

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

## **Section 1: Planning Applications**

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

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## 1. Planning Applications

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

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
<a href="#">DMPA/2021/0756</a>	<a href="#">1.1</a>	Linton	Linton	15
<a href="#">DMPA/2020/0533</a>	<a href="#">1.2</a>	Melbourne	Melbourne	25
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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

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

## Glossary of terms

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

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

**Item No.** 1.1

**Ref. No.** [DMPA/2021/0756](#)

**Valid date:** 15/06/2021

**Applicant:** M Berwick

**Agent:** Turner & Co. Consulting Ltd

**Proposal:** **The erection of 3 no. detached dwellings, extensions and alterations to the existing bungalow and the erection of a detached double garage at 53 Cauldwell Road, Linton, Swadlincote, DE12 6RX**

**Ward:** Linton

*Additional wording is included in italics*

### **Reason for committee determination**

*Members had voted to approve the application at the January meeting, with an additional condition requiring the first floor, east (side) window of the dwelling on plot 3 to be obscurely glazed and fixed shut (this has been added as condition 15). However, this item is presented to the Committee again as a late comment from Councillor Pegg was not read out at the January meeting. The application was first presented to Committee in December at the request of Councillor Dan Pegg as local concern has been expressed about a particular issue. It was deferred from December committee for a site visit.*

### **Site Description**

The application site is within the village of Linton and comprises an area of land of approximately 2200 square metres. It is located on the southern side of Cauldwell Road, 45m west of the junction with Warren Drive and is the first property on Cauldwell Road when travelling in an easterly direction. The application site is roughly triangular in shape, with a 40m wide frontage to Cauldwell Road and a depth of 70m at the longest point, which is along the western boundary of the site. The site appears flat, with no obvious change in land levels across the site or when compared to that of the neighbouring land and properties that surround the site. The site currently comprises a large detached bungalow, which is sited in the south west corner of the site and is set back 26m from the highway edge, it has a fenced rear garden and also benefits from a large detached garage. It is constructed from red brick with a tiled gable roof, there is off street parking at the front and side of the dwelling, with access off Cauldwell Road via a large set of entrance gates. As well as having a good sized rear garden, there are also large areas of undeveloped land to the front and side of the dwelling, which are mostly covered by grass and low level vegetation. The site is bound by residential properties to the eastern side and to the rear, the land to the west and the northern side of Cauldwell Road, is arable/grazing land. There is a public right of way (Footpath No.14 - Linton Parish) which runs along the entire eastern boundary of the site and along part of the southern boundary and provides pedestrian access from Cauldwell Road to the newly built housing site at the rear of the site. It is noted though that the correct alignment of the footpath passes through the site, although based on historic satellite images it would appear that it has not passed through the site for many years.

### **The proposal**

The proposal is for full planning permission for the erection of three detached two storey dwellings, the erection of two-storey extensions and alterations to the existing bungalow on site (No.53 Cauldwell Road) and the erection of a detached double garage to serve the existing property. The proposal utilises the existing vehicular access for No.53 which is to be modified in order to accommodate three further dwellings.

**DMPA/2021/0756 - 53 Cauldwell Road, Linton, Swadlincote DE12 6RX**



**South Derbyshire**  
District Council

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South Derbyshire District Council. LA 100019461.2020

## **Applicant's supporting information**

The Bat Emergence Surveys found there is no evidence of bats using the site as a place of shelter and no evidence of birds nesting in the building. There are also considered to be no roosting opportunities for bats in the dwelling or the garage.

The Design and Access Statement seeks to demonstrate the design principles and concepts that underpin the development proposals indicating how the scheme will contribute towards the creation of a high-quality sustainable development that will enhance the existing properties.

## **Relevant planning history**

9/2018/0468 Outline application (all matters except for access to be reserved) for the residential development of two dwellings, altered access, parking and turning for the new dwellings and the formation of a new access for the existing dwelling - Approved July 2018

## **Responses to consultations and publicity**

The County Highway Authority consider that the issues raised in the Highway Authority's previous response dated 19 July 2021 have now been addressed and there are now no objections to the proposal from the highway point of view subject to conditions being included in any consent in the interests of highway safety.

Derbyshire Wildlife Trust advise that the report submitted presents the results of an inspection and assessment of the existing buildings on-site carried out on 4th October 2021. No evidence of roosting bats or nesting birds was found during the inspection and the buildings were concluded to have no suitable access or roosting features for bats. Advise that sufficient information in respect of protected species has now been submitted to enable the Authority to determine the application in the knowledge that the proposed development is unlikely to impact on protected species and no further surveys are considered necessary. They fully support the recommendation in the report for the incorporation of bat enhancement measures within the development to enhance the local bat population. Such measures will enable the development to achieve a net gain for biodiversity in line with the objectives of the National Planning Policy Framework and policy BNE3 of the South Derbyshire Local Plan.

The Environment Agency note that the site is located fully within flood zone 1 and therefore have no fluvial flood risk concerns associated with the site. Considered that there are no other environmental constraints associated with the site and therefore have no further comment to make.

Environmental Health advise that there are no concerns or comments about the implications of this proposed development.

The Peak and Northern Footpaths Society object to the application as there is no mention in any of the documents of the fact that a public footpath, FP14 Linton, crosses the application site. The working definitive map on the county council's web site shows this FP passing across Plot 3 of the development. It is essential that the applicant and the planning officers consult DCC to ascertain if this is the correct definitive line of the FP. Since the dwelling on plot 3 would obstruct the FP, if planning permission were granted, the path must be legally diverted before it is obstructed. Provided that a suitable diverted route can be found, they would not object to the development.

Natural England has no comments to make on this application.

