core principles of the NPPF is to support the transition to a low carbon future in a changing climate and encourage the use of renewable resources (for example, by the development of renewable energy). Paragraph 93 of the NPPF states local planning authorities should support the delivery of renewable and low carbon energy and associated infrastructure and that this is central to the economic, social and environmental dimensions of sustainable development.

The NPPF in relation to renewable energy states in paragraph 96 that *“In determining planning applications, local planning authorities should expect new development to:*

- comply with adopted Local Plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and*
- take account of landform, layout, building orientation,*

NPPF paragraph 98 states that when determining planning applications, local planning authorities should:

- not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and*
- approve the application if its impacts are (or can be made) acceptable.*

The PPG on this aspect states that LPAs should consider “the energy generating potential, which can vary for a number of reasons, including latitude and aspect”. The proposal would generate power for approximately 1370 homes which would contribute to cutting greenhouse gas emissions and help to achieve local and national targets for renewable energy. These are important environmental benefits which carry substantial weight.

Loss of Agricultural Land

The 9.53 hectares of site comprises the Best and Most Versatile (BMV) agricultural land with most of the site being Grade 3a (74%) and the balance being Grade 3b (26%). The site has a history of arable crop production for winter wheat. The proposed development would result in a change from arable use to solar power generation together with sheep grazing underneath and around the solar panels.

The recent PPG at paragraph ID 5-013 sets out particular planning considerations that relate to active solar technology. The first factor for consideration is “....*focussing large scale solar farms on previously developed and non agricultural land, provided it is not of high environmental value.*”

The first part of the second factor to consider is “*where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been*

shown to be necessary and poorer quality land has been used in preference to higher quality land.”

A Communities and Local Government Ministerial Statement in March 2015 stated, amongst other things, that one factor when Local Planning Authorities are considering applications relating to large scale ground mounted solar photovoltaic farms includes *“making effective use of previously developed land and, where a proposal involves agricultural land, being quite clear this is necessary and that poorer quality land is to be used in preference to land of a higher quality”*. It goes on to add that *“in the light of continuing concerns about the unjustified use of high quality agricultural land, “... we want it to be clear that any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence.”*

Furthermore, the UK Solar PV Strategy: Part 2 of April 2014 sets out the Solar Trade Association’s *“Solar Farms: 10 Commitments”*, the first of which is that focus will be on non-agricultural land or land which is of lower agricultural quality. The Strategy states that *“These best practice initiatives are important as they help address the perception that solar farms are diverting significant amounts of land from agricultural use and domestic food production.”*

In this case both an Agricultural Land Classification and Assessment of Alternatives report has been submitted. Soil analysis was undertaken and the definitions of Grade 3a and 3b are included below:

3a: Land capable of consistently producing moderate to high yields of a narrow range of arable crops.

3b: Land capable of producing moderate yields of a narrow range of crops, principally cereals and grass.

The proposed site is constrained by mature in field trees and parcel shape which reduces the agricultural value of the site by restricting cultivation patterns and the ALC assessment provides sufficient information to indicate that the practical potential of the land is prejudiced by these constraints.

The locality is typified by the presence of undulating land, variable soil types and flood plains. There are significant areas of grade 4 land but these are most likely restricted by the flood risk and drainage characteristics, factors that would make them unsuitable for projects such as this. In general, it is considered that the application site is likely to be typical of other land in the area away from the areas of flood risk, with a patchwork of Grade 3b and 3a land.

The Assessment of Alternatives discusses in general the landscape restriction in the wider locality, however, it focuses on sites within a 2.45 km radius of one particular point of connection at Hatton. Recent appeal decisions on this particular issue have confirmed that the Government have made no recommendations as to how to carry out this assessment and policy does not require one but *“only most compelling evidence”*. These appeal decisions also apply weight to the Development Plan. The Adopted Local Plan is silent on this issue and the Emerging Local Plan has SD6 which includes an expression of support for renewable energy. An Inspector for an

appeal in Sudbury in Essex (APP/Z1510/A/14/2219512) stated that the Council had been unable to provide “*any strategy for the positive promotion of schemes in the district, and no indication that they had identified areas suitable for renewable and low carbon energy sources*”. Due to the timescale of the emerging Local Plan, no strategy or site selection exercise has been undertaken within this District.

The Assessment of Alternatives, which included assessment of constraints such as heritage assets and ecology, land ownership, grid connection, rooftop solar PVT, concluded that there are no sites of lower agricultural quality available or more suitable to accommodate the proposal. Thus, it is considered that the applicant has demonstrated that the use of agricultural land is necessary.

In conclusion, it is clear that the proposals will result in the potential loss of a area of BMV land, however, the land parcel is awkwardly shaped and is already restricted to a small extent by the presence of in field trees. Such restrictions are not reflected in the methodology of ALC assessments. The local landscape is variable and it is considered that the application site is typical of the immediate locality in terms of land quality. There are nearby areas of significantly poorer land but flood risk is likely to rule them unsuitable for PV generation. In practical terms it is considered that the use of the proposed site for PV generation and the temporary loss of this land to farming is not considered agriculturally significant.

Flooding

This site lies within Flood Zone 3 of the Flood Map for planning (Rivers and Sea), an area with a high risk of flooding if it were not protected by the Lower Dove Flood risk management Scheme completed in 2013. A perimeter swale is proposed in relation to surface water flooding and the County’s Flood Risk Management team have no objections subject to conditions.

Ecology and trees

The Ecology Survey recommends that a minimum operational 10m buffer strip is maintained adjacent to the ditches, tall ruderal vegetation and orchard area during the construction phase of the proposed development. A Skylarks plot of 24m² is proposed in mitigation for the benefit of ground nesting birds. Derbyshire Wildlife Trust welcomes this mitigation and recommends in respect of mitigation for ground nesting birds and badgers and submission of a biodiversity management plan.

Existing trees within the site and adjacent to its boundaries shall be retained and with 15m radius root protection areas (RPA) as recommended by BS 5837. This protection would avoid any shading impacts. Exclusion zones within the RPAs would be enforced with protective fencing and this shall be controlled by condition.

Highways issues

The County Highways Authority has considered the submitted Transport Statement and considers the access to the site from Scropton Road suitable for the associated HGV vehicles. There would be a construction period of approximately 12 weeks and once constructed the development would generate very little traffic. The route to the

development should be the more direct route from the A50 and Watery Lane rather than through Hatton. Conditions are recommended in respect of a traffic management plan, construction site compound, wheel washing facility, inspection of the condition of the route and decommission management plan.

Residential amenity

The nearest residential property would be Lawf Farm at 90m, however, the existing farm buildings to the north of the property screen the development. Other properties on Scropton Road are between 130-200m from the boundary of the site. Tree screening adjacent to Scropton Road exists to the east of Lawf Farm and there is a small bund to the rear of the Gamekeeper's Cottage that serves to reduce its visual impact. However, additional tree planting is proposed along the southern boundaries of the site where there is the potential for impacts on visual amenity. Due to the total height of the panels and the level topography of the site, long term visual impacts are unlikely to be significant. In respect of glint and glare, the Planning Statement states that the PV *"panels themselves have been designed to reflect as little light as possible in order to maximise operational efficiency and output, and have therefore been proven to have a negligible impact in terms of glint or glare"*. In this case, due to the distance between the panels and the nearest residential properties, the flat nature of the site and existing screening, any glint or glare impact is not considered to be likely to be significant. The proposal is therefore considered to accord with NPPF paragraph 17 and guidance within the PPG.

Conclusion

The proposal accords with the development plan and the advice in the NPPF and NPPG as sufficient evidence has been submitted to justify that in this case the use of agricultural land *"has been shown to be necessary and poorer quality land has been used in preference to higher quality land"*. The majority of the site is well screened by existing hedging and trees. The natural topography of the area and the existing screening of the site would mean that the area over which the development would be visible is relatively limited, particularly following the implementation of the proposed landscape mitigation measures. The visual effects would be contained within the existing landforms, woodland and hedgerows. Existing trees are retained and additional planting would be undertaken within areas of the site boundary in order to reduce its visual impact from neighbouring properties (a method as acknowledged by the PPG). The south western part of the site would provide habitat for ground nesting birds. Safe access for construction vehicles can be achieved. There would be a low risk of flooding and the proposal would not contribute to an increased risk of flooding elsewhere.

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

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. This permission shall relate to the amended drawing Rev D received on the 26th October 2015 showing in particular: the Skylark plots and additional planting on the southern boundary.
Reason: For the avoidance of doubt.
3. Prior to the commencement of development (including any ground works and vegetation clearance) a badger survey shall be undertaken by a suitably qualified ecologist to determine if the mammal holes recorded on site are being used by badger. The results of this survey work and any necessary mitigation and compensation measures shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the approved details.
Reason: In the interests of protected species and in order to address wildlife legislation and well as the wider biodiversity sensitives of the site.
4. No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the local planning authority and implemented in accordance with the approved details. The measures may include:
 - a) creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and
 - b) open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.Reason: In the interests of protected species and in order to address wildlife legislation and well as the wider biodiversity sensitives of the site.
5. Prior to the installation of any solar panel modules on the site, a detailed scheme for habitat creation, retention and enhancement measures shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved biodiversity enhancement scheme shall be implemented in full and be retained as such thereafter.
Reason: In the interests of protected species and in order to address wildlife legislation and well as the wider biodiversity sensitives of the site.
6. Prior to the installation of any solar panel modules on the site, a biodiversity management plan shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the approved details.
Reason: In the interests of protected species and in order to address wildlife legislation and well as the wider biodiversity sensitives of the site.

7. Prior to the installation of any solar panel modules on the site, details of the CCTV active monitoring provision shall be submitted and approved in writing by the Local Planning Authority and implemented in accordance with the approved details.

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.

8. Before any other operations are commenced, space shall be provided within the site curtilage for site accommodation, storage of plant and materials, parking and manoeuvring for site operatives' and visitors' vehicles, loading and unloading of goods vehicles, all laid out in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. 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.

9. Prior to commencement of development a Construction Traffic Management Plan (CTMP) shall be submitted and approved in writing by the Local Planning Authority. The CTMP shall generally, although not exclusively, accord with the details within the Transport Statement and be implemented throughout the construction period. For the avoidance of doubt, the means of access to the site shall be from the A50 and Watery Lane. A temporary traffic management / signage scheme, swept path diagram to demonstrate that HGV's can adequately access and egress the site and measures to avoid conflict with vehicles arriving and departing the site shall also be included.

Reason: In the interests of highway safety.

10. Throughout the period of development vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site.

Reason: In the interests of highways safety to prevent the deposition of mud and other extraneous materials on the public highway.

11. Prior to any works commencing on site, the condition of the route shall be inspected and recorded by representatives of the applicant and the Highway Authority and, within 28 days of the completion of the works, details of remedial works shall be submitted and approved in writing by the Local Planning Authority. The approved reinstatement works shall be carried out within 3 months of the completion of works.

Reason: In the interests of highway safety.

12. Prior to any works being carried out to decommission the site the CTMP, site access, routing and remedial works program shall be submitted to and approved in writing by the Local Planning Authority and implemented throughout the decommissioning period.

Reason: In the interests of highway safety.

13. No construction or related activity shall take place on the site outside the following hours: 0800 to 1800 Monday to Friday; 0800 to 1300 on Saturdays;

and at no time on Sundays or Bank Holidays with the exception of work needed during an emergency.

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

14. Post construction phase noise from inverters from fixed plant and machinery on the site shall not exceed 47 dB(A) at 10 metres.

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

15. No generators or pumps to be used on site without prior written permission from the LPA.

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

16. Prior to the commencement a scheme taking into account National Best Practice Guidance and highlighting details of the likely resultant dust levels from activities during the construction phase at the nearest residential premises shall be submitted and approved in writing by the Local Planning Authority. The investigation shall address the impact that the activities will have, in terms of dust, on nearby residential properties. Once agreed, all identified dust control measures shall be implemented and thereafter retained.

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

17. The area of archaeological potential at the western side of the site, shall require a 'no-dig' construction over this area of interest, (e.g. by ballasting arrays and cabling above ground), otherwise, a scheme of archaeological field evaluation shall be required for this area to be submitted and approved by the Local Planning Authority and implemented in accordance with the agreed details.

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

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

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

19. No development shall take place until tree protection measures have been implemented in accordance with the submitted arboricultural statement of intent and those measures shall be kept in place for the duration of construction. 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: To ensure that the retained trees are not harmed during the construction of the development.

20. No development shall take place until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

i) a timetable for its implementation; and

ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and sufficient detail of the construction, operation and maintenance of sustainable drainage systems is provided to the LPA in advance of full planning consent being granted.

Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections 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.

Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's/developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

Foston and Scropton Public Footpaths 11 and 17 must remain open, unobstructed and on its legal alignment at all times. There should be no disturbance to the surface of the route without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section. If a structure is to be erected adjacent to the right of way, it should be installed within the site boundary so that the width of the right of way is not encroached upon.

The applicant is advised to contact Derbyshire County Council's Traffic & Safety Section (Mike Wells 01629 538664) regarding the contents of the Construction

Traffic Management Plan and suitable signage and traffic management measures in the vicinity of the site.

It is recommended that the CIRIA SuDS Manual C697 is considered when designing the swale to ensure the swale can be suitably maintained for the lifetime of the development. We would recommend an easement of approximately 3m if the swale is less than 2m in width and 4.5m for swales over 2m in width. Whilst this is not stipulated within any legal byelaw the County Council would recommend these distances in order to safeguard access for essential maintenance and inspection purposes.

The County Council would advise caution during the construction phase of the development giving appropriate thought to soil compaction. Over compaction of the land may lead to an increase in surface water run-off due to lower infiltration rates.

Item **1.6**

Reg. No. **9/2015/0996/FH**

Applicant:
Mr David Shepherd
The Firs
11 High Street
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DE73 7JH

Agent:
Mr Thomas Redfern
36 Pennine Way
Ashby de la Zouch
Leicestershire
LE65 1EW

Proposal: **THE ERECTION OF A DRY STONE WALL,
INSTALLATION OF A NEW GATE IN SIDE BRICK WALL,
LAYING OF NEW BLOCK PAVING TO DRIVEWAY AND
THE ERECTION OF A DOMESTIC GREENHOUSE ON
LAND TO THE SIDE OF THE FIRS 11 HIGH STREET
TICKNALL DERBY**

Ward: **REPTON**

Valid Date: **19/10/2015**

Reason for committee determination

The application is brought before committee as the applicant is a Ward Councillor.

Site Description

The application property is a Grade II listed late 19th century 2-storey detached house within the local service village and conservation area of Ticknall. The affected wall is a curtilage feature adjacent to the main house and forms the boundary to the High Street. It is constructed of random rubble stone and has been rebuilt a number of times. Adjacent to the wall is a particularly fine Corsican Pine which makes an important contribution to the character of the Ticknall Conservation Area.