The County Rights of Way Officer notes that the alignment of Linton Public Footpath 14 passes through the proposed development as per the attached plan. In order for the development to proceed, the path will need to be diverted.

Linton Parish Council have no objection to this application.

Derby and South Derbyshire Ramblers object to the proposal as no consideration has been given to

the diversion of Linton Footpath 14. The application must show how and where Footpath 14 had been diverted, alternatively the layout is re-designed to accommodate Footpath 14 on its existing line.

*Councillor Pegg My original statement still stands regarding this deferred application and I hope that now you have had a site visit it will be clearer the issues that the neighbour at number 51 has brought to me regarding this and the issues that I originally raised. I hope that members can see this and make the correct decision.*

*Unless drastic changes have been made to the plans regarding the size of the development and the privacy and highways issues, I still do not have any support for this application, and I stand with the neighbour at number 51 regarding all the original concerns that were addressed also in the neighbour's statement.*

*Communication to anything is key and I feel that if there had been better communication from the start regarding the plans etc then there could have been a more amicable solution between the developer and the neighbour at number 51. I hope that this is something that can of course happen if permission is not granted.*

One objection has been received, raising the following comments:

- a) Privacy and quiet enjoyment of neighbouring home and garden are being further threatened.
- b) Concerns of overlooking into neighbouring garden.
- c) When considering the additional conversion of the existing bungalow into a two storey house, in effect this would become another mini housing estate.
- d) Concern raised over the scale of development as it will be an intrusion into the countryside by changing the nature of a housing plot right on the edge of the village.
- e) Concerns over the impact the proposed development would have on any future housing development proposals on the edge of the village.
- f) Concerned that approval would add weight to any future proposals to intrude further into the countryside, and make it more difficult for the Council to reject such proposals.
- g) Question whether it should be acceptable and appropriate for the site of a single bungalow, albeit with a reasonably-sized garden, but right on the edge of the village (and which currently very clearly identifies the transition from the built-up village to the countryside), to be developed to the scale proposed?
- h) Important to preserve the green spaces which residential gardens provide within a community - the open aspect of the neighbourhood? The National Planning Policy Framework 2012 (paragraph 53) certainly emphasises this point when it said that LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens.
- i) Objections over loss of privacy and degree of overlooking which this development will bring about for neighbouring property. Two of these houses will be built a few metres from the boundary and the rear elevation of these houses will look directly into the neighbouring garden, particularly at first-floor level.
- j) Understood that there is a right to quiet and private enjoyment of garden - this will most certainly be compromised should this development be permitted.
- k) SDDC's Design Guidance (Nov 17 BNE1) says that 'new development should not have an undue adverse effect on the privacy and amenity of existing nearby residents or occupiers'.

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

The relevant Development Plan policies are:

Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport) and INF8 (The National Forest).

Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development) and BNE7 (Trees, Woodland and Hedgerows)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

### **Planning considerations**

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

- Principle of Development;
- Design and Visual Impact;
- Neighbouring Amenity;
- Highway Safety;
- Biodiversity; and
- Other Issues.

### **Planning assessment**

#### Principle of Development

The site is located within Linton's defined settlement boundary, which is a 'Key Service Village' as identified by Policies H1 and SDT1. Within key service villages, development of all sizes within the settlement boundary will be considered appropriate. The site is within a built up residential area, with neighbouring dwellings on one side and to the rear and the three proposed dwellings are all within the grounds of an existing dwelling. The principle of the proposed development for the erection of three new dwellings on the site is considered to be acceptable, appropriate development as it is compliant with Policies H1 and SDT1 (which sets the settlement boundary) i.e. new development within the settlement boundary.

#### Design and Visual Impact

Policy BNE1 expects all new development to be well designed, embrace the principles of sustainable development, encourage healthy lifestyles and enhance people's quality of life; the Council's Design SPD supports this policy with further detail. The proposal looks to erect three detached two-storey dwellings in the grounds of an existing bungalow. The garden of the bungalow is unusually large in size for the size of the host dwelling and its location on the edge of the village, especially when considering the size of the neighbouring plots and their gardens. The site also features a number of mature trees and vegetation along its boundaries.

There is a previous outline planning permission for the site which proposed the retention of the existing bungalow and the construction of two new dwellings within the front garden of the plot (9/2018/0468). The proposed dwellings are to be sited where the previously approved new dwellings would have been located, although an additional dwelling has now been added which replaces an existing garage which is to be demolished.

In relation to impacts on the street scene, the site is clearly visible from the public realm, with clear views into the front of the site available along Cauldwell Road. The proposed layout shows that the development would form a curved line of four dwellings all fronting the highway and utilising the same access off Cauldwell Road, with vehicle parking provided at the front of each dwelling. The dwellings

are to be set back into the site from the highway edge, with plot 3 being the closest dwelling to the highway with a separation distance of 10m. The building line and separation from the highway is in accordance with the existing built form along Cauldwell Road to the east. The surrounding dwellings along Cauldwell Road to the east are similar in character and design, being mostly two storey dwellings which sit centrally on good sized plots with off street parking provision at the front, with roof types being grey tiled box gables and built from red bricks.

The three new dwellings and the existing bungalow which is to be extended and converted would all be two storey and are similar in size and character. It is therefore considered that they would suitably fit within the existing street scene along Cauldwell Road. It is also considered that the proposed use of two storey dwellings would be most appropriate in character terms as proposed, as it would relate to the existing dwellings along Cauldwell Road to the east and the newly built dwellings to the rear of the site which are visible when travelling along Cauldwell Road and therefore relate to the site. The proposed dwellings and the alterations to the existing dwelling would appear similar in appearance, scale and massing to the existing dwellings. The proposed orientation of the dwellings fronting Cauldwell Road provides good integration with the neighbouring dwellings. The proposed elevations detail the proposed facing materials for all of the dwellings, with two dwellings proposed in render and the other being a red multi brick, Forticrete Gemini dark grey roof tiles are proposed throughout. This proposed use of facing materials is reflective of other properties within Linton and can be found throughout South Derbyshire and would provide a high quality appearance that also integrates well with the street scene. The proposal is therefore considered to comply with Policy BNE1 and the SPD in relation to its design and impact on the street scene.

### Neighbouring Amenity

Policy SD1 supports development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers. Policy BNE1 requires development to not cause demonstrable harm to neighbouring amenity. In relation to the impacts of the proposed development on the residential amenities of neighbouring occupiers that surround the site, there are dwellings to the eastern side of the application site and at the rear. In relation to the impact on the neighbouring dwelling, no. 51 Cauldwell Road to the east of the site, when measuring the 45 degree sector view from the closest ground floor primary window on both front and rear elevations of no.51, the closest proposed dwelling of plot 3 would not fall within either sector, therefore there are no concerns in regards to the amenity of their living space being demonstrably impacted as a result of the development in terms of overshadowing or overlooking. In regard to the impact on the amenity of their rear garden, in accordance with the SPD, outdoor space is assessed on the merits of each case. In built up residential areas such as this, most houses overlook neighbouring rear gardens to some extent, areas closest to main windows are where occupants most value privacy. The area directly at the rear of No.51, due to how the proposed dwellings would be sited, would not be directly overlooked from the first floor windows. In terms of the potential for their being an overbearance on the rear garden from the closest two storey dwelling of plot 3, there would be a separation distance of 7.5m from the rear elevation to the neighbouring boundary at the closest point, as such it is considered that this distance is sufficient to not be considered an overbearance on the garden.

In relation to the impact on neighbouring dwellings at the rear of the site to the south, No.1 Medham Avenue and No.40 Maitland Road are both orientated so that their side elevation would face the rear of the proposed dwellings and the existing dwelling which is to be extended, therefore there are no concerns in regards to their amenity being demonstrably impacted as a result of the development. In addition, there is a separation distance in excess of 23m which would also comply with the minimum distance requirements even if the rear of the property faced the rear of the proposed two-storey dwellings. When considering the impact each dwelling within the site would have on each other, all dwellings would comply with the requirements of the SPD, with no other dwelling falling within the 45 degree sector view when measured from ground floor windows.

The proposal would therefore comply with the minimum distance requirements as set out in the SPD when measured against all of the neighbouring dwellings that surround the site as detailed above. As such, it is considered that the proposed dwellings would not demonstrably impact the residential

amenities of neighbouring properties that surround the site and future occupiers within the site and therefore the proposal is considered to be compliant with Policies SD1, BNE1 and the minimum distances as set out in the SPD.

### Highway Safety

Vehicular access for the three proposed dwellings and the existing dwelling is proposed via the existing access point off Cauldwell Road, this access would be modified to make it slightly wider in order to safely accommodate all four dwellings and to achieve the necessary visibility splay lines, as assessed by the County Highway Authority. All four dwellings would be accessed off a small access road which turns into the centre of the site.

The proposal includes off street parking provision for each of the three new dwellings, with two spaces provided at the front of each dwelling and an additional space in the form of integral garages. Whilst the proposal includes the demolition of an existing double garage at the front of the existing bungalow, which is to be retained and extended, a new double garage is proposed at the front of this dwelling. The proposed layout shows that sufficient space can be provided within the site to ensure adequate parking and manoeuvring for at least two vehicles for all of the proposed dwellings and the existing dwelling which is therefore compliant with the parking guidance as set out in the Design Guide SPD, thereby minimising the risk that residents would park on Cauldwell Road. Vehicle movements generated by the proposal are unlikely to have a noticeably negative impact on the capacity of the wider highway network, with the proposal being within the settlement boundary and within an existing built up residential area. It is noted that the County Highway Authority have assessed the proposal from a highway safety perspective and have raised no objections to the proposal, subject to conditions. As such the access and parking proposed is considered suitable to facilitate three new dwellings on the site and would not adversely impact on highway safety to a point where it would reasonably justify refusal of the application. As such, the proposal complies with the requirements of Policy INF2 and the provisions of the NPPF.

### Biodiversity

A preliminary bat roost assessment has been carried out on the site as a result of the existing dwelling being extended and the existing garage being demolished. The surveys found that there was no evidence of bats using the dwelling or any outbuildings as a place of shelter. These findings have been assessed by Derbyshire Wildlife Trust, who have raised no objections based on this information being submitted, subject to the proposed bat mitigation and compensation as detailed within the report being secured via a suitable planning condition. On the basis of this, it is considered that the duty under the requirements of The Conservation of Habitats and Species Regulations 2017 has been discharged in order for an informed decision to be made and the proposal would therefore comply with Policy BNE3.

In regards to the impact the development would have on trees within the site, there are several mature trees on the site, all located on the site boundaries, predominantly at the front of the site. The only tree which has the potential to be impacted by the development is a sycamore tree within the north east corner of the site which would be 7m away from plot 3 at the closest point. Whilst it is unlikely that this tree would require removal in order to accommodate the new dwelling, if it did require removal, it is not considered that a tree preservation order could be justified in this case as the stem splits into three and therefore has a reduced life expectancy. In any case, a landscaping condition would be attached to any consent granted to ensure that additional tree planting on site is secured.