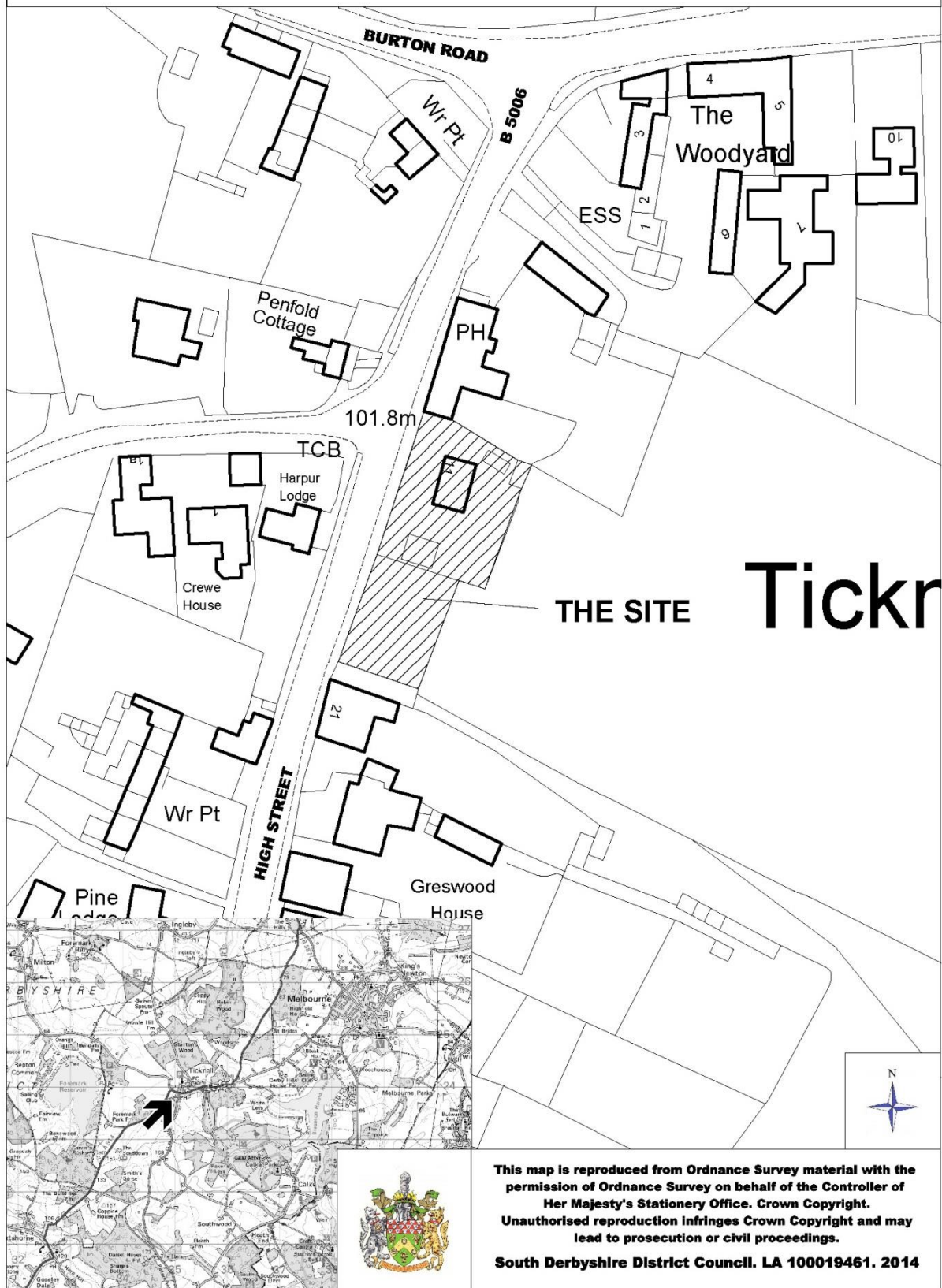
Proposal

The application seeks approval for the erection of a dry stone wall, the insertion of a new pedestrian gate in the southern boundary brick wall, the laying of new block paving to the existing driveway and the erection of a domestic greenhouse on land to the south side of the property.

This application is accompanied by a Listed Building Consent application (ref 9/2015/0849/L) for demolition works to the frontage stone boundary wall and the southern brick boundary wall.

Applicants' supporting information

9/2015/0996 and 9/2015/0849 - The Firs, 11 High Street, Ticknall DE73 7JH



An arboricultural report has been submitted with regard to the impact on the mature Corsican Pine that is adjacent to the highway boundary stone wall. The tree is covered by a Tree Preservation Order (TPO77, T8) and is one of a collection of such pine trees located adjacent to the principal roads within the village and which cumulatively provide much of the character of the conservation area.

The tree stands at around 17-18 metres above ground level and around 1.2 metres higher than the adjacent public footpath. It has a measured trunk diameter of 80cm at around 1.5 metres above ground level. The crown is slightly suppressed where extending towards the telephone box on the opposite side of High Street however in all other directions it extends to around 7-8 metres. The tree has the typical form for the species with a clean trunk extending to a height of some 7 metres before branching occurs. A light cladding of ivy is present on the trunk, which has been partly killed off with much of it dying back. There is evidence of minor fungal needle blight within the crown as is prevalent within the species, however, the tree has a good physiological condition and is considered slightly better than the two specimens on the opposite side of the road. Minor deadwood in the lower crown was noted with the largest pieces being around 40-50mm in diameter by 2-3 metres in length. No significant dead branches overhanging the road or footpath were evident.

The tree stands within the curtilage of the Grade II listed The Firs and is around 4.5 metres from a later addition garage. It grows tight up against a brick wall of around 1.5 metres in height, which divides it from the adjacent parcel of land, also within the ownership of the applicant. The ground level of the adjacent land is slightly higher than that of the base of the tree and is around 1.5 metres above the ground level of the public footway.

Where the property fronts High Street, there is a circa 1.7 metre high stone wall with broad capping stones and there is presently around 0.3-0.4 metres clearance between the base of the trunk and the nearest part of this wall. The wall turns at around 45° in order to provide driveway access to the garage, with the driveway being formed from cast in situ concrete marked by a crazy paving pattern. The driveway surface is severely disrupted across the drive threshold and beneath the broken up sections, it is possible to identify roots from the pine tree of up to 40mm in diameter at the point they are exposed. Within the tarmac pavement that slopes down to the dropped kerb there is no sign of significant heave within the soft surface. However it is clear that a circa 20 metre section of footway was recently relaid.

Where the frontage stone wall returns to the side of the driveway, there is a significant crack at approximately mid length rising to just over half the height of the wall in the direction of the entrance gates. The crack runs along softer mortar lines for the majority of its length, however, at the point where it commences the base stone has clearly cracked and the alignment of this initiation crack is common with the crack in the concrete driveway and the point where the exposed root could clearly be seen.

The tree is generally in good condition both physiologically and structurally and retains significant longevity. Ongoing growth from the lower trunk and root system of the tree is clearly causing damage to surrounding structures:

- Brick wall perpendicular to High Street – this wall is generally in a dilapidated state and it would not be possible or advisable to reinstate the section of wall between the tree trunk and the first support pier as this will always be susceptible to future displacement.
- Frontage stone wall – The significant crack [mentioned above] appears to be the result of the lifting action caused by a significant near to surface root running beneath the wall footings. Given the proximity to the tree trunk, it is also considered that the wall is vulnerable to movement and potential displacement as a result of the tree's root plate rocking during heavy winds. Following careful consideration, it cannot be recommended that the roots be severed between the inside face of the wall and the base of the trunk as this would be detrimental to the stability of the tree and, given its large size and highway location, would be unacceptable. An alternative strategy would be to insert bridging lintels within the base of the wall construction allowing the retention of the roots crossing the line of the wall. However, given the height of the root that appears to be causing the damage to the surrounding tarmac and the wall, this does not appear to offer a very satisfactory solution. In any event, the wall in its current alignment remains vulnerable to future displacement.
- Driveway – it appears that the existing concrete driveway has reached the end of its useful life expectancy. Initially, it would be likely to be acceptable on arboricultural grounds to excavate along the outside face of the wall (furthest from the tree trunk), allowing root pruning followed by the insertion of a suitable root barrier to a depth that would protect the remainder of the drive from future near to surface root activity. Practically there would be room to excavate from this side and, given the restricted rooting morphology, it is predicted that it would be possible to sever roots at this point without unduly affecting the tree stability. However, pruning roots in this position would have no beneficial effect with regards to protecting against future direct root damage to the wall.

In conclusion:

- The tree was found to be in good condition and requires no remedial work at present in terms of ongoing husbandry.
- Damage to the brick wall running perpendicular to High Street is likely to be ongoing where nearest to the tree and it is recommended that the wall be rebuilt up to the support pier at some 2.5 metre distance from the tree, with the intervening section perhaps being infilled with a bespoke fencing panel or woven hurdle.
- The lifting of the driveway surface could likely be alleviated by selective root pruning and the insertion of a root barrier to prevent future near to surface root trespass in accordance with BS5837:2012 'Trees in relation to demolition, design and construction – Recommendations'.
- The current damage to the wall as a result of lifting action of near to surface roots will be progressive, with the crack expanding and possibly more cracks and yielding becoming apparent. It is not considered possible to excavate a trench to a required depth without significant major structural root severance which would affect the stability of the tree. The potential success of a root barrier alignment can only be assessed following the removal of the wall, with it being stripped down to its base courses. This does not appear to offer a satisfactory long term solution.

- The frontage stone wall is of some significance in terms of the setting of the listed building and it is important that the wall remains in a fit for purpose state given its retaining role adjacent to a public pavement. It appears untenable in the long term that the tree and wall in its current form can be retained.
- In light of the report's findings, further discussions are recommended with the local planning authority with a view to establishing the relative merits of the tree versus the wall in terms of the Council's duty towards the both of both the built and natural environment within the village conservation area.

A Supporting Method Statement was also submitted covering the following:

- **Background information:** Following increased incidences of damage to the boundary wall and drive of 11 High Street caused by the roots of the large Corsican Pine, an application to fell the tree, subject to a Tree Preservation Order (TPO), was submitted on 14/04/15. The arguments put forward were essentially that the listing of the building and the imposition of the TPO were both confirmed after the applicant purchased and renovated the property. As such, they had little say in the confirmations but were legally required to protect both assets at their own expense. This has become a problem as the tree roots continued to grow causing damage to the boundary walls and drive of the property. Repairs have already been carried out and future work would be necessary all at the applicant's expense. Following consultations on the application, the applicants were advised the tree was considered too important a specimen to fell even at the integrity of parts of the wall and drive. The tree application was scheduled for the Council's Planning Committee with an officer recommendation to refuse. Following a meeting to discuss alternative and relatively positive options to felling, the application was withdrawn. The current proposal is as a result of those discussions.
- **Affected Structures:** The front stone boundary wall on the south side of the access drive is showing signs of progressive cracking; the southern boundary brick garden wall for a 3 metre length back from the site frontage is unsound; the concrete access drive is lifting in pieces and is impossible to use for a vehicle and dangerous to walk on; and the gate on the southern boundary of the adjacent land leads onto a public footpath is in poor condition and offers no security for their land and requires removing when a replacement hedge has been planting and grown across opening.

The statement goes on to describe the methodology for the works, much of which is annotated on the submitted plans and detailed within the description. Additional information includes:

- The height of the dry random stone wall would be approximately 650mm.
- The existing stone wall will be "cut" at the most appropriate point beyond the crack to form a new exposed end. It will be necessary to cut out certain protruding stones and replace them with more appropriately sized stones from the demolished length to ensure a straight and vertical reveal.
- The southern boundary brick wall will be demolished up to the first buttress, a distance of 3 metres from the highway boundary. The

breaking out of the footings will be carried out using hand tools only to prevent damage to the retained parts of the wall.

- Take up the whole of existing concrete drive and dig down to expose roots. At this point the Council's Tree Officer will be asked to visit the site to inspect the roots and ascertain if the roots are structural to the tree.
- At the point where the drive meets the back of the footway, it will be necessary for the highway authority to carry out appropriate works as there is clear evidence of lifting of kerb stones by the tree's root system.
- The proposed pedestrian gate in the southern brick boundary wall is not required as a result of the subsidence damage but to facilitate access to maintain the adjacent land and provide access to the proposed greenhouse.
- The applicants wish to plant a hawthorn hedge immediately in front of the pedestrian gate in the post and rail fencing adjacent to the public footpath to order to provide a secure enclosure to this land. The gate will be removed when the hedge has grown across the opening.
- The proposed greenhouse will be constructed of horizontal glass and acrylic in an aluminium frame, erected on a base of concrete slabs under and around the perimeter of the building.

Planning History

9/2015/0334/TP - The felling of a Corsican Pine tree covered by South Derbyshire District Council Tree Preservation Order Number 77 – withdrawn 10/06/15.

Responses to Consultations

The Council's Tree Officer had assessed the tree upon receipt of the TPO application which was later withdrawn. No further issues have arisen as a result of the submitted arboricultural report and its findings and a condition in line with the report's recommendation regarding the demolition and construction of the driveway is recommended.

Responses to Publicity

None received.

Development Plan Policies

The relevant policies are:

Saved Environment Policies 9, 12 and 13 of the 1998 Adopted Local Plan

National Guidance

- National Planning Policy Framework (NPPF) paragraphs 6-10 (Achieving sustainable development), paragraphs 11-14 (The presumption in favour of sustainable development), paragraph 17 (Core principles), paragraphs 57, 58 and 61 (Requiring good design), Chapter 12 (Conserving and enhancing the historic environment), paragraphs 186 and 187 (Decision-taking), paragraphs

196 and 197 (Determining applications) and paragraphs 203-206 (Planning conditions and obligations) and Annex 1 (Implementation)

- National Planning Practice Guidance (NPPG) – ID:21b-006 and ID:21b-014 (determining an application), ID:26 (good design), ID:18a-001 and ID:18a-018 (historic environment).

Planning Considerations

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

- The impact of the proposals on the protected tree;
- The impact of the proposals on the character and appearance of the conservation area; and
- The impact of the proposals on the setting of the listed building.

Planning Assessment

The proposal to remove a small section of the existing stone boundary wall to replace it as a dry stone wall would offer a positive solution with regard to the protection and retention of the protected tree (TPO 77, T8 Corsican Pine). The Council's Tree Officer had assessed the tree prior to the submission of this application and is in agreement with the findings of the submitted arboricultural report. He has recommended that the demolition and construction of the driveway be conditioned in line with the report's recommendations. Although there would be a change in the character of the boundary wall as the small section of dry stone walling proposed would be lower than the existing wall, it would not be detrimental to the historic significance of the listed building or the character and appearance of the conservation area.

The relaying of the existing concrete driveway with a more appropriate block paved drive would enhance the setting of the listed building and the character and appearance of the conservation area.

The removal of a short section of the brick boundary wall to the south side of the protected tree would be considered acceptable. It would not be desirable to rebuild this section of wall due to its poor condition and its proximity to the protected tree that will continue to cause damage as it grows. The planting of a native species hedge in place of the demolished section of wall would be an appropriate solution that would not adversely impact on a tree that makes a significant contribution to the character and appearance of the conservation area.

The insertion of a timber pedestrian gate in the south side brick boundary in order to access the land adjacent to the listed building would be considered acceptable subject to joinery details being conditioned. The erection of a greenhouse, subject to details being approved, on this same land would also be considered acceptable and would not adversely impact on the setting of the listed building or the character and appearance of the conservation.

Overall the proposals are considered to be sympathetic and positive solutions to ensure the continued longevity of the tree without compromising the character and appearance of the conservation area or the setting of the listed building. The

proposals would be in conformity with the requirements of Saved Environment Policies 9, 12 and 13 of the Adopted South Derbyshire Local Plan, emerging Policies BNE1 and BNE2 of the Submission Local Plan Part 1 and the National Planning Policy Framework (NPPF).