### Other Issues

As referenced in the site description, there is a public right of way (Footpath No.14 - Linton Parish) which runs along the entire eastern boundary of the site and along part of the southern boundary and provides pedestrian access from Cauldwell Road to the newly built housing site at the rear of the site. The impact the development would have on this footpath has been raised in a number of the consultation responses. The correct alignment of the footpath (according to the county mapping system), passes through the site, although based on historic satellite images, it would appear that the

footpath has not passed through the site for many years, if ever. Both the County Rights of Way Officer and the Highway Authority have raised no objections in regards to the impact on the footpath, but do require that the footpath is formally realigned so that it does not pass through the site. In order to ensure this is carried out, a condition would be attached to any consent granted.

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

## **Recommendation**

**Approve** subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with drawing numbers E001, P001 Rev A, P002 Rev A, P003 Rev A, P004 Rev A, P005, P006, P007 and P008 Rev A; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. Before any other operations are commenced, the Public Right of Way (Footpath 14 – Linton, as shown on the Derbyshire Definitive Map) which crosses the site and is affected by Plot 3 shall be diverted in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the public right of way remains in place and is formally diverted.

4. No development, including preparatory works, shall commence until the existing access to Cauldwell Road has been modified in accordance with Drawing No. P001 Rev A, having a minimum width of 5m and provided with visibility sightlines of 2.4m x 81m in the easterly direction and 2.4m x 160m to the west. The area forward of the sightlines shall be cleared and maintained throughout the lifetime of the development clear of any obstruction exceeding 1m in height (0.6m in the case of vegetation) relative to the nearside carriageway edge.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety, recognising that even initial preparatory works could bring about unacceptable impacts.

5. Prior to the first occupation of any new dwelling hereby permitted, three car parking spaces for each of the existing and proposed new dwellings plus manoeuvring space shall be provided within the site curtilage, laid out in accordance with Drawing No. P001 Rev A, surfaced in a solid bound material (i.e. not loose chippings) and maintained throughout the lifetime of the development free from any impediment to their designated use. Each of the car parking spaces shall measure at least 2.4m x 5.5m and the internal dimensions of each garage shall be 3m x 6m for a single and 6m x 6m for a double garage.

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

6. There shall be no gates or other barriers within 5m of the nearside highway boundary and any gates shall open inwards only.

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

7. Prior to the first occupation of any new dwelling hereby permitted, a bin collection point shall be provided on private land sufficient to accommodate two bins per dwelling for use on collection day. The bin collection point shall be maintained throughout the lifetime of the development free from any impediment to its designated use.

Reason: To ensure safe and suitable conditions are maintained on the public highway, in the interests of highway safety, and to ensure appropriate waste/refuse facilities are provided for the occupiers of the development.

8. The development shall be carried out in accordance with the bat and bird enhancement measures recommended and detailed in the Preliminary Bat Roost Assessment and Bird Survey report prepared by S. Christopher Smith dated 6th October 2021. The recommended enhancement measures shall be implemented as construction proceeds and completed prior to the first occupation of the development and retained as such thereafter.

Reason: In order to safeguard and enhance habitat on or adjacent to the site in order to secure an overall biodiversity gain.

9. Notwithstanding the plans hereby approved, prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwelling to which they serve is first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area and to ensure that all dwellings have a private outdoor amenity area.

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

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

11. Prior to the incorporation in to the dwellings and extensions hereby approved, details of the external appearance of eaves, verges, cills and headers shall be submitted to and approved in writing by the Local Planning Authority. The details shall include drawings to a minimum scale of 1:10. The eaves, verges, cills and headers shall be constructed in accordance with the approved drawings.

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

12. Prior to the first occupation of any new dwelling, a recharge point for electric vehicles shall be provided at a ratio of 1 charging point per dwelling with dedicated on plot parking. Individual charging points shall be provided with an IP65 rated domestic socket 13amp socket directly wired to the consumer unit with 32 amp cable to an appropriate RCD, located where it can later be changed to a 32amp EVCP. Shared charging points shall be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2. To

prepare for increased demand in future years suitable and appropriate cable provision shall be included in the scheme design in accordance with details first submitted to and approved in writing by the Local Planning Authority. Alternative provision to the above specification must be first submitted to and approved in writing by the Local Planning Authority. The electric vehicle charging point(s) shall be provided in accordance with the stated criteria and approved details prior to the first occupation of the respective dwelling and shall thereafter be maintained in working order and remain available for use throughout the life of the development.

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

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

Reason: To safeguard the amenities of nearby occupiers.

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

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

15. *The first floor, east (side) elevation window of plot 3 shall be fixed shut and obscurely glazed to Pilkington level 4 or 5 (or such equivalent glazing which shall first have been agreed in writing by the Local Planning Authority) and retained in this form for the lifetime of the development.*

*Reason: To safeguard the amenities of nearby occupiers.*

#### Informatives:

- a. Planning permission does not give you approval to work on the public highway. To carry out works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk), email [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk) telephone 01629 533190.
- b. The site is affected by a Public Right of Way (Footpath 14 in Parish of Linton 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. The location for building on Plot 3 obstructs the legal alignment of the footpath. Please note that the granting of planning permission is not consent to divert or obstruct a public right of way. The Footpath will need a permanent diversion in which case the Authority which determines the planning application (South Derbyshire District Council) has the powers to make the Diversion Order.

**Item No.** 1.2

**Ref. No.** [DMPA/2020/0533](#)

**Valid date:** 22/07/2020

**Applicant:** TBPA (Melbourne) Limited

**Agent:** David Granger Design Ltd

**Proposal:** **Demolition of existing industrial and office buildings (including Relevant Demolition Consent) and the erection of 9 dwellings, garaging and associated development, the provision of a GRP substation, pedestrian access to the adjacent public footpath and alterations to the adjacent boundary wall at Seymour House and Kendrick Mills, Chapel Street, Melbourne, Derby, DE73 8EH**

**Ward:** Melbourne

### **Reason for committee determination**

The development has resulted in an unresolved objection from the Council's Economic Development Officer. The application has been called-in to Committee by Cllr Hewlett due to concerns regarding the loss of employment, cramped appearance/too many dwellings and highway safety.

### **Site Description**

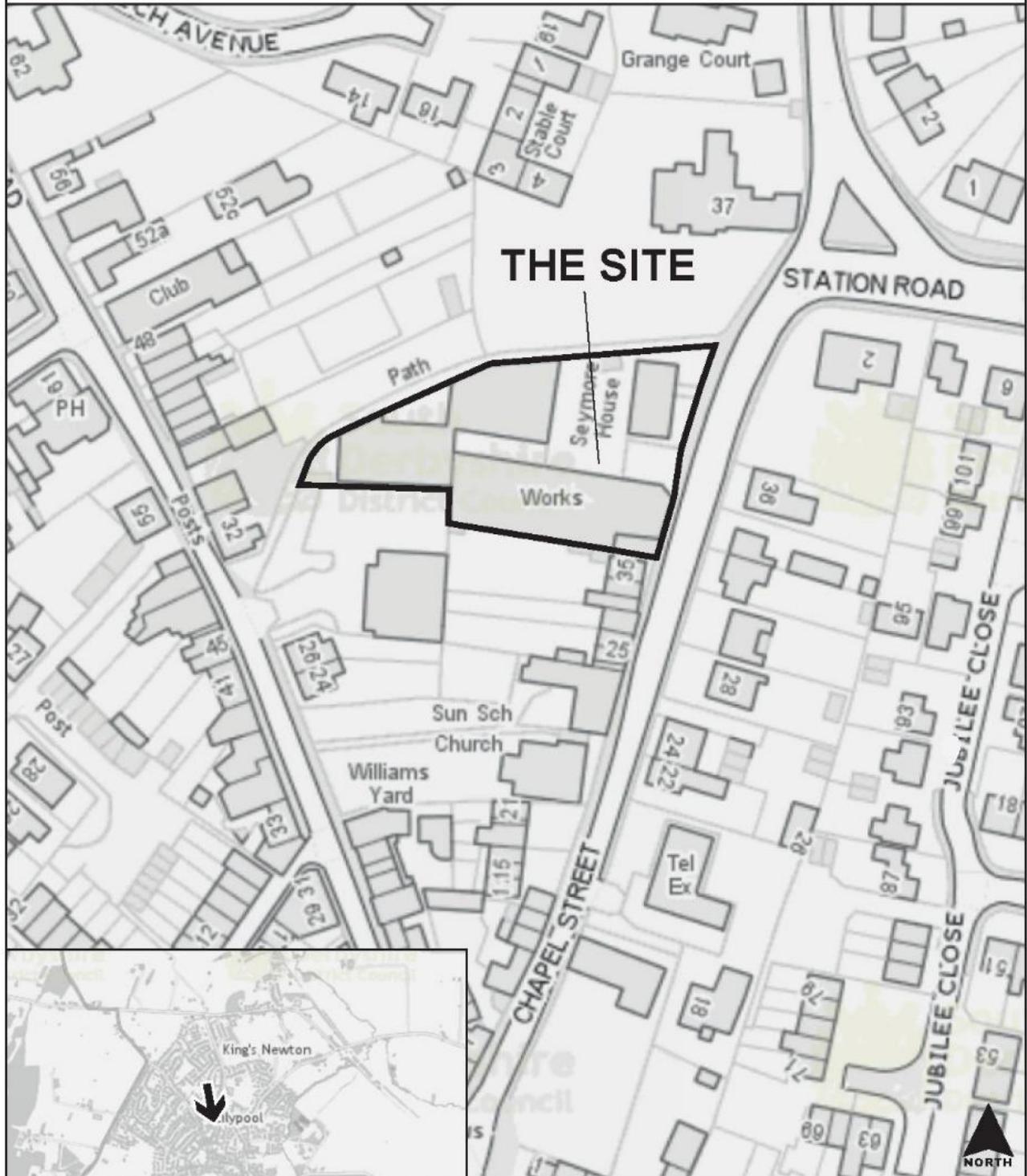
The site is roughly triangular in shape with a frontage to Chapel Street at its eastern end, narrowing to a point at the western end (which does not reach through to Derby Road). There is a public footpath on the northern boundary that links Chapel Street to Derby Road. The site is located within the Melbourne Conservation Area at the northern end of the village centre. The site is covered over in buildings with a small central yard served from an access at the centre of the Chapel Street frontage. Old industrial/warehouse buildings occupy the southern boundary and the western end of the site, with a modern brick-built two storey office in the north-east corner, fronting on to Chapel Street. The south-east corner of the Chapel Street frontage contains an electric sub-station contained within a simple brick structure, which is completely surrounded by the larger industrial building. Two modest areas of dense undergrowth exist at the western end of the site, although no mature trees. However, there are some trees within the site to the north beyond the right of way which impact on the site. At its eastern end, the site lies adjacent to a row of two storey traditional terraced properties on the Chapel Street frontage, and to the west, between Derby Road and the site is a historic mill building.

### **The proposal**

The proposal is for the total demolition of all the buildings on the site, and the relocation of the sub-station (currently on the Chapel Street frontage) into a GRP enclosure within a group of new garages (within the centre of the site). The site is to be redeveloped for a modest development of nine, two storey dwellings served from the existing central access on the Chapel Street frontage.