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. If any new stone is required for the rebuilding of the frontage stone wall, precise details, specifications and, where necessary, samples of the stone shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.
Reason: To safeguard the appearance of the existing wall, the character of the area and the setting of the listed building.
3. No part of the development shall be carried out until samples of the pavers to be used in the relaying of the driveway have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
Reason: In the interests of the character of the area and the setting of the listed building.
4. Large scale drawings to a minimum scale of 1:10 of the garden gate, including horizontal and vertical sections and details of the greenhouse shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The items shall be constructed in accordance with the approved drawings/details.
Reason: The details submitted are inadequate to determine whether the appearance of the gate and the greenhouse would be acceptable.
5. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.
Reason: In the interests of the character of the area and the setting of the listed building.
6. The work shall be carried out in accordance with BS5837:2012 Trees in relation to demolition, design and construction - Recommendations.
Reason: To safeguard the health of the tree(s).

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 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.

Item **1.7**

Reg. No. **9/2015/0849/L**

Applicant:
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The Firs
11 High Street
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DE73 7JH

Agent:
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Ashby De La Zouch
Leicester
LE65 1EW

Proposal: **PART DEMOLITION OF FRONT STONE BOUNDARY WALL AND THE DEMOLITION OF SECTIONS OF THE SIDE BRICK WALL TO ACCOMODATE A NEW GATE AND A LENGTH OF HEDGE AT THE FIRS 11 HIGH STREET TICKNALL DERBY**

Ward: **REPTON**

Valid Date: **19/10/2015**

This Listed Building application was submitted jointly with householder planning application 9/2015/0996/FH and the proposed demolition works are required in association with the proposed works that require planning permission.

Proposal

The application seeks approval for the part demolition of the front stone boundary wall and the demolition of sections of the south boundary brick wall to accommodate a new gate to the eastern end of the wall and a new length of hedge adjacent to the highway and the protected Corsican Pine tree.

Responses to Consultations

None received.

Responses to Publicity

None received.

Development Plan Policies

The relevant policies are:

Saved Environment Policies 12 and 13 of the 1998 Adopted Local Plan

National Guidance

- National Planning Policy Framework (NPPF) paragraphs 6-10 (Achieving sustainable development), paragraphs 11-14 (The presumption in favour of sustainable development), paragraph 17 (Core principles), paragraphs 57, 58 and 61 (Requiring good design), Chapter 12 (Conserving and enhancing the historic environment), paragraphs 186 and 187 (Decision-taking), paragraphs 196 and 197 (Determining applications) and paragraphs 203-206 (Planning conditions and obligations) and Annex 1 (Implementation)
- National Planning Practice Guidance (NPPG) – ID:21b-006 and ID:21b-014 (determining an application), ID:26 (good design), ID:18a-001 and ID:18a-018 (historic environment).

Planning Considerations

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

- The impact of the proposals on the historic fabric, character and setting of the listed building; and
- The impact of the proposals on the character and appearance of the conservation area.

Planning Assessment

It is considered that the proposed demolition works, which would be required in conjunction with the works proposed under the householder planning application 9/2015/0996, would not be detrimental to the historic significance of the listed building, in terms of the impact on its historic fabric, character and setting, or to that of the character and appearance of the conservation area.

The proposals would be in conformity with the requirements of Saved Environment Policies 12 and 13 of the Adopted South Derbyshire Local Plan, emerging Policies BNE1 and BNE2 of the Submission Local Plan Part 1 and the National Planning Policy Framework (NPPF).

Recommendation

GRANT listed building consent subject to the following conditions:

1. The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990.

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 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.

Item **1.8**

Reg. No. **9/2015/0549/F**

Applicant:
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Agent:
Mr Christopher Timothy
CT Planning
Trafalgar House
20A Market Street
Lichfield
WS13 6LH

Proposal: **THE ERECTION OF 1 DETACHED DWELLING AND
ASSOCIATED WORKS AT 28 MAIN STREET REPTON
DERBY**

Ward: **REPTON**

Valid Date: **03/07/2015**

Reason for committee determination

This application is brought before the Committee as it is not in accord with the development plan.

Site Description

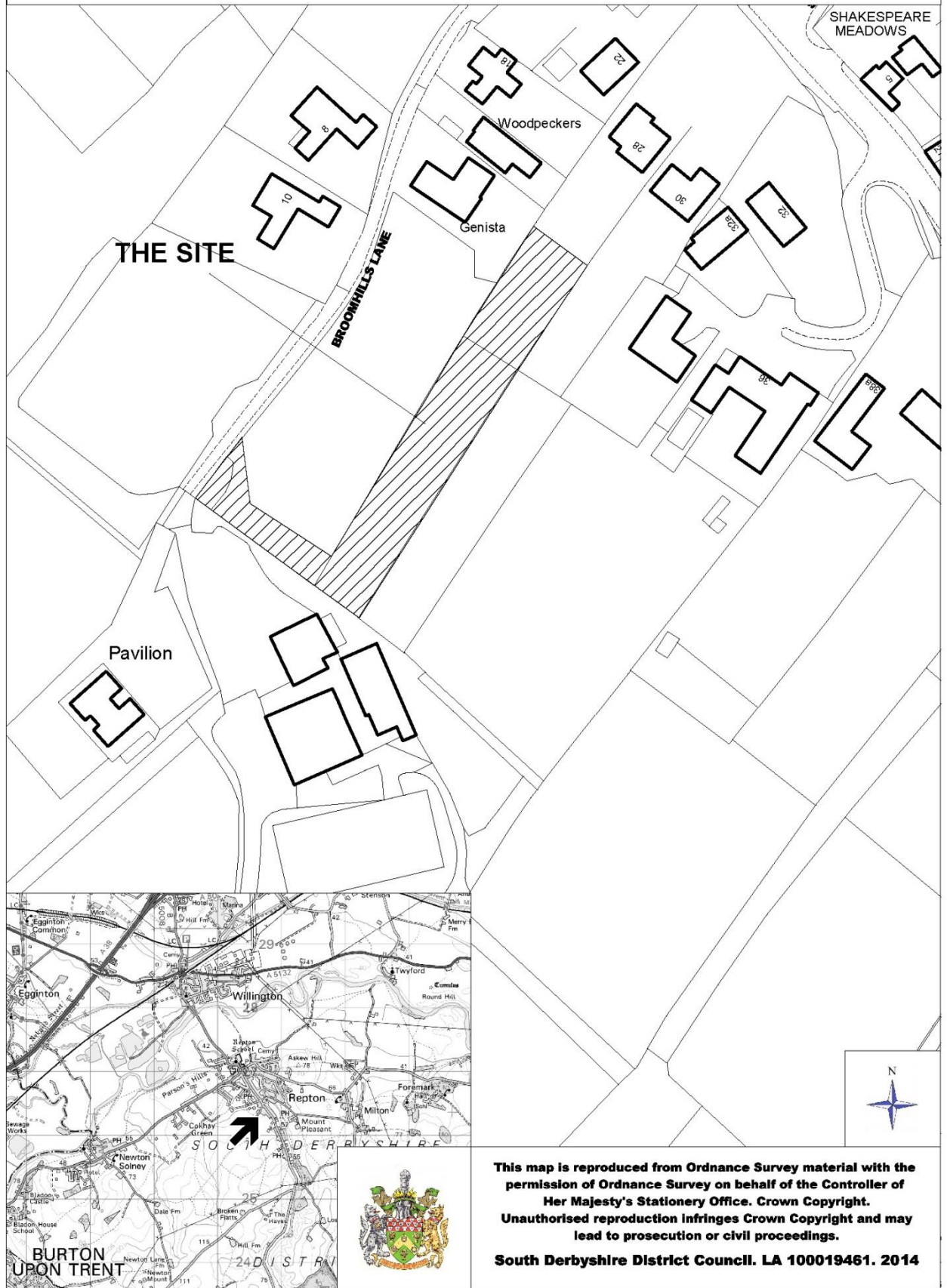
The site is currently garden land, lawned with trees and hedging on the boundaries. The application site is 99m in length and would retain a garden area 21m in length for the existing property. The south western boundary is screened by mature trees on the boundary and a complex of farm buildings abuts this boundary. An gate and access track exists from Broomhills Lane to the end of the garden.

Proposal

Full permission is sought for the erection of a two storey dwelling to the rear of 28 Main Street, Repton with access proposed from Broomhills Lane to the north west of the site. No.28 Main Street is within the village confines (as identified in the 1998 Local Plan) and the application boundary is 21m from the rear of this dwelling. The land immediately adjacent to No.28 would be retained as garden for the proposed property and the built form would be 25m from the village confine boundary.

A five bedroomed property is proposed with its main aspects to the south west and north east. It is a modern design and is not a full two storeys as dormers and rooflights are proposed utilising the roof space.

9/2015/0549 - 28 Main Street, Repton DE65 6EZ



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Applicants' supporting information

The Planning Statement includes a site description and assessment of the relevant local and national planning policies. The planning considerations state that the Council does not have a 5 year supply of housing, the proposal does not have 'significant and demonstrable' adverse impacts and Repton is considered a sustainable location.

The Protected Species and Tree Survey concluded no evidence of protected species or nesting birds. Recommendations include measures to protect trees during construction and protection of the RPA's of trees affected by the driveway.

Planning History

9/2013/0995 - Pruning of Lime Trees, Granted 20/12/13

Responses to Consultations

The Highways Authority considers the access visibility and width to be acceptable together with the manoeuvring space for domestic vehicles and thus has no objection subject to conditions relating to clearance of the Broomhill Lane frontage for visibility, construction site compound, parking and manoeuvring of cars and service vehicles and gates and an informative regarding the public right of way.

Severn Trent Water has no objection.

Derbyshire Wildlife Trust has no objections and recommends a condition in relation of avoidance of the bird nesting season.

The Council's Tree Officer has assessed 8 trees during his site visit. There are two young mature Whitebeam trees in good condition and are located in a neighbour's garden, a Horse Chestnut tree and two mature Limes adjacent to where the access is proposed. A condition requiring a method statement and Tree Protection Plan for the above trees is recommended.

Responses to Publicity

Repton Parish Council has declared a prejudicial interest as the applicant is known to many members.

Repton Village Society objects to the application on the basis of added pressure on Broomhills Lane which is in a poor state of repair, it would move the building line further into the countryside, it would encourage similar development.

One website objection has been received from a resident of Broomhills Lane which considers Broomhill Lane is not suitable for access for any additional properties due to its width, visibility and use by pedestrians with no pavement. The property is large and would set a precedent for similar development.

Development Plan Policies

The relevant policies are:

Saved Local Plan: EV1, EV9, H5, H11, T6

The emerging policies are: Local Plan Part 1 (Submission Version): SD1

National Guidance

National Planning Policy Framework (NPPF) paragraphs 6-10, 14, 17, 32, 49, 56
National Planning Practice Guidance (NPPG)

Planning Considerations

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

- Principle of Development
- Impact on Trees
- Highway Issues
- Residential amenity

Planning Assessment

Principle of Development

The site lies outside the settlement confines of Repton. By reason of its location outside the confines of a settlement as defined by Saved Housing Policy 5 of the South Derbyshire Local Plan, the site is situated in the countryside where Saved Housing Policy 8 seeks to restrict the erection of dwellings except in certain specific circumstances. The proposed development does not accord with any of these circumstances.

At present the Council cannot demonstrate a 5-year supply of deliverable housing sites. The Framework is clear, in Paragraph 49, that where there is a shortfall, the relevant Local Plan policies which control the supply of housing should not be considered to be up-to-date and that due weight should be given to the relevant policies according to their degree of consistency with the Framework's policies. Because of the date the Local Plan was adopted, Saved Housing Policies 5 and 8 are not entirely consistent with the Framework's presumption in favour of sustainable development as defined in Paragraph 14. For this reason, in respect of proposals for new housing, the more up-to-date policies of the Framework assume greater weight than the development plan. In order to establish whether the presumption in Paragraph 14 applies it is therefore necessary to assess to what extent the scheme achieves the economic, social and environmental dimensions of sustainable development by reference to Paragraphs 6-10.

Repton is identified as a key service village in Policy H1 of the emerging Local Plan which is based on the number of services, its accessibility by all modes of transport and community facilities. The site is located close to the main route through the village, within walking distance of facilities and services. On the 'social' basis of sustainability it would be classed as sustainable development.

The application property has an exceptionally long rear garden (135m) and views

into the application site are very limited due to hedgerow and tree screening. There are also farm buildings immediately to the south west of the site and a changing room building and enclosed playing fields beyond. Therefore, the proposed dwelling would not have a significant adverse impact on the character or appearance of the immediate area. The site is not visible from surrounding open countryside and thus a case for refusal on the basis of its impact on the character of the area is unlikely to be sustained at appeal. Each case is assessed on its own merits and the site circumstances in the case mean that there is no significant and demonstrable harm attributed to granting permission for a dwelling. Retention of existing trees on site and suitable protection proposed is considered to fulfil the 'environmental' role of sustainable development within NPPF paragraph 7.

Impact on Trees

There are established trees on site and the impact of development has been assessed with relevant RPAs calculated. All significant trees shall be protected by condition requiring a method statement and Tree Protection Plan. A cellular confinement system within the RPAs of the two mature Limes is also recommended. The amenity value of the two Limes T5 and T6 has been considered due to their high quality, however, as there are limited public views of the trees which are within a small wooded area they were not considered worthy of a TPO.

Highway Issues

Broomhills Lane is an unadopted road which has a public footpath 11 running along it. The agent has stated that the ownership of the lane is unknown and at the time of the purchase of 28 Main Street, the applicant's Solicitor sought to find the ownership details with no success. One further dwelling was granted with access from Broomhills Lane in 2000 (9/2000/0755) and the red line just included the application site and not the Lane and was subsequently built. The Highways Authority state that whilst the Lane is not ideal to serve residential development, being single width, unadopted and carrying the route of a Public Right of Way, it is not considered that an objection on highway safety grounds could be sustained. Thus, they raise no objection and recommend conditions.

Residential Amenity

In terms of the amenity of neighbouring properties, due to the location of the dwelling it would be adjacent to rear garden areas and would not overlook areas immediately adjacent to the rear of properties. No main room windows are proposed adjacent to these boundaries (north west and south east) and the nearest neighbouring property is 30 m away to the north east. The impact on the amenity of neighbouring properties is not considered to be significant and accords with the Council's space standards, Housing Policy 11 and NPPF paragraph 17.

The design of the dwelling is a high quality and its scale is considered to be in keeping with surrounding properties and low height at 7.4m with dormers helps to assimilate it within its context. It is thus considered to be in keeping with the character of the area and the surrounding landscape.

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. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.
Reason: To safeguard the appearance of the existing building and the locality generally.
3. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).
Reason: To protect the amenities of adjoining properties and the locality generally.
4. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.
Reason: In the interests of the appearance of the area.
5. The development hereby permitted shall be carried out in accordance with drawing 05 received on the 16th July 2015 and 2929; 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.
6. No development shall take place until a suitable scheme for the prevention of ground gas ingress has been submitted to and approved in writing by the Local Planning Authority (LPA). Alternatively, the site shall be monitored for the presence of ground gas and a subsequent risk assessment completed in accordance with a scheme to be agreed with the LPA, which meets the

requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

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

7. Before any works involving the construction of any dwelling commences, the entire site frontage onto Broomhills Lane shall be cleared and maintained throughout the life of the development clear of any obstruction exceeding 600mm in height relative to the level of the lane for a distance of 2m back into the site from the site boundary in order to maximise visibility for drivers emerging from within the site onto Broomhills Lane.