To the south of the access would be two detached houses facing on to Chapel Street and a terrace of three dwellings face Chapel Street. Within the site are four further detached houses, two parallel to the right of way on the northern boundary and two at the western end. At the centre of the site would be a garage court of two, three and four garages and parking spaces with the relocated electric sub station between two of the blocks. Each dwelling has a modest rear patio-garden area, and a bin-dwell area to store wheelie bins on collection day is provided close to the access for use by the dwellings within the site. A pedestrian link from the garage court to the right of way is achieved via a key-coded gate. In the revised form, the dwellings comprise nine three-bedroomed units and are an attractive design, incorporating bay windows and chimney stacks.

DMPA/2020/0533 - Seymour House and Kendrick Mills, Chapel Street, Melbourne, Derby DE73 8EH



South Derbyshire District Council

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South Derbyshire District Council. LA 100019461.2020

## **Applicant's supporting information**

The application is accompanied by the following technical reports:-

- Arboricultural Report
- Archaeological Report
- Bat and Ecology Report
- Design and Access Statement
- Drainage Statement
- Heritage Impact Statement
- Marketing Report
- Noise Report
- Phase 1 and 2 Contamination Report
- Transport Statement

## **Relevant planning history**

9/2017/0634 – crown raising and pruning of trees – Tree work in a Conservation Area – consented – July 2017

9/1999/0624 – The removal of condition 2 of planning permission 9/1186/636 – appeal withdrawn August 2001

9/1993/0758 - The use for light industrial purposes of the warehouse known as John Wilson Engineering Ltd

9/1186/636 – The use for light engineering of the warehouse at the rear of the office block at the premises of Howers Brown and Sharpe - approved February 1987

## **Responses to consultations and publicity**

Conservation Officer – July 2020 no objections subject to conditions and informatives covering: external facing materials; blue brick to below DPC level; fenestration details. Satisfied that the impact on the special architectural and historic character and appearance of the conservation area would be broadly neutral, this the proposal preserves the character and appearance of the conservation area and nearby listed Methodist Chapel.

February 2021 – no objections subject to conditions and informatives as previously described. No objections to the reduction in scale of the properties through removal of two storey rear projections. The suggestion that this has reduced the parking and improved balance between soft landscaping and hard surfacing is not accepted as the area still needs to be hard surfaced for parking and therefore cannot accommodate any notable planting due to the need to retain the substation. Important to secure good quality materials by condition.

Planning Policy Officer – No objection subject to conditions.

Local Plan Policy EMP3 states: "Redevelopment or changes of use of existing industrial and business land and premises for uses other than those falling within classes B1 (b), B1(c), B2 and B8 of the Use Classes Order will only be permitted where:

i) the existing use is significantly harmful to the amenity of neighbouring land uses in terms of noise, vibration, visual qualities, air quality or traffic generation, and this cannot be satisfactorily overcome by other means; or

ii) it can be demonstrated that there is no demand for the use of the site or premises for Use Class B1, B2 and B8 purposes and that the development proposals would not unduly inhibit existing or planned neighbouring land uses."

The applicant has submitted evidence that the site was marketed for a period of over six months during 2019 before being purchased by the current owner. Whilst this period is less than the minimum of twelve months identified in the explanatory text accompanying the above policy, a Chartered Surveyor

has provided a professional assessment of the prospect of continued commercial use. This concludes that the site is unsuitable to meet modern commercial requirements because it offers poor vehicular access and has inadequate parking and loading space; the location of the site adjoining housing on three sides would be off-putting to occupiers due to potential disturbance to residential amenity; the design of the buildings is dated and cannot compete with accommodation provided by more recent developments and the tightly constrained nature of the site provides no opportunity for expansion.

The assessment also considers the potential for redevelopment of the site for industrial and commercial uses and concludes that this would be unlikely to be financially viable.

In light of the above it is considered that it has been satisfactorily demonstrated that there would be no demand for continued use of the premises for industrial and commercial purposes and that use for residential purposes may therefore be acceptable in principle, subject to all other relevant planning considerations.

Environmental Health Officer – August/October 2020 - no objections subject to conditions covering: prior to commencement acoustic protection scheme for occupiers nearest to proposed generator in line with NIA; glazing specification; electric vehicle charging point; prior to commencement remediation scheme as per Phase II and I recommendations ; prior to occupation validation report; undiscovered contaminated land.

Landscape Officer – August 2020 - no objections subject to conditions covering; landscaping scheme including fruit trees to rear gardens, trees planting (including frontage of plot 9), details of walls/fence with hedgehog access, amendments to Betula Pendula and Prunus Avium as they would be too large for this development size, species and biodiversity enhancement and five year planting.  
February 2021 – same comments as per August 2020.

Tree Officer – August 2020 - no objections to the development subject to condition seeking trees in gardens and only uppermost canopies of overhanging trees requiring protection during construction and only minor facilitating pruning is required and should be allowed during construction.

East Midlands Airport – August 2020 no objection subject to conditions and informatives covering: prior to commencement submission of dust, bird and smoke control methods during construction; exterior lighting details; no solar photovoltaics to be installed without consult removal of PD for this; no large gas purging without consent and informatives; crane consent.  
February 2021 – no objection subject to the previous safeguarding conditions referred to in original response.

County Highways Authority Officer – October 2020 no objections as whilst development is contrary to guidance to allow adoption by Highways Authority it is proposed as a private road and should remain so. Conditions covering: parking spaces dimensions as per standards; prior to commencement construction management plan; prior to occupation vehicular access implemented as per 19.3750.25 A; prior to occupation closing of existing vehicular accesses to Chapel Street and access drive to Chapel Street gradient restriction.  
February 2021 – no objection subject to conditions and informatives as previous directed with substitution of previous access plan on condition 2 to Rev C.