Reason: In the interests of highway safety.

8. Before any works involving the construction of a dwelling, excluding condition 6 above, space shall be provided within the site for the storage of plant and materials, site accommodation, loading and unloading for goods vehicles and the parking of site operatives and visitors' vehicles, laid out and maintained throughout the period of construction.

Reason: In the interests of highway safety.

9. Prior to the occupation of the dwelling the access shall be constructed and space provided within the application site in accordance with the application drawing 05 for the parking and manoeuvring of residents and visitors vehicles, laid out and surfaced. Once provided any such facility shall be maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

10. No gates shall be erected within 5m. of the highway boundary and any gates elsewhere shall open inwards only.

Reason: In the interests of highway safety.

11. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

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

12. Prior to commencement of development an arboricultural method statement together with a Tree Protection Plan indicating which RPA's are to be protected shall be submitted and approved in writing by the Local Planning Authority and implemented in accordance with the approved details.

Reason: To protect the existing trees from damage.

Informatives:

The grant of planning permission does not entitle developers to obstruct public rights of way affected by the proposal. Development, in so far as it affects the right of way, should not be started, and the right of way should be kept open for public use, until the necessary order under Section 247 or 257 of the Town and Country Planning Act 1990 for the diversion or extinguishment of the right of way has been made and confirmed. Nor should it be assumed that because planning permission has been granted an order will invariably be made or confirmed.

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve issues. 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.

That the hedgerows and trees 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.

Item **1.9**

Reg. No. **9/2015/0919/FH**

Applicant:
Mrs Sarah Holden
41 Linton Road
Rosliston
DE128JB

Agent:
Mrs Sarah Holden
41 Linton Road
Rosliston
DE128JB

Proposal: **THE RENDERING OF A SINGLE STOREY SIDE
ELEMENT OF 41 LINTON ROAD ROSLISTON
SWADLINCOTE**

Ward: **LINTON**

Valid Date: **30/09/2015**

Reason for committee determination

The item is presented to Committee as the applicant is an employee of the Council.

Site Description

The property is a semi-detached dwelling in a residential row of similar properties in a partly rural location. No. 41 is set back approximately 15m from the public highway to its frontage and has a single storey recessed side element. The property is finished in red brick.

Proposal

The proposal seeks to gain consent for the rendering of the single storey recessed element to the dwelling.

Applicant's supporting information

None.

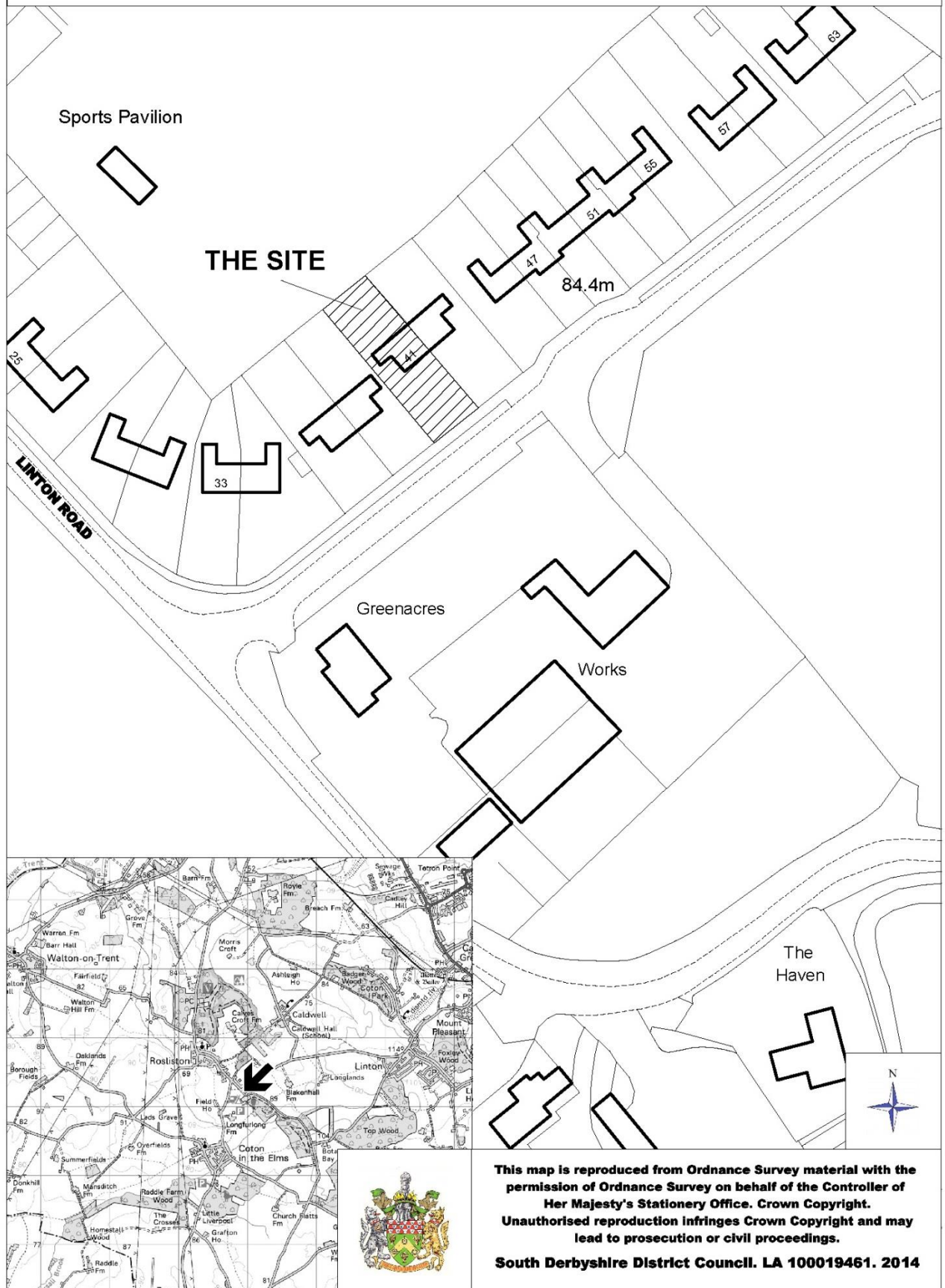
Planning History

None.

Responses to Consultations

None

9/2015/0919 - 41 Linton Road, Rosliston DE12 6JB



Responses to Publicity

None.

Development Plan Policies

The relevant policies are:

- Housing Policy 13 of the Adopted Local Plan.

National Guidance

- National Planning Policy Framework (NPPF) 11-14, 17, 58, 196, 197.
- National Planning Policy Guidance (NPPG) ID21b, ID26.

Local Guidance

- SPG 'Extending Your Home'.

Planning Considerations

The main issue central to the determination of this application is the effect on the appearance of the property in the street.

Planning Assessment

The proposed change to the external finish of this small element of the dwelling, due to its small size and recessed position, would not have any undue impact on the property or the street scene and is therefore 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).

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.

Item 2.1

Reg. No. 9/2015/0748/U

Applicant:
Mr Daniel Hill
11 Derby Road
Foston
Derby
DE65 5PT

Agent:
Mr Daniel Hill
11 Derby Road
Foston
Derby
DE65 5PT

Proposal: **RETROSPECTIVE APPLICATION FOR THE CHANGE OF
USE OF FARM BUILDINGS FROM AGRICULTURE TO
DOG BOARDING AND BREEDING KENNELS AND
ASSOCIATED EXTERNAL ALTERATIONS TO
BUILDINGS AT 11 DERBY ROAD FOSTON DERBY**

Ward: **HILTON**

Valid Date: **26/08/2015**

Reason for committee determination

This application is brought before the Committee at the request of Councillor Billings as local concern has been expressed about a particular issue.

Site Description

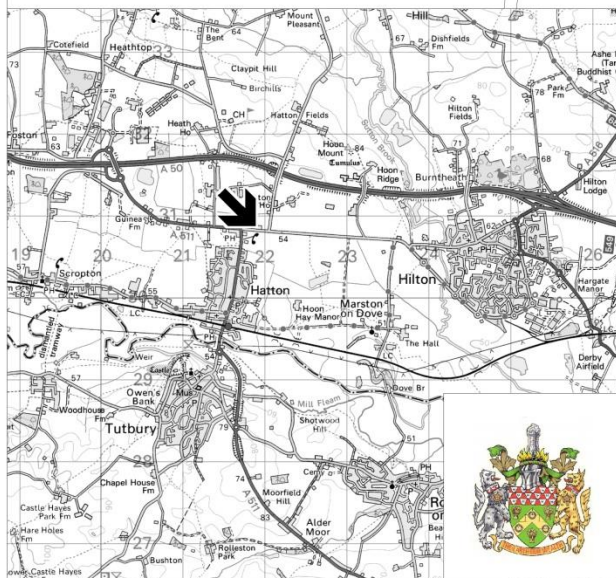
The application site is located on the northern side of Derby Road in the open countryside and is the first of a small cluster of properties in this locality when approaching from the east. The site is a modest farm containing functional farm buildings of steel framed construction and more traditional, single storey red brick construction. The farm buildings are located to the north of the main dwelling although a substantial farm building is under construction on the western side of the site. There are other separate residential properties immediately to the west and also further away to the north on Sutton Lane. The site is located within Flood Zone 3 as defined by the Environment Agency flood maps but does benefit from protection from flood defences.

Proposal

The application is retrospective and is a resubmission of planning application reference 9/2014/1159 which was refused planning permission on 26th June 2015 for the following reasons:

1. South Derbyshire Saved Employment Policy 4 requires proposals involving change of use of buildings to be acceptable on environmental and traffic grounds.

The map shows a site plan with a large hatched area labeled 'THE SITE'. To the left of this site is a cluster of buildings, some of which are numbered: 3, 5, 7, and 11. A road labeled 'DERBY ROAD' runs horizontally across the bottom of the map, with a dashed line indicating a boundary or path. A small structure labeled 'Pump' is located in the top right corner. Dimensions of 53.9m and 53.8m are marked along the bottom edge of the map.



South Derbyshire District Council. LA 100019461. 2014

This is underpinned by Para 123 of the NPPF and the associated Planning Practice Guidance, which afford national policy weight to the need to avoid noise that would give rise to significant adverse impacts on health and quality of life. The application is retrospective and it is evident that noise from the use has already been experienced by people living near the site; and in the absence of objective assessment of noise impacts and the feasibility of appropriate mitigation there would be significant adverse impacts on quality of life for nearby residents, contrary to the aforementioned local and national policies.

2. The proposal would likely give rise to increased traffic. In the absence of evidence to demonstrate that the requisite visibility splays for the local road speed can be achieved the proposal would potentially be harmful to highway safety interests, thus contrary to South Derbyshire Local Plan Saved Transport Policy 6 and Employment Policy 4.

The proposals once again, therefore, seek retrospective planning permission to allow the continued use of the rear part of a steel framed building towards the rear of the site for dog boarding with provision made for up to 33 kennels inside. In addition it is also proposed to retain the use of the rear part of a single storey red brick building adjacent to the main house for use for dog breeding with a total of 11 pens contained within that building. Kennels for breeding and boarding dogs are uses of different character, even if they have some elements in common, so are classed as being materially different.

An outdoor exercise area is provided to the east of the single storey red brick building. In addition to those elements mentioned above the application seeks to regularise alterations to the buildings consisting of bricking up in part and providing new windows and grey profiled insulated roof on the single store red brick building. Access is provided from the farm access which lies immediately adjacent to a separate drive for the house with parking and turning provided along its length.

Unlike the previous application which was refused, this application is accompanied by a Noise Report in support of the application which is referenced to BS 8233:2014 as well BS 4142:2014. The report states that noise measuring took place at two points: point 1 outside the applicant's house; and point 2, inside the breeding kennels. The Noise Report states that based on the computer modelling the breeding kennels and boarding kennels would be compliant with the design criteria. It does, however, also propose noise control measures for both buildings. For the breeding kennels building these would consist of lining the roof with plasterboard overlaid with mineral wool as well as sealing all gaps between the walls and the roof with the windows only opened during the day. For the boarding kennels building these would consist of sealing all external gaps in the external building fabric, the provision of a new ceiling comprising a layer of plasterboard overlaid with mineral wool, roof of the boarding kennels building with plasterboard overlaid with mineral wool, the provision of an internal lining for the metal clad external walls consisting of single layers of plasterboard with mineral wool quilt in the cavity. It also recommends that the 2m high fence which is currently in place along part of the western boundary is continued along the north rest of the west, northern and eastern boundaries as well as around the exercise yard.

In regards to the exercise yard, the Noise Report states that predicted noise levels as operating at the time of the assessment were compliant but it acknowledges that as the number of dogs increases there will also be an increase in noise generated but that dogs are unlikely to be exercised all at the same time and a threefold increase in activity in the yard would still be just about compliant, exceeding limits by just 1dB. The report concludes that with the recommended control measures in place the proposal can be readily controlled to the levels suggested in BS 8233:2014 at the nearest receptor and that there is no reason to withhold planning permission.

Planning History

9/2011/0727 – the erection of an agricultural feed silo – approved 16-dec-11.

9/2011/0938 - the erection of an extension to an existing cattle barn to provide a covered feed and bedding storage area – approved 16-dec-11.

9/2012/0957 - the erection of a feed and bedding storage barn – approved 21-jan-2013.

Responses to Consultations

The County Highway Authority has no objection to the proposals subject to conditions requiring the provision of the appropriate visibility splays at the access as well as the provision and maintenance of parking and turning space.

The Environment Agency has no objection to the proposals but request the applicant be informed by a note of the need for the applicant to obtain a permit before discharging wash waters from the kennels as they are considered to be a commercial/trade effluent. Notes relating to the manner in which the wash waters need to be addressed through that permit as well as in relation to flood risk are also requested.

The Environmental Health Manager objects to the proposal, stating that based on the guidance in NPPF and Planning Practice Guidance – Noise, the impacts of the boarding and breeding kennels can be ‘mitigated and reduced to a minimum’ provided that appropriate conditions are attached (including conditions to ensure that there are no openings on the breeding and boarding kennel façades). However, he advises that the noise from the exercise yard is, in his opinion, would be above the ‘significant observed adverse effect level’ described in PPG – Noise. Given that this impact already takes account of proposed mitigation, the magnitude and duration of the likely exposure of the nearest noise receptor to the noise from the exercise yard remains unacceptable. Unless further mitigation measures can be implemented to significantly further mitigate noise from the exercise yard, he objects to this aspect of the application.

Responses to Publicity

Neighbours adjacent to the site were notified as well as those who made representations on the previous application and a site notice was displayed on the site frontage. In reply 8 letters of objection have been received which can be summarised by the following points:

- There are errors on the plans.
- When the noise report was undertaken the dogs were not on site for part of the time and only a small part of the time overall.
- There is a large housing development proposed opposite which will be affected.
- Noise is the main issue and it is sporadic.
- Measures to make the buildings soundproof would not be good for the animals.
- The exercise yard has 10-15 dogs in it from 07:00 in the morning – at full capacity this would be all day.
- A fence would do nothing in terms of noise.
- The hay bales are not permanent as the applicant buys and sells hay.
- The report says the noise is “just about compliant”.
- The applicant paid for the survey so is not unbiased.
- I am concerned about waste storage and disposal as we get smells now.
- The noise and smells blight properties and stop people enjoying their gardens.
- The noise monitoring locations can skew results in favour of the applicant.
- The visibility cannot be achieved and would affect protected trees.
- There is already the drone of traffic noise from nearby roads.
- The applicant exercises dogs in the adjacent field as well and this is not considered.
- As it is retrospective noise from the dogs is already being experienced.
- The report does not properly account for the number of dogs present during the survey period or that dogs were removed immediately before and it relies on computer modelling.
- The noise mitigation measures are not shown on the plans.
- Noise from the exercise yard cannot be accurate.
- The increase in the number of dogs will increase distress.
- No mention is made of waste disposal which could result in odour and flies.
- What will happen in terms of lighting as this is 24/7?
- Dogs have escaped onto the highway or onto neighbouring properties – these occurrences will increase with the increase in the number of dogs.
- Dogs can be heard on Malthouse Lane, it must be intolerable for people living closer.
- The Council should undertake their own survey.
- The noise affecting No.9 Derby Road is significant and causes a nuisance at all times of day and night, affecting their health and amenity especially using the garden in the summer.
- Waste bedding is currently stored in heaps alongside neighbour’s fences.
- The location of the parking area is unclear, as is the visibility splay.
- The noise report takes no account of wind direction.
- The implementation of the suggested noise mitigation measures will be financially unviable for a fledgling business.
- A computer model can only be a tool for estimation.
- More dogs on site especially when in pup will mean more frequent late night disturbances.

- Ground water levels and flood risk means waste may enter watercourses leading to health implications.
- The applicant has erected 12ft high concrete panels, planted Leylandii trees directly opposite my parents living accommodation.

In addition to the points raised above the neighbour at the side of the site, No.9 Derby Road, have also employed planning consultants to make representations on her behalf. The planning consultants have stated that they object on the grounds of adverse impacts from noise and disturbance, the control of waste (including drainage) and increased vehicle movements. They refer to sustainable development as set out in the NPPF but state that noise over the last 12 months has adversely affected quality of life. They state that the nature of the use leads to animals being distressed and this will mean that they bark more than normal. Dogs require space to exercise but their behaviour depends on management. They consider that the proposal is contrary to Para. 123 of the NPPF which seeks to ensure noise giving rise to significant adverse effects are avoided. They state that no mention is made of the exercise yard and whilst Local Plan Policy E4 allows for rural business conversion and promotes the rural economy, this will not comply due to noise. They state that no mention is made of how waste will be managed therefore the proposal is silent on that matter but this could impact on the neighbour and that there is no clear account of surface and waste water from the use and there are watercourses nearby. Furthermore, they state that the site is at risk of flooding and a Flood Risk Assessment and drainage strategy should be provided. They state that the traffic will lead to adverse impacts on amenity due to vehicular movements but it is unclear what the total will be when at full capacity and that when balancing the issues the social and environmental roles of sustainable development have not been met therefore it cannot be sustainable development and should not be approved.

The planning consultants acting on behalf of the neighbour also employed consultants to review the Noise Report accompanying the application. The noise consultants question the robustness of the report, identifying what they consider to be lack of detail in the modelling and cast doubt on the findings of the survey. They state that BS 8233:2014 would only be appropriate for constant noise sources, not dogs and that the references to BS 4142:2014 have not been applied appropriately as dog barking is intermittent. They state that the Government's Noise Policy Statement for England (NPSE) seeks to avoid significant adverse impacts on health and quality of life and the NPPF seeks to avoid noise giving rise to significant adverse impacts on health and quality of life as a result of new development. They state that there is significant uncertainty in the Noise Report regarding: the appropriateness of the surveyed dog barking source noise; the effect of room acoustics on measured levels; the impact of more dogs on the modelling; the location of the garden receivers; the ventilation strategy for the buildings and effect of open windows on noise break out; and the duration over which dogs will bark. When these are combined with a methodology designed for steady state noise. They consider that the Noise Report has not demonstrated that significant adverse effect levels will be avoided and the development may lead to inappropriate noise impact on neighbours therefore permission should be refused.

Development Plan Policies

The relevant policies are:

Local Plan Saved:

Environment Policy 1, Employment Policy 4 and Transport Policy 6

Emerging Local Plan

Policy S2: Presumption in Favour of Sustainable Development

Policy S6: Sustainable Access

Policy SD1: Amenity and Environmental Quality

Policy SD2: Flood Risk

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 3 (Supporting a prosperous rural economy)

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 Practice Guidance ID53 (Health and Wellbeing) ID 7 (Flood risk)

Planning Considerations

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

- The principle of development,
- Highway safety,
- Neighbour impact, and
- Other matters.

Planning Assessment

The principle of development

The NPPF states that the purpose of planning is to help achieve sustainable development and has a clear definition of sustainable development which has three dimensions: economic, social and environmental which are intrinsically linked. The NPPF is explicitly clear at Para. 14 when it states that at its heart lies a presumption in favour of sustainable development which is the golden thread running through it and development proposals that accord with the development plan should be approved without delay.

Saved Employment Policy 2 of the South Derbyshire Local Plan states that proposals for the diversification of the rural economy will be permitted provided they do not conflict with other proposals of the local plan. It also states that the reuse or adaption of agricultural and other rural buildings for new commercial, industrial or recreational uses will be permitted provided their form, bulk and design are in keeping with their surroundings and the proposal is acceptable on environmental and traffic grounds.

It is considered that in general terms the proposals have the potential to fit in with the requirements of Employment Policy 2 since the proposals would make use of existing buildings and generally speaking, because of noise from barking, kennels are more appropriate in rural than urban locations. The critical matters are, therefore, whether the proposals are acceptable on both environmental grounds, i.e. the neighbour impacts of the development, and on traffic grounds, i.e. in terms of a safe access with adequate parking and turning facilities. These matters were the reasons for refusal on the previous application and are discussed in more detail below.

Highway safety

The site is accessed from Derby Road, a classified road, the A516, which at the point of the access has a 40mph speed limit. The proposals would utilise the existing access that serves the farm rather than the narrower drive which serves the house, the two being side by side but independent of each other. In terms of highway safety matters the proposal will increase traffic in the area on this busy road utilising the existing access. On the previous application that was refused the County Highway Authority had objected and the plans did not demonstrate that adequate visibility could be achieved over controlled land or that adequate parking or turning space was available. This has now been shown on the plans with parking for 7 vehicles indicated as being able to be accommodated. In order to come to a view on the safety implications of the development and whether the first reason for refusal had been addressed, the opinion of the County Highway Authority was sought. In their consultation reply they have advised that they raise no objection to the current proposal subject to conditions and this conclusion is considered to be reasonable. It is also considered that a suitable amount of parking spaces to serve the existing will be provided.

Para. 32 of the National Planning Policy Framework states, amongst other things, that when making planning decisions account must be taken of whether safe and suitable access to the site can be achieved for all people and that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Saved South Derbyshire Local Plan Transport Policy 6 states that planning permission will not be granted for development which interferes with the free and safe flow of traffic and that policy is relevant as it echoes the NPPF at paragraph 32. Saved Employment Policy 4 of the Adopted South Derbyshire Local Plan also has criteria that seeks to ensure that development proposals are acceptable on traffic grounds. Having considered the advice of the County Highway Authority as well as the information accompanying the application it is considered that the current proposal would not lead to such an adverse degradation of highway safety to be reasonably considered to be contrary to the advice contained in Local Transport Policy 6, Employment Policy 4 as well as

paragraph 32 of the NPPF and therefore, notwithstanding the concerns expressed in the letters of objection, the highway safety aspects of the current proposal are considered to be acceptable.

Neighbour impact

In terms of neighbour impact it is clear that these boarding and breeding kennels even operating at present levels when the business is not at full capacity is resulting in significant noise impacts and it is also clear that the proximity of the neighbouring properties adjacent to, rather than more distant from, the proposals is the reason for this.

The creation of the business in principle is what is for consideration at this stage, even though the application is retrospective, as the use of the site for dog boarding and breeding is not lawful. In view of this, the generally supportive stance of the NPPF at Para. 123 carries little weight as this relates to not imposing unreasonable restrictions upon existing businesses wanting to develop in continuance of their business. It is considered more appropriate, therefore, to assess the proposals against that part of Para.123 which states “...*decisions should aim to avoid noise giving rise to significant adverse impacts on health and quality of life as a result of new development...*” A wider appreciation of the NPPF also identifies that one of its core principles is to “*always seek to secure...a good standard of amenity for all existing and future occupants of land and buildings.*” Para. 123 also states that “...*decisions should aim to mitigate and reduce to a minimum other adverse impacts on health and quality of life as a result of new development, including through the use of conditions...*”. At a local level, whilst Local Plan Saved Employment Policy 1 seeks to promote the rural economy, the policy contains a caveat which means development proposals have to be acceptable on environmental grounds.

The noise implications for this development are the key issue when considering the merits of the proposals. The application has been thoroughly examined by the Council’s Environmental Health Manager (EHO) who has scrutinised evidence submitted by appropriate noise professionals acting on behalf of the applicant and the neighbour to the side of the site, to ensure that he is in a position to enable him to provide appropriate advice on the issue of noise, in acknowledgement of the fact that this is the matter on which the acceptability or otherwise of the development will turn. In the opinion of the EHO he considers that whilst the noise emanating from the boarding and breeding kennels could be mitigated, the noise from the exercise yard would lead to above the ‘significant observed adverse effect level’ described in PPG – Noise. Given that this impact already takes account of proposed mitigation, the magnitude and duration of the likely exposure of the nearest noise receptor to the noise from the exercise yard remains unacceptable.

The above discussion and representations highlight that the proposal has demonstrable impacts and that these could be significant. Whilst it might be appropriate to withhold permission, consideration should first be given to the potential for mitigation and control measures which might reduce the level of this impact to a more acceptable degree, in line with Para. 123 of the NPPF and NPPG, which promote the use of conditions to facilitate a grant of permission as opposed to a refusal (also supported by para.187). The Noise Report accompanying the application recommends the provision of noise mitigation measures to both the

boarding and breeding kennel buildings as well as erecting fencing around the perimeter of the site and the exercise yard. The EHO has considered this approach but he still considers that even with the mitigation measures in place, the impact on neighbours would still be unacceptable. An exercise yard forms an integral part of the proposals and would likely be a reasonable expectation of customers in terms of the welfare of their animals.

It is recognised that a planning application has now been received for the erection of 400 dwellings on a strategic site allocated for residential development in the Submission Local Plan across the road from the application site. However, future occupiers of those dwellings would occupy properties which have been designed to take account of the existing noise situation including the current kennel activity, albeit at less than capacity activity, as well as the road noise including Derby Road which lies in between. The new properties would be further away than other, closer neighbours although directly opposite the exercise yard. As such occupiers of those properties would be unlikely to be any worse off than existing neighbours.

On this basis it is considered that in terms of noise impacts the proposal would be contrary to the national and local planning policies.

Conclusion

The NPPF has a presumption in favour of sustainable development but there are three strands of sustainability economic, social and environmental. There would be some economic benefit for the applicant by virtue of farm diversification; social benefits would be modest but the environmental impacts would cause material harm to the health and wellbeing of the occupiers of nearby residential properties.

Balancing modest economic and social benefits, against demonstrably harmful environmental consequences, the proposed development is not considered to be sustainable development that would benefit from the presumption in Para. 14 of the NPPF. South Derbyshire Saved Employment Policy 4 also requires proposals involving change of use of buildings to be acceptable on environmental grounds. This is underpinned by Para. 123 of the NPPF and the associated Planning Practice Guidance, which afford national policy weight to the need to avoid noise that would give rise to significant adverse impacts on health and quality of life. The development is considered to have a significant adverse impact on quality of life for nearby residents, contrary to the aforementioned local and national policies.

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

Recommendation

REFUSE permission subject to the following reason:

1. South Derbyshire Saved Employment Policy 4 requires proposals involving change of use of buildings to be acceptable on environmental grounds. This is underpinned by Para. 123 of the NPPF and the associated Planning Practice Guidance, which afford national policy weight to the need to avoid noise that

would give rise to significant adverse impacts on health and quality of life. The application is retrospective and it is evident that noise from the use is already being experienced by people living near the site. Notwithstanding the submitted evidence, even taking into account the noise mitigation measures recommended in the noise report accompanying the application, there would be significant adverse impacts on quality of life for nearby residents, contrary to the aforementioned local and national policies.

Informatives:

Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through bringing planning objections to the applicant's attention and providing the opportunity to overcome reasons for refusal. However despite such efforts, the planning objections and issues have not been satisfactorily addressed. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Item **2.2**

Reg. No. **9/2015/0124/MAF**

Applicant:
Mr T Barnes
Ethical Power Ltd

Agent:
Mr Alan Brown
ABDS Ltd
90 Treza Road
Porthleven
Cornwall
TR13 9UQ

Proposal: **PROPOSED INSTALLATION OF PHOTO-VOLTAIC
PANELS, INVERTERS AND TRANSFORMERS TO
PRODUCE RENEWABLE ELECTRICITY LAND AT
SK2821 3837 SUNNYSIDE NEWHALL SWADLINCOTE**

Ward: **NEWHALL & STANTON**

Valid Date: **06/05/2015**

Reason for committee determination

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

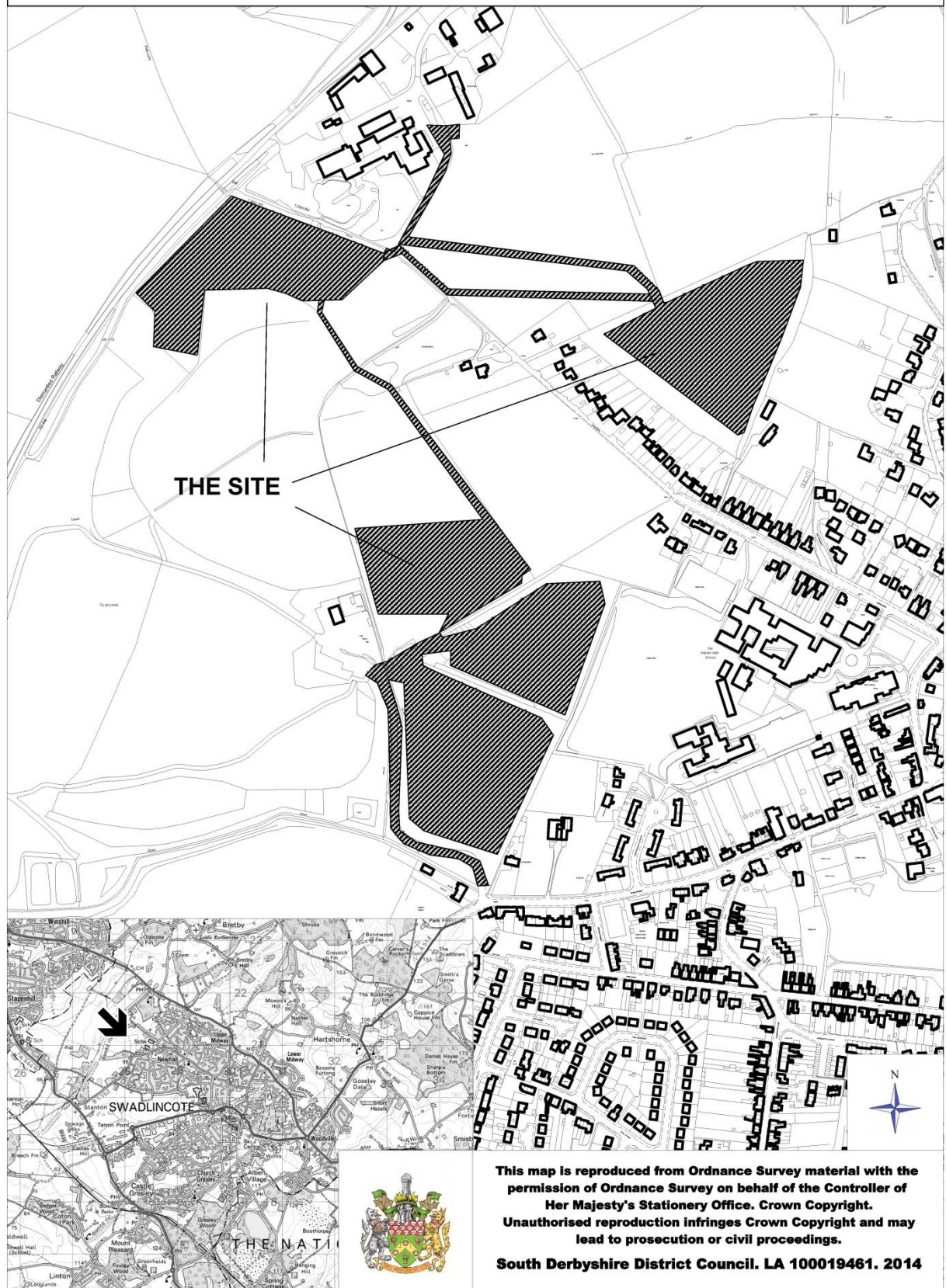
Site Description

The 7.45 hectare site incorporates 6 fields of open pasture classified as agricultural grade 3 (good to moderate quality) and 4 (poor quality) to the north west of Newhall and lies within the Swadlincote and Burton Green Belt. Three of the fields are to the south west of the northern most part of Sunnyside, Newhall, one is the north east of dwellings on Sunnyside and two fields are to the south east and south west of the Bretby Stoneware Industrial Estate. Within this complex and immediately to the west of Field E is Bretby brick & stoneware bottle kiln and attached factory which is Grade II Listed.