Derbyshire Wildlife Trust - September 2020 – no objections subject to conditions seeking biodiversity enhancements in line with policy BNE3 for nesting birds and bays integrated features into buildings and clearance of the site during nesting birds season.

DCC Archaeology – August 2020 – objected due to lack of Archaeological Based Desk Assessment with Walk Over Survey needs submission as per paragraph 189 of the NPPF.  
October 2020 - no objection subject to conditions: Prior to commencement Written Scheme of Investigation for archaeological work; no development take place other than as per agreed in WSI condition approval; No occupation of first unit until site investigation and post investigation assessments have been completed In accordance with WSI. Sought amendments to the scheme to

include historical boundary wall.

February 2021 – No objection subject to conditions as stated in October 2020 comments.

Lead Local Flood Authority - November 2020– no objections subject to conditions and informatives: prior to commencement surface water drainage scheme in accordance with principles outlined in Surface Water Drainage Strategy submitted; prior to commencement surface water during construction drainage scheme and prior to first occupation of a unit verification report.

Economic Development Officer - August 2020– object to the proposals – limited evidence presented as to the activities undertaken on site marketing the site for employment, where it was marketed and for what period with no information on number of enquiries, potential purchase offers and how this compared with local market prices and details of why interest received didn't progress. Employment land and property is limited in Melbourne with little scope to provide further in the future as such is a stable market, where few units change hands and opportunities arise for indigenous companies to expand or new employers to move into the area. There are no units currently being marketed in Melbourne of any size and that is typically the position and working with a number of businesses in Melbourne who would like additional premises.

October 2020 – Property market in Melbourne is very constrained, there is a limited amount of commercial property and few opportunities to provide any more in the future, as a result there is usually interest in any property that becomes available. Melbourne is a self-contained settlement – the indigenous companies are often reluctant to consider sites outside the town due to their local workforce and the challenges of crossing Swarkestone Causeway. Consequently, it is considered Melbourne is something of a special case and businesses are more likely to consider properties with limitations than elsewhere.

Severn Trent Water Ltd – February 2021 – no objection – informatives in respect of s106 sewer connections and STW public sewer on site and diversion may be required under s185 of Water Industry Act 1991.

Melbourne Civic Society – August 2020 - object to the development for the following reasons:

- No objection to the principle but note that it appears overdeveloped and cramped and should be reduced in numbers.
- External facing materials are important and should form a condition of development.
- Bay windows are not characteristic on properties in this area for small scale housing.
- Staggered alignment of plots 3-5 is not characteristic, they can go straight alongside the carriageway and pavement more in keeping.
- Garages are not characteristic.
- Brick boundary wall should be retained as forms part of history of the site and would look better than other boundary treatments. Can form a planning condition.
- Air source heat pumps should be considered to combat climate change at the site.
- Solar panels should be considered for dwellings at rear of site, but not those fronting Chapel Street to conserve the Conservation Area character.
- Windows should be triple glazed.
- Rainwater harvesting and electric vehicle charging points should be incorporated.

October 2020 - Comments as per August 2020

February 2021 – Comments as per August 2020.

Melbourne Parish Council – August 2020 - object to the development for the following reasons:

- The emerging NDP policy cites for housing developments in brownfield sites to be for houses of three bedrooms or less, though there is no objection to the principle of the development of use of land for housing.

March 2021 – they note that various consultees have made comments and proposed conditions and the Parish Council supports these and the conditions particularly from the DCC Archaeology Officer.

Two letters of objections have been received, raising the following comments:

- a) Principle of development would be fine as brownfield but too many houses, hardstanding and garages proposed.

- b) Over intensification of the site, resulting in poor and compromised design standards.
- c) Impact of the privacy and amenity of neighbouring residential properties from overbearing impact and overlooking.
- d) Inadequate proposed parking and impact on highways safety.
- e) Nine dwellings not proportionate to the surroundings and it creates a cramped appearance out of context and scale with the immediate area character and Conservation Area. Five/six dwellings would be infill.
- f) Lack of external amenity space for new residents.
- g) The plans provided do not accurately show neighbouring dwellings.
- h) 2.5 storey dwellings would be out of keeping with the main two storey character of dwellings in this part of Melbourne.
- i) Courtyard and parking proposed would be contrary to the design guide as it serves too many dwellings and are not on plot parking and adds to overdevelopment and lack of landscaping within the site.
- j) Garages should not be included as car parking spaces, as not as used and this will push parking onto Chapel Street or Pack Horse Road as a result where there are existing issues.

#### Councillor Hewlett

- Satisfied with the use proposed for residential if the Council are satisfied that adequate attempts have been made for it to continue as an employment site; many businesses have closed in the village and it would be good to retain such a use.
- Previous user needed long lorries to get into the site which would block the street, but other industrial and commercial uses may require shorter vehicles.
- Too many properties have been crammed into the space, all family dwellings and the gardens are too small particularly plots 3 to 9, especially 6 and 7 for four- bedroom units.
- Parking provision does meet our standards but there will also be visitors to consider, not incorporated into the site.
- Concerned that the proximity of the site entrance to sharp bend where Chapel Street turns into Station Road, but Highways have not objected for that reason. Reduction of 2 plots may make this acceptable.

#### Councillor Fitzpatrick

- I have been contacted by some interested residents about this application in particular to the point regarding the relocation of existing sub station. The main concern is that the switchgear in electricity sub stations may contain one of the worst ozone depleting gases there is known as SF6. This gas is a greenhouse as 23500 times more harmful than CO2.
- The proposed building on the site of the old factory involves relocating this substation. I think we need to impress on any contractor it is vital that any leaks are minimised from this, and ideally a more expensive, but less potentially disastrous material alternative could be used. Is this within our powers to make this conditional?