The three fields A, B and C are located immediately adjacent to the access road of the amenity site off Park Road. All these fields slope down towards the entrance to the amenity site with a fairly flat piece of land which currently has farm buildings on it adjacent to the farm gate.

A triangular field (D) is located immediately to the rear (north east) of the ribbon development of properties at the end of Sunnyside. This site is fairly flat and enclosed with existing hedging. Footpaths 84 runs parallel to the northern boundary and Footpath 87 runs parallel to the south eastern boundary. This field is adjacent to field E which slopes down towards Bretby Stoneware Industrial Estate and is fairly

9/2015/0124 - Land at SK2821 3838 Sunnyside, Newhall



flat adjacent to the access road and residential property (1 Middle Place). Field F is to the south west of the industrial estate and the proposal relates to the flatter area of the field visible from the access road and Footpath 85 that runs parallel with the field's north eastern boundary. Footpath 89 dissects the field and the proposal from north to south.

Proposal

Planning permission is sought for the installation of a 2898MWh ground mounted solar array. The proposal includes the installation of ground based framing systems, 12,384 mounted solar panels, power inverters, two structures containing low voltage switchgear control panels, 4 No. step up transformers, 1.9m high security fencing, access gates and CCTV security camera system mounted on freestanding 4m high support poles. A built enclosure is required to accommodate the switchgear and metering requirements of Western Power Distribution.

Fields A, B and C, D and F would be accessed from the Amenity Site access off Park Road, Newhall utilising existing farm tracks with the exception of Field D which would be accessed via a new track through Field E. No access from the A511 or Sunnyside is proposed.

The height of the frame and panels would be 1.8m and the frames legs are pile driven into the ground. Perimeter agricultural galvanised steel stock fencing of a height of 1.9 m is proposed.

Applicants' supporting information

The Planning Policy Statement outlines the national commitment of achieving 15% of its energy consumption from renewable sources by 2020, detailed in the 2009 Renewables Directive and the UK Solar PV Strategy. Benefits of solar as well as energy generation are its operational life of 25 years and fields can be used for grazing throughout that period. The report considers the development plan policies for Green Belt and plan policies as a whole make no allowance for renewable energy proposals and as such the plan is silent and out of date by virtue of paragraph 215 of the NPPF. Other Local Plan policies mentioned are EV10 National Forest and C2 safeguards land adjacent to William Allitt School for educational purposes. It outlines the relevant Policies of the Emerging Local Plan and paragraphs within the NPPF. It states that the 'very special circumstances' are the wider environmental benefit of renewable energy. The proposal would generate power to supply the energy needs of between 800 and 850 homes, equivalent to around 15% of the dwellings which the emerging Local Plan needs to deliver within the period 2028.

The Design and Access Statement describes the proposal and how solar energy works. Fixed systems are proposed in a landscape position on a 25 degree angled frame. The only noise generation would be from the inverter panels and step-up transformers. Noise generation from the inverters would be 56dBA at a distance of 1.5m and from the transformers 56dBA at a distance of 0.3m(50dbA is equivalent to 'quiet urban daytime'). The agricultural land classification mapping identifies the site as Grade 3 (Good to moderate) and Grade 4 (Poor). Ofgem's recent Annual Energy Assessment predicted that the amount of spare capacity could fall from 14% now to only 4% in three years. The proposal would generate 4,500,000kWh of electric per

annum and with an average energy consumption for a 3 bed house being 4,200 kWh it could power 1070 homes. It states that no permanent harm to the Green Belt would occur as a result of granting permission due to their temporary construction. Access to the fields would be from existing tracks and the construction phase is 12 weeks and vehicle movements are detailed.

The submitted Statement of Community Involvement states that a drop-in event was held at Newhall Village Hall on the 6th November 2014. Invitations were sent to 2500 households in South Derbyshire and East Staffordshire, together with emails to Ward and Planning Committee Members and Officers of SDDC. Around 110 local residents attended the drop-in event. 40 questionnaires were completed and main concerns raised were: impact on use of rights of way, proximity of arrays to residents of Sunnyside, visual impact on the Green Belt and ecology impacts.

The Landscape and Visual Impact Assessment states that the site lies wholly within England's National Character Area 71 – Leicestershire and South Derbyshire Coalfields and has a landscape type of 'Coalfield village farmlands'. The sensitivity of the landscape is considered to be low to medium. The report outlines the methodology for LVIA's stating that the assessment of significance is based on assessing the significance of receptors and the magnitude of change. There are no SSSI or TPOs within the site.. Fields A, B and C would have large effects on properties on Sunnyside and Field D a moderate effect. The overall character of the site is 'urban fringe'. The two footpaths within Field D would be dominated by the solar farm and mitigation planting would have little effect for 5-6 years.

The report concludes that overall there would be a significantly adverse effect upon views from the surrounding area with individual assessments varying from large to moderate. Design alterations and mitigation over time would reduce this effect to slight. Mitigation for Fields A, B and C would be in the form of additional planting on the eastern and western boundaries of Sunnyside with fast growing species. Landscape sensitivity is assessed as low to medium and from the viewpoints the significance on residents would be high and footpath users would be low.

A Landscape and Visual Assessment Addendum was submitted which reviewed the originally submitted LVIA and concludes that it was a sound assessment of potential landscape and visual effects.

The Coal Mining Risk Assessment assesses each field in turn and conclusions drawn are that on fields A, B and C the report identifies that risk to the development from potential unrecorded coal mine workings at shallow depth is high and therefore recommends that intrusive site investigations are carried out. Fields D and E do not require site investigations and Field F identifies that risk to the development from recorded coal mine workings at shallow depth is high and therefore recommends that intrusive site investigations are carried out.

The Extended Phase 1 Habitat Survey Report identifies that the site is adjacent to the Local Wildlife Site SD042 Disused Bretby Railway noted for scrub habitat, and the potential Local Wildlife Site known as Bretby Landfill noted for the presence of great crested newts. The great crested newt recorded closest to the application site at SK28042089 was from a 2013 survey. The report concludes that all of the fields are species poor semi-improved to improved grasslands with patches of tall ruderal, thistles and small patches of scrub within Field B and Field E. Most of the fields are

bounded by hedgerows and several of these have been identified as species rich hedgerows composed of native species of trees and shrubs. Species poor hedgerows are also present. Conclusions drawn are that the proposed development is unlikely to have any significant adverse impact on habitats of high nature conservation value. The grasslands are species poor and of low nature conservation value. Hedgerows are of greater significance, but are unlikely to be significantly affected and there is no significant evidence of protected species that would be directly affected by the proposed development.

The Flood Risk Assessment states the site lies within Flood Zone 1 and a preliminary run-off calculation based on 10% of the land being compacted was undertaken. Recommendations include that a further run-off assessment is carried out and silt fences are used to prevent discharge of fines and to protect any waterways. It concludes that there is a very low risk of the proposal increasing flood risk and a SUDS scheme conditioned.

An Historic Environment Desk Based Assessment and Heritage Asset Impact Assessment states the site appears to have remained relatively undisturbed with only small scale removal of boundaries. The exception is Field A which may have been subject to a degree of open cast mining. The assessment established that there is an architectural interest in the site and a archaeological watching brief be maintained during any intrusive construction works. The impact on the setting of the Grade II Listed Bottle Kiln and attached building, Bretby Brick and Stoneware Company is not considered significant as the wider landscape is not considered important to their setting. Mitigation in the form of enhancement of existing green boundaries is recommended.

The submitted Construction Management Plan outlines the timescale for construction, access routes, types of works and vehicles required. The largest plant to arrive at site will be a 50t mobile crane. The delivery vehicle's size will not exceed a 40' articulated truck used for delivery of the PV panels and support frames. The only access to the site would be the existing Amenity site access off Park Road. To avoid using the access road off Sunnyside a new temporary road would be constructed connecting sites A and E and D and E. Deliveries would be restricted to 09:30- 15:30 and 16:30-19:00 due to the proximity to William Allitt School. Plant or delivery vehicles leaving site would undergo cleaning first, wheels cleansing equipment will be provided. Approximately 25 staff would be on-site, car-pooling would be encouraged and parking provided off the highway on temporary hard standing.

Planning History

None

Responses to Consultations

The Coal Authority initially objected to the application on the basis that further work was required on the recommendations within the Coal Mining Risk Assessment (CMRA) report and that mine abandonment plans be inspected. A revised CMRA was submitted in August and they concur with its findings which recommend site investigations in respect of Fields A, B and F and this can be controlled by condition.

Derbyshire County Council Rights of Way Section states that Swadlincote Footpath 89 crosses Field F from N to S, Swadlincote FP 84 abuts the Northern boundary & Swadlincote FP87 abuts the Eastern boundary of Field D, Swadlincote FP 88 abuts the Eastern Boundary of Field C. A Plan showing the definitive routes of the footpaths was provided and advisory information for the applicant.

East Staffordshire Borough Council has no objections.

Derbyshire County Council Flood Team recommends a SUDS condition.

The County Archaeologist considers the archaeological potential of the site to be low and does not consider a condition necessary.

Derbyshire Police Crime Prevention Design Advisor states that high value thefts from solar farms are a growing problem, so there is justification for pushing for an agreed security provision under the risks and threats from this type of installation and the isolated context of the location. Specifically the rural location, visual disconnection of some of the field sites and network of public footpaths through the site heighten the risk here. The current provision relies upon CCTV and what is described as deer or rabbit proof fencing. This form of stock fencing isn't seen as a security provision, consequently the integrity of associated CCTV telemetry and response needs to be fleshed out, together with a perimeter intruder detection system for the stock fencing. To make this effective the height of the fence will need to be a minimum of 2m. The general site access control for vehicles should be improved and the access point from Main Street should be provided with a more robust provision. Additionally access from the north of the site beyond the Bretby Stoneware Works site requires clarifying and securing. These issues could be dealt with by condition.

Natural England has no objection as the proposal is unlikely to affect any statutorily protected sites.

Derby and South Derbyshire Ramblers state that the planning documents do not make reference to footpaths. These must be considered and incorporated in the layout, including FP 89 which crosses Field F.

The Open Space Society has no objection.

The Peak and Northern Footpath Society objects due its impact on footpaths. The proposal for Field F would obstruct FP89. The Landscape Assessment states that the proposal would have an "overall significant adverse effect on views from the surrounding area and the two footpaths that cross field D would be "dominated by the solar farm" and they agree with these statements. The area of countryside provides a "green lung" for the enjoyment of residents of Swadlincote and Newhall and the proposal would greatly reduce the amenity value and enjoyment of these paths.

The Environment Agency has assessed the application as a low environmental risk and has no comments to make.

The Contaminated Land Officer has no comments based on the transformers not being enclosed.

The Environmental Health Officer recommends a condition requiring a noise report be submitted to evaluate the potential impact the development will have on neighbouring residents, and details of mitigation strategies if required.

The National Forest Company state that page 17 and 18 of the Habitat Survey suggests that new hedgerows should be planted, however it does not advise where this should be located. The Landscape and Visual Impact Assessment also suggests at paragraph 6.2 that landscape mitigation is required such as planting along eastern and southern boundaries, but does not specify which boundaries it is referring to or how these boundaries should be enhanced. The proposed landscape buffer zone between Field D and the rear of properties on Sunnyside should be reconsidered. The planting of a 5 metre wide woodland incorporating a new hedgerow is considered to be too narrow to form a functional woodland belt and will develop into a hedge over time. The proposed woodland would need to be at least 10 metres wide and this would negate the need for a new hedgerow. Additional woodland belts should also be added as part of the expected biodiversity enhancements within the green belt. These should be positioned within blue land where they can both help to mitigate visual impact and connect existing woodlands. Conditions are recommended to ensure that no development occurs within 10 metres of all existing hedgerows and within the root protection area of the pedunculated oak as recommended by the Habitat Survey. These existing features should also be protected during the construction period. Further information should be sought from the applicant on the biodiversity enhancements to be incorporated within the proposals as expected by the NPPF.

Derbyshire Wildlife Trust considers that the proposed development is unlikely to directly impact upon any habitats or designated sites of recognised nature conservation value. It is considered unlikely that there will be any significant adverse impact on protected species due to the type of grassland affected and the current management of those grasslands. Great crested newt populations occur in several nearby ponds, but the terrestrial habitats surrounding those ponds provide far better habitat than the fields included within the application. The proposed landscaping species mixes and methods are acceptable, but fairly limited. Additional measures are desirable to achieve a net gain in Biodiversity as supported by the NPPF. Conditions are recommended to ensure that working methods and schedules of work adopt practices that avoid and reduce any potential impacts on great crested newt and submission of a Landscaping and Biodiversity Enhancement Plan.

The Highways Authority has requested additional information in the form of an amended Construction Management Plan which clarifies the point of access. Based on the additional information supplied, there are no objections subject to conditions requiring submission of: a full Construction Traffic Management Plan (including Appendix 3 Sign Strategy), details of the construction compound, a Decommissioning Traffic Management Plan and informatives regarding public rights of way and rights of access on Sunnyside.

Responses to Publicity

Nineteen letters of objection have been received and they are summarised as follows:

- a. Field D is widely used by local ramblers and dog walkers and it would be shame to lose this for my children growing up.
- b. Mitigation in the form of hedge planting on the eastern boundary should be considered to blend the installation into the existing environment for residents of Rose Tree Lane.
- c. Access to the site via Sunnyside is unacceptable as it is not wide enough for the large vehicles required for construction and would be dangerous for school children.
- d. The proposal is too close to houses on Sunnyside.
- e. It is Green Belt land that should not be built on.
- f. Surface water run-off from the fields would be increased.
- g. The public exhibition was poorly advertised and resident's questions were not answered satisfactorily.
- h. There have been recent refusals for a single storey workshop on the basis it would be visual from National Forest paths.
- i. Field E is regularly enjoyed by people, animals and birds, creates 100 bales of hay and is treated by weed killers.
- j. What maintenance of Field E would occur with the solar panels on it and would be responsible for their removal and reinstatement of the field.
- k. The panels would be in close proximity to their home (1 Middle Place).
- l. The proposed access from the A511 is the only access to their home and to many businesses and who would provide compensation for loss of earnings during the construction.
- m. The proposal would totally alter the character of the area and would have a severe detrimental effect on the visual amenity currently enjoyed in the area.
- n. The ecology on the site would be affected, hares, foxes, badgers and bats have been observed.
- o. The developer has not demonstrated 'very special circumstances' and the proposal would cause harm to the Green Belt by reason of its inappropriateness.
- p. Environment Secretary Liz Truss stated that solar panels are "fine on commercial roofs and school roofs" but should not take up land that should be used for crops.
- q. Sunnyside residents would be surrounded by the solar panels.
- r. Low level noise from 279 inverter panels would destroy the peace and tranquillity of the immediate area.
- s. The undulating nature of the land means that in spite of screening part of the solar farm would be visible from both houses and public roads.
- t. The Burton-Swadlincote Green Belt is the smallest in the country and the Council should do all in its power to protect it.
- u. There has been no provision for protection of wildlife.
- v. The proposal would deter people from using the land for recreation.
- w. Lack of information on glint and glare.
- x. Residents of Sunnyside would experience solar reflections.
- y. The installation would appear as a large stark industrial feature in an otherwise green open landscape.
- z. The 25 year project is a life time for some residents and would take away the opportunity of the right to enjoy the green open space.
- aa. The proposal would be contrary to the Human Rights Act Article 8.

- bb. The fencing adjacent to the footpaths would reduce the visual impact for walkers.
- cc. Loss of light to windows at 86 Main Street due to location of fencing proposed.
- dd. 279 panels spread over 20 acres of land will significantly alter this undeveloped landscape and its open character.
- ee. The impact on footpaths has been considered at appeal (Appeal Ref: APP/F0114/A/13/2198715) where loss of views of the countryside through enclosure of a footpath impaired users experience and enjoyment of it.
- ff. The 20m landscape buffer zone and 5 m woodland screening would reduce the site's openness and create a sense of enclosure.
- gg. An appeal gave very little weight to the reversibility of the scheme as its 25 year lifespan was a third of a person's lifetime and is the span of a generation (Appeal Ref: APP/D2320/A/14/2222025)
- hh. The applicants have not demonstrated any assessment of whether there are no suitable brownfield sites or non-agricultural land within a reasonable search area (APP/D3505/A/13/2204846)
- ii. The Planning Minister Nick Boles is quoted in January 2014 as saying that solar farms *"should be approved only of the impact, including the landscape impact... the visual and the cumulative impact.. is and can be made acceptable. This is a very high test"*.
- jj. Green Belt policies are not 'out of date' as stated by the applicant as they have been upheld by the Council and also at appeal.
- kk. Approval of this application would set a precedent for the Brizlincote Farm proposal.
- ll. Increased water run-off from Field D may damage the unadopted road at Sunnyside.
- mm. There is some ambiguity regarding the number of CCTV cameras proposed between the DAS and application drawings.
- nn. No notice has been served on an owner of land included within the blue lined area.

Mrs H Wheeler MP for South Derbyshire has objected as follows:-

Paragraph 91 of the NPPF states that *"when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources"*.

It is not considered that this application meets the 'very special circumstances' threshold and so the application should be rejected.

Development Plan Policies

The relevant policies are:

Local Plan: Environment 1, 10 and 13, Transport 6, Recreation and Tourism 8, Green Belt Policy 1, 4

Emerging Local Plan:

S8 - Green Belt,

SD1 - Amenity and Environmental Quality,

BNE2 - Heritage Assets,

BNE4 - Landscape Character and Local Distinctiveness,
INF8 - National Forest

National Guidance

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)
Paras 11-14 (The presumption in favour of sustainable development)
Para 17 (Core principles)
Chapter 4 (Promoting sustainable transport)
Chapter 9 (Protecting Green Belt Land)
Chapter 10 (Meeting the challenge of climate change, flooding and coastal change)
Chapter 11 (Conserving and enhancing the natural environment)
Chapter 12 (Conserving and enhancing the historic environment)
Paras 186 & 187 (Decision-taking)
Para 193 (Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.)
Para 196 & 197 (Determining applications)
Paras 203-206 (Planning conditions and obligations)
Annex 1 (Implementation)

National Planning Practice Guidance (NPPG)

5 - Renewable and low carbon energy
8 - Natural Environment
18 a - Conserving and enhancing the historic environment
21b - Determining a planning application
23b, Planning obligations
37 - Open space, sports and recreation facilities, public rights of way and local green space
53 - Health and wellbeing

Planning Considerations

The proposal was screened under the 2011 EIA Regulations in February 2015, with the formal opinion of the Council that the proposal would unlikely have significant effects. Accordingly the proposal does not constitute EIA development requiring the submission of an Environmental Statement.

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

- Principle of development within the Green Belt
- Benefits of Renewable Energy
- Footpaths
- Loss of Agricultural Land
- Impact on the setting of a Heritage Asset
- Highways issues
- Residential amenity
- Landscape impact

Planning Assessment

Principle of development within the Green Belt

The main issue is whether or not the proposed development would constitute inappropriate development in the Green Belt in terms of impacts on its openness, visual amenity and effect on the character and appearance of the area, and if so, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

A core planning principle within the NPPF paragraph 17 is to:-

“take account of the difference roles and character of difference areas, promoting the vitality of our main urban areas, protecting Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it”.

The NPPF in paragraph 98 advises that Local Planning Authorities should recognise that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions. It goes on to state that applications should be approved if its impacts are (or can be made) acceptable.

Paragraph 79 of the NPPF states that *“The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence”.*

Paragraph 88 of the NPPF states that *“when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”.*

An Inspector for an appeal in Bath (APP/F0114/A/13/2198715) for a solar scheme considered that the proposed development *“did not come within any of the paragraph 89 exceptions, but it might be argued to constitute “engineering operations”, one of the five other categories of development addressed by paragraph 90”.* However, the inspector considered it *“important to note that paragraph’s specific provision that these other forms of development will only be “not inappropriate” if they preserve the openness of the Green Belt, and do not conflict with the purposes of including land in the Green Belt”.*

Paragraph 91 of the NPPF states that *“when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources”.*

In a recent appeal decision (APP/C3620/W/14/3002006) in Beare Green in Surrey the Inspector stated that *“openness can be defined as lack of built form. The presence of the buildings, the fencing, the CCTV poles and the solar panels themselves in a very rural landscape would, in my view, have a significantly harmful effect on the openness of the Green Belt”.* In another recent appeal decision in

Corbridge (APP/P2935/A/14/2226878) an Inspector noted that the “*NPPF makes it clear that the essential characteristic of Green Belt is their openness and permanence and so any reduction in these characteristics would also be harmful*”.

The Local Plan Green Belt Policy 4 is considered relevant to the determination of this application. Green Belt Policy 4 states that “*planning permission will not be granted for development of an urban character, such as industry, commerce, office development and retailing in the Green Belt*”.

This area of Green Belt is particularly narrow where it separates Newhall from Stapenhill Green Belt, is undulating and is of great importance in terms of planning settlement separation and retention of rural character. Fields A, B and C slope down from Sunnyside to the west and are highly visible along the northern section of Sunnyside. They are open in character and viewed in context with further Green Belt land to the south west. Views can also be obtained of Field C from Main Street. The urbanising effect of the whole of fields B and C is considered to be significant when viewed from adjacent to 70 and 110 Sunnyside. The impact of field A is less significant due to the fact that a smaller proportion of the field is taken up with the development and the section of field is fairly flat. However, these three fields taken as a whole from the viewpoints identified would have a detrimental impact on the openness of the Green Belt and by virtue of its scale and location, would make it a conspicuous development, out of character with the rural landscape.

Fields E, D and F differ slightly in their context. Field E no longer proposes any solar arrays within it and only a track through the southern part of the field to provide access to Field D is now proposed. Field E was amended based on advice from the Conservation Officer that the solar panels within this field would have a significant impact on the setting of the heritage asset of the Bretby brick & stoneware bottle kiln and attached factory which is Grade II listed. Long distance views of Field F looking south east from Brizlincote Hall Farm can be obtained and the greatest impact of this field is the impact on footpath 89 that dissects the field.

On a planning policy basis, the urbanising effect of these 5 fields, amounting to 7.45 hectares of Green Belt land in this urban fringe area (UK's smallest green belt in terms of land area) with any reduction in size having a qualitative harm on the openness of the Green Belt and thus comprises inappropriate development, and the “very special circumstances” needed to justify granting planning permission for inappropriate development in the Green Belt do not exist, contrary to Local Plan Green Belt Policies 4 and 6 and NPPF paragraphs 87,88, 89 and 91.

Benefits of Renewable Energy

The proposal would generate 2,898,000 KWh of electricity per annum and on the basis that on average the energy consumption of a 3 bedroom house is 4,200 kWh, it could provide power for approximately 500 homes.

The NPPF in relation to renewable energy states in paragraph 96 that “*In determining planning applications, local planning authorities should expect new development to:*

- *comply with adopted Local Plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the*

applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and

- *take account of landform, layout, building orientation,*

The proposal, on undulating fields within a narrow section of Green Belt is not considered to take into account the landform.

NPPF paragraph 98 states that when determining planning applications, local planning authorities should:

- *not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and*
- *approve the application if its impacts are (or can be made) acceptable.*

The mitigation of replacement hedge planting and proposed landscape buffer is not considered adequate to significantly reduce the harm to the openness of the Green Belt.

It is acknowledged that this proposal would generate power for approximately 500 homes which would contribute to cutting greenhouse gas emissions and help to achieve local and national targets for renewable energy. These are important environmental benefits which carry substantial weight. However, A Communities and Local Government Ministerial Statement in March 2015 stated that “*meeting our energy goals should not be used to justify the wrong development in the wrong location*”.

Footpaths

Swadlincote Footpath 89 crosses Field F from N to S, Swadlincote FP 84 abuts the Northern boundary & Swadlincote FP87 abuts the Eastern boundary of Field D, Swadlincote FP 88 abuts the Eastern Boundary of Field C and footpath 85 runs along Sunnyside and the northern boundary of Field F. The proposal would thus have a significant impact on the amenity of these routes.

Recreation and Tourism Policy 8 requires protection of the existing network of footpaths and bridleways and states that new development will not be permitted unless established routes are safeguarded or suitable alternatives are provided. The original proposal indicated solar panels covering the whole of field F and this has since been amended to provide a 75m in length route through the field with the 1.9m perimeter fencing either side of the path.

The submitted Planning Policy Statement Addendum in paragraph 7 states that “*one option is to maintain the right of way on its current alignment, by fencing it off from the solar arrays to either side. However, this would necessitate security fencing on both sides of the right of way, which would not be the ideal solution in terms of the character and attractiveness of the route*”. Possible diversion routes were considered in this document, however, no diversion has been proposed.

An Inspector for an appeal in Bath (Jan 2014 - APP/F0114/A/13/2198715) assessed a solar proposal in terms of the impact on footpaths and considered that “*users of*

this section of the footpath would have close-range views of the solar panels, which would largely obscure longer range views of the countryside”.

The Inspector went on to add that the proposed development would “*fundamentally alter users’ experience of this section of the footpath; rather than a walk through an undeveloped field with extensive open views of the countryside beyond, it would become a walk through an imposing array of man-made infrastructure in the early years of the development”.*

An Inspector for an appeal in Chorley in November 2014 (APP/D2320/A/14/2222025) considered that in relation to visual harm “*the harm would be unacceptable because the development, particularly for walkers on footpaths, who are regarded to be in the highest category of sensitivity to the visual effect of development, would have an incongruous and inappropriate appearance that would be alien to its countryside location”.* The submitted LVIA considered that the development would have a low significance on users of the footpaths which appears to be at odds with these recent appeal decisions. The proposal is considered to have a significant adverse impact on the visual amenity of these five routes through the countryside, whereby, the paths would be in close proximity to the solar arrays and views of the surrounding countryside would be obscured by the development and paths reduced to narrow tunnels between fencing or hedging.

Loss of Agricultural Land

A Communities and Local Government Ministerial Statement in March 2015 stated, amongst other things, that one factor when Local Planning Authorities are considering applications relating to large scale ground mounted solar photovoltaic farms includes “*making effective use of previously developed land and, where a proposal involves agricultural land, being quite clear this is necessary and that poorer quality land is to be used in preference to land of a higher quality”.*

The submitted Design and Access statement states that the agricultural land classification mapping identifies the site as being of being Grade 3 (good to moderate) and 4 (poor) quality. It also states that the area is “predominantly Grade 3 with some grade 2 and grade 4 land”. A recent request for breakdowns of percentages of the different grades of land has confirmed that it is grade 4 but no breakdown supplied. The scale of the map (1:250,000) is such that it is unclear and without the percentages there is inadequate information to assess whether the loss of the agricultural land is justified. An Agricultural Land Classification (ALC) survey has not been undertaken nor an Assessment of Alternative Sites.

Impact on the setting of a Heritage Asset

Bretby brick & stoneware bottle kiln and attached factory were Grade II listed in 1975. It is late c19. red brick with plain tile roofs. The impact on this heritage asset has been significantly reduced by the removal of Field E from the scheme. The nearest Field F would not have a significant adverse impact on the setting of the heritage asset due to the existing screening along footpath 85 to the west and thus the solar arrays would not be visible in the same context as these buildings.

Highways issues

The proposed development involves utilising an existing access onto Park Road and the creation / improvement of tracks between fields. It would take approximately 8 weeks to construct. No route to the A511 or Sunnyside is proposed. The Highways Authority has no objection to the scheme in terms of highway safety and thus the proposal accords with Local Plan Policy T6 and NPPF paragraph 32.

Residential amenity

Field D is located immediately to the east of 23 residential properties on Sunnyside. The 1.9m high perimeter fencing would be 25m from the rear boundaries of the properties and panels would be on average 50-55 m from the rear elevations of the properties. Possible woodland planting is proposed in mitigation. In terms of potential for glint and glare, the glass surface of the solar panels is specifically designed to absorb rather than reflect light, and so is not reflective in the same way as a mirror or window. The panels would be angled to face south, to maximise solar collection, and their backs would be painted black. The residential properties from which the proposed panels on field D would be visible may be likely to experience some adverse impact from glint and glare, since they lie to the south-west of the site. The potential for public views to be adversely affected by glint or glare may be limited to the sections of the public right of ways that dissects site F and runs adjacent to the field boundaries of the site. However, the occasional glimpses available from the wider network of footpaths and bridleways may be likely to give rise to adverse impacts. The Design and Access statement states in paragraph 29 'it will not cause glare issues'. This is insufficient to assess impacts on residential properties to the south east.

PPG on Renewable and Low Carbon Energy states LPA's need to consider "the proposal's visual impact, the effect on landscape of glint and glare (see guidance on landscape assessment) and on neighbouring uses and aircraft safety". The originally submitted LVIA states on glare that "the PV panels are designed to absorb rather than reflect light. Reflection is likely to be around 2% - significantly less than other building materials. Glare is therefore not considered to be an issue in terms of landscape and visual effects". The Revised LVIA does not mention this impact. It therefore considered that there is not sufficient evidence to confirm if the glint and glare impacts would be considered significant or adverse.

Landscape

Planning Practice Guidance on Renewable and low carbon energy states that "*The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively*".

It is considered both the LVIA and the addendum downplay the adverse impact of the new solar arrays which would appear to be 'man-made' and alien to this urban fringe countryside. The addendum report submitted concludes "...the proposals will give rise to an effect of Moderate to Minor Adverse significance. "...This is not considered significant" clearly contradicts the LVIA defined thresholds for significance provided. All assessments show that the solar arrays would not only be

visible to users of footpaths immediately adjacent to the solar panels but would be visible to users of other footpaths, residents and the wider community.

The nature of the topography means that there will be very clear views down into Fields A, B and C from dwellings on Sunnyside and the local public footpath system. Field D lies on the crest of the hill and is open to clear views from the rear of the properties along Sunnyside. Two of three sides of this field have a public footpath running along them with very much a rural character with open grass field with boundary hedges and occasional views of other fields and woodlands. Field F has a public footpath running through it and along its northern boundary. The proposed development would clearly lead to a reduction in visual amenity and quality of 'countryside walk' experience for users of this network of Public Footpaths.

Mitigation proposed includes a 30m woodland belt to the rear of properties on Sunnyside, 10m woodland planting belts to break up the impact of Fields A, B and C and filling in gaps in existing hedges and creation of deeper landscape belts. However, it is considered that these mitigation measures in no way counter the problem of reduction in openness or the principal of harmful visual impact of such built development.

An appeal in Chorley (APP/D2320/A/14/2222025) in November 2014 considered that "additional planting could effectively screen the development but would itself be visually intrusive by undermining open views across the site. Furthermore, vegetation, even if standard plants are used, would take some years to become effective. In the interim there would be clear views from the footpaths and residential properties of the many rows of solar panels".

The LVIA appears to correctly indicate the large 'zone of visual influence' but it downplays the adverse impact of the solar arrays in the Fields. The development will lead to an adverse change in landscape character and the loss of actual and perceived 'openness' of the countryside in this particular location.

Whilst some landscape changes can be beneficial, in this case the overall landscape impact change can only be described as harmful. The proposal therefore conflicts with one of the core planning principles within the NPPF paragraph 17 "recognising the intrinsic character and beauty of the countryside" and paragraph 109 "protecting and enhancing valued landscapes".

Conclusion

The erection of the solar panels and associated equipment would constitute an intrusion into the undeveloped countryside, and would clearly reduce the openness of the Green Belt. The proposed solar farm would not preserve openness, and would conflict with one of the five purposes of Green Belts set out at paragraph 80 of the NPPF, specifically "to assist in safeguarding the countryside from encroachment". It is therefore considered that it would constitute inappropriate development in the Green Belt and the "very special circumstances" needed to justify granting planning permission for inappropriate development in the Green Belt do not exist.

Substantial weight has been attributed to the harm it would cause to the openness of the Green Belt and the character and appearance of the area; and some weight to

the reduction in the amenity value of the public footpaths that cross the site. It is considered that the harmful impacts of the proposal would outweigh the benefits.

The green belt in this urban fringe area (UK's smallest green belt in terms of land area) is of great importance in terms of planning settlement separation and retention of rural character. The Green Belt is relatively narrow where it separates Newhall from Stapenhill and, importantly, is undulating. A key feature is the open character of these zones and any reduction in openness will be of qualitative harm to the Green Belt. The change from open fields in agricultural use to land fully or partly covered in regimented batteries of solar array panels, these being a man-made built form of development, will clearly result in a reduction in openness of the area.

The nature of the topography means that there will be very clear views down into Fields A, B and C from houses in Sunnyside and the well-used local public footpath system. Field D lies on the crest of the hill and is open to clear views from the rear of the properties along Sunnyside. Two of three sides of this field have a public footpath running along them with very much of a rural character. Field F has a public footpath running through it and along its northern boundary. It is considered that the development would demonstrably lead to a reduction in visual amenity and quality of 'countryside walk' experience for users of this network of public footpaths, which, as mentioned above is a very narrow area of green belt between two urban areas.

The justification for use of agricultural land is not considered sufficient as the breakdown in agricultural land classification has not been supplied, an Agricultural Land Classification (ALC) survey has not been undertaken nor an Assessment of Alternative Sites. In respect of residential amenity and glint and glare, adequate assessment has not been supplied.

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

Recommendation

REFUSE permission for the following reasons:

1. The site lies within the Burton-upon-Trent and Swadlincote Green Belt which, by way of its size and relative narrowness, is of particular importance in preventing the coalescence of the two settlements and encroachment of urban form into an otherwise wholly rural landscape. The proposed solar array and associated infrastructure would introduce a development of urban nature and form within the Green Belt, representing inappropriate development in principle, contrary to the primary aim of monitoring the unrestricted sprawl of large built-up areas and assisting in safeguarding the countryside from encroachment. Whilst the need for renewable energy projects is recognised and encouraged within the District, this need does not automatically override all other considerations. It is considered that the very special circumstances do not exist to clearly outweigh the harm by reason of inappropriateness, and any other harm, brought about. The proposal is therefore contrary to saved Green Belt Policy 4 of the South Derbyshire Local Plan 1998 (LP1998) and paragraphs 17 and 87, 88 and 91 of the National Planning Policy Framework

(NPPF), not representing a balanced approach to sustainable development due to the degree of environmental and social harm arising.

2. The topography of the site means that there would be unobstructed views down into Fields A, B and C from dwellings and the well-used local public footpath system. Field D lies on the crest of the hill and is open to clear views from the rear of the properties along Sunnyside. Two of three sides of this field have a public footpath running along them with very much a rural character. Field F has a public footpath running through it and along its northern boundary. It is considered that the development would demonstrably lead to a reduction in visual amenity and quality of 'countryside walk' experience for users of this network of public footpaths, which, is a very narrow area of green belt between two urban areas. The proposed solar array and associated infrastructure would introduce development of urban nature and form into the landscape. It is therefore considered the harm arising would be significantly adverse on both landscape character and the visual appreciation of the site, significantly and demonstrably outweighing the benefits arising from renewable energy generation. The proposal is therefore contrary to saved Environment Policy 1 of the LP1998 and paragraphs 17 and 109 of the NPPF, not representing a balanced approach to sustainable development due to the degree of environmental and social harm arising.

Informatives:

Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner by considering whether the application could be amended satisfactorily. However despite such efforts, the planning objections and issues, being of fundamental nature in this particular instance are not capable of being satisfactorily addressed. 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.

Item **2.3**

Reg. No. **9/2015/0948/NO**

Applicant:
Mr Rob Wilson
Chase House
Park Plaza
Heath Hayes
Cannock
WS12 2DD

Agent:
Mr Rob Wilson
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Park Plaza
Heath Hayes
Cannock
WS12 2DD

Proposal: **THE CREATION OF A TEMPORARY VEHICULAR
ACCESS TO PLOTS 476-499 ON LAND OFF STENSON
ROAD STENSON FIELDS DERBY**

Ward: **STENSON**

Valid Date: **07/10/2015**

Reason for committee determination

This application has been called to committee by Councillor David Shepherd due to local concern expressed about the application and the unusual site circumstances that should be considered by the committee.

Site Description

The proposed access is located on Stenson Road at the northernmost edge of the Stenson Fields Farm Development. The application site consists of a dropped kerb which would provide access to plots 476-499 of the development. Stenson Road is defined with dense hedgerows to both sides which abut up to the highway, with no pedestrian walkways directly along the carriageway. The only footpath in the vicinity is located behind a dense hedgerow to the east of the highway which cannot be accessed directly from the application site.

Proposal

This is a retrospective application for the retention of an existing dropped kerb vehicle access that has been created to give temporary access to plots 476-499 at the northernmost point of the site. Due to construction works still ongoing in the south of the development, it was considered by the applicant that it would be unsafe for current occupiers to use the approved accesses to the south of the site whilst construction works are taking place there.

THE SITE

MP 3

52.4m

SERWICK DRIVE

GLENMORE DRIVE

N

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South Derbyshire District Council. LA 100019461. 2014

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Planning History

- 9/2007/0020 – Outline application for residential development (all matters to be reserved) including the erection of a community building and the formation of roads and open space - Refused – 16/02/2007 – Allowed at appeal
- 9/2011/0484 - Application for planning permission to extend the time limit for implementation of outline planning permission 9/2007/0020 (Appeal ref: APP/F1040/A/07/2038653): Proposed residential development, community building, roads and open space – Approved with conditions - 04/01/2012
- 9/2012/0039 - Approval of reserved matters of application 9/2011/0484 for the development of 487 dwellings, community building, roads and open space – Approved with conditions – 21/02/2013
- 9/2012/0555 - The variation of conditions 24,25,29 & 30 of planning permission 9/2011/0484/mr relating to off-site highway works, site access, code for sustainable homes and on-site renewables – Approved with conditions – 21/02/2013

Responses to Consultations

The County Highways Authority has noted that Stenson Road is a classified road subject to a 40mph speed limit and that the carriageway is bounded by a hedge on each side with negligible verge. It notes that the proposed access provides no pedestrian facilities on the western side of Stenson Road and the footway on the eastern side is located behind the hedgerow. Its primary concern is the use of the access by pedestrians who, due to the lack of footways on Stenson Road, would be required to walk in the carriageway with the likely consequence of conflict with vehicular traffic. In addition, the proposed access would need to be provided with visibility sightlines of 2.4m x 120m. Whilst it is noted that this may be possible and could be achieved using land under the applicant's control, it would require the removal of a considerable length of the fronting hedgerow. It is considered that the visibility requirement of 2.4m x 120m sightlines in each direction can be controlled by condition and, if planning permission were to be granted, a condition to this effect should be included. However, the Highway Authority, therefore, considers that approval of the proposal as submitted, due to the lack of footways, would require pedestrians to walk in the carriageway with the likelihood of conflict with vehicular traffic contrary to the best interests of their safety. On the basis of this, refusal of the application is recommended.

Responses to Publicity

There have been two comments received from neighbours objecting to the application and raising the following issues:

- a) The application is retrospective.
- b) There has been no confirmation of how long the proposed temporary access will be used.

- c) The Police should be consulted about the safety of the junction.
- d) Stenson Field Parish Council should have been notified about the application.
- e) Measures need to be put in place to prevent pedestrians using the junction and attempting to cross, as there is no crossing point for pedestrians and it is not safe for pedestrians to use this junction.
- f) Speed limit signs should be in place at the junction.
- g) The position of the access will create an accident hot-spot as Stenson Road is very busy.
- h) The access will become a short cut for traffic entering and leaving the estate, how can this be prevented and controlled?
- i) Traffic turning right into the development will cause a back log of traffic on an already busy road over the railway bridge.
- j) There will be limited visibility for traffic that leaves the site using this access.
- k) It is a dangerous place to create an access at this point on a busy road.

There has been one objection received from County Councillor Rob Davison raising the following issues:

- a) The access is not allocated at a good location between the Stenson Road/Wragley Way roundabout (to the south) and the one-way traffic controlled bridge to the north.
- b) The access will add to the congestion in the area as people turn into and out of the new estate.
- c) It is unrealistic that this will be a temporary permission for 6 months and could result in an open-ended permission.
- d) The longer that the temporary/ shorter route is used by future residents, the more they will want it to be permanent.
- e) Unsure why a more suitable access was not incorporated into the original application at the Grampian Way/Stenson Road roundabout. It results driving south to drive back in a north direction again,

Development Plan Policies

The relevant policies are:

South Derbyshire Local Plan 1998: Transport Policy 6

Emerging Development Plan Policies (Submission Local Plan Part One) include: S2 – Presumption in Favour of Sustainable Development

National Guidance

National Planning Policy Framework (NPPF) paragraphs 9, 14, 17, 32, 56 and 57

National Planning Policy Guidance (NPPG) ID 26, 42 and 54

Planning Considerations

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

- The position of the access
- The provision of adequate visibility splays
- The provision of pedestrian access

Planning Assessment

The position of the access

Policy T6 of the Local Plan specifies that access provision should be appropriate and not interfere with the free and safe flow of traffic, in addition it is highlighted within paragraph 32 of the NPPF that a means of access should be suitable and safe for all road users. There have been concerns raised by local residents with regard to the increase in traffic at one of the busiest points on Stenson Road and in such close proximity to the traffic light junction over the railway bridge. In addition, there have also been concerns raised regarding the congestion that would be created by traffic turning right into the development and the potential for the back log of cars down Stenson Road. However, on the advice of the Highway Authority there are no technical or safety reasons why as temporary access could not be located here but for the issues raised below.

The position of adequate visibility splays

The application, as submitted, does not demonstrate the necessary visibility sightlines of 2.4m x 120m. This is the required level of visibility to give traffic exiting the site sufficient view of on-coming traffic to exit the proposed access safely.

Whilst there may be the potential to accommodate this, it would cause the substantial removal of the existing hedgerow to either side of the access. The hedgerow was retained as part of the approved landscaping scheme for the wider Stenson Fields development, not only would its removal contravene this, it would also result in a heightened urbanising effect and a long term detrimental impact to the visual amenity of the area which would not be out-weighed by the creation of the temporary access. It is therefore considered that this level of mature hedgerow removal would be unacceptable.

The provision of pedestrian access

Whilst the proposed access has been created for the use of vehicles, there are no safe pedestrian facilities available. The development would result in pedestrians exiting the site onto a 40mph road, with no crossing point to the other side, or a footway to walk down and could lead to pedestrians coming into conflict with the moving traffic on Stenson Road. On the basis that there is mature hedgerow on both sides of the highway with minimal verge, the subsequent creation of a pedestrian facility would result in the loss of hedgerow along both sides of the highway.

Conclusion

The proposed access as submitted does not provide the minimum level of visibility to give drivers and pedestrians a sufficient view of oncoming traffic when using the proposed access (2.4m x 120m). In order to overcome this, it would involve the removal of a substantial amount of hedgerow. This, in combination with the lack of pedestrian facilities (i.e. the lack of a crossing to the other side of the road and any footway), raises issues that are too significant to be overcome by condition. It is deemed that the removal of hedgerow to both sides of Stenson Road to facilitate to

temporary access would create lasting harm which would not be outweighed by any benefit brought about by the temporary access.

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

1. That the Committee authorise the Planning Services Manager to serve a Temporary Stop Notice to prevent the continued use of the access and pursue all other means to ensure that this is maintained in perpetuity; and
2. **REFUSE** permission for the following reason:
 1. The access fails to provide a visibility requirement of 2.4m x 120m sightlines in each direction and therefore the development fails to provide an adequate and safe access for all people. There are no pedestrian facilities available to pedestrians exiting the site and no provision for pedestrian traffic. Due to the lack of footways, this would require pedestrians to walk in the carriageway with the likelihood of conflict with vehicular traffic contrary to the best interests of their safety. This would cause interference with the free and safe flow of traffic along Stenson Road and would fail to provide a suitable and safe access for all people. The access therefore fails to comply with policy T6 of the Districts Local Plan and paragraph 32 of the National Planning Policy Framework.

Informatives:

Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner by considering whether the application could be amended satisfactorily. However despite such efforts, the planning objections and issues, being of fundamental nature in this particular instance are not capable of being satisfactorily addressed. 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.