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

The relevant Development Plan policies are:

Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S4 (Housing Strategy), S5 (Employment Land Need), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), E3 (Existing Employment Areas), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3, (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF5 (East Midlands Airport), INF8 (The National Forest).

Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE7 (Trees, Woodland and Hedgerows), BNE10 (Heritage), RTL1 (Retail Hierarchy).

The emerging policies are:

Melbourne Neighbourhood Development Plan – regulation 16 reached (Independent Examination)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)  
Melbourne Conservation Area Statement Adopted 2011  
Trees and Development SPD  
Strategic Housing Market Assessment 2020  
Housing Position Paper January 2021

The relevant national policy and guidance is:

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

The relevant legislation is:

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)  
The Town and County Planning (Use Classes) Order 1987  
The Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosive Storage Areas) Direction 2002.

### **Planning considerations**

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

- The principle of the development – demolition of existing industrial and office buildings (including relevant demolition consent) and the erection of 9 dwellings, garaging and associated development, the provision GRP substation, pedestrian access to the adjacent public footpath and alterations to the adjacent boundary wall.
- Impact of the development on local character and designated heritage assets
- Impact of the development on residential amenity
- Impact of the development on highways safety and parking
- Impact of the development on landscape character and trees
- Impact of the development on archaeology
- Impact of the development on biodiversity
- Impact of the development on flood risk and water management
- Impact of the development on contaminated land
- Impact of the development on the operations of East Midlands Airport

### **Planning assessment**

During the course of the application the proposals were amended and additional information submitted for consideration. The following assessment is based on the revised proposals as received on 4th February 2021 which was subject of a re-consultation.

The principle of the development – demolition of existing industrial and office buildings (including relevant demolition consent) and the erection of 9 dwellings, garaging and associated development, the provision GRP substation, pedestrian access to the adjacent public footpath and alterations to the adjacent boundary wall

The most applicable policies to consider are S1, S2, S4, H1, H20 and E3 of the LP1 and SDT1 of the LP2 which between them seek to protect employment land/uses within defined settlements subject to amenity/highways etc. considerations and also where housing development is directed due to the existing provision of infrastructure, services and facilities.

The existing use of the site encompasses B1, B2 and B8 uses of offices, warehouse and industrial uses which are classified as industrial use classes or rather Class E – Commercial, business and service areas with some B2 and B8 uses, with respect to the changes to the Use Class Order in

England 2020.

Policy E3 of the LP1 reads that “Redevelopment of changes of use of existing industrial and business land and premises for uses other than those falling within classes B1(b), B1(v), B2 and B8 of the Use Classes Order will only be permitted where:

- i) The existing use is significantly harmful to the amenity of neighbouring land uses in terms of noise, vibration, visual qualities, air quality or traffic generation, and this cannot be satisfactorily overcome by other means; or
- ii) It can be demonstrated that there is no demand for the use of the site or premises for Use Classes B1, B2 and B8 purposes and that the development proposals would not unduly inhibit existing or planned neighbouring land uses.”

Policy SDT1 of the LP2 states that ‘settlement boundaries define the built limits of a settlement. Within settlement boundaries as defined on the policies map and in Appendix A, development will be permitted where it accords with the development plan.’ With reference to this, the site is within the settlement boundary of Melbourne, a Key Service Village. Policy H1 of the LP1 Settlement Hierarchy follows on to state, ‘The Settlement Hierarchy is based on the range of services and facilities that are offered by each settlement. The level of development for each settlement will be of a scale appropriate to the size and role of that settlement. As planning applications are received the merits of each individual site will be assessed through the Development Management. 2. Key Service Villages – For the above two tiers, development of all sizes within the settlement boundaries will be considered appropriate.’

The proposal is for the re-development of a previously-developed (brownfield) site within the development limits of a settlement, and is therefore a sustainable location, and the main issue to consider in respect to the principle of residential development in this settlement location, which would otherwise be acceptable for this site, is whether the loss of employment land use from this site within this area meets the criteria within policy E3 of the LP1.

The site comprises a two-storey office building of brick construction with three industrial units. Unit 1 is on the left-hand side of the entranceway, with a central loading door and three bays. Unit 2 is situated at the rear and has a narrow access. Unit 3 is at the rear of the office and has a loading door with integral office. There is also a WC block in the yard and to the south eastern corner a substation. The site has vehicular access from Chapel Street which leads into the yard and parking area for all the units and officers. The office also benefits from a separate pedestrian entrance from Chapel Street. To the north is also a footpath which passes along the northern boundary of the site from Chapel Street to Derby Road.

The application is supported by a revised Planning Statement and various Marketing Reports (July 2020, Howkins and Harrison brochure, advertisement and expression of interest letter. The Planning Statement received February 2021 states that the marketing executed concluded ‘that the majority of the interests was shown by developers seeking residential development on the site and the feedback from those seeking the site for commercial purposes was there was too much office space and the condition of the units was not acceptable’. It also goes on to say ‘the marketing was carried out by a reputable local agent reflecting a reasonable price for the site employing industry standard methods of marketing. It is acknowledged that a period of 12 months marketing cannot be demonstrated but this is due to the site being sold following 7 months marketing. Had that offer not been accepted the deal concluded in December 2019 would not have taken place and it could reasonably be assumed, taking into account feedback and absence of offers for commercial operators, it is likely that the marketing would have continued for a full year without any offers from commercial operators being received. This is even more likely to be the case as the marketing would have continued beyond March 2020 when Covid made the chance of securing a purchaser even less likely. However, although part of the marketing would have taken place during lockdown when normal market conditions may not have applied, the applicant could then have demonstrated 12 months of marketing.’

The Marketing Report received July 2020 provides details on historical contact with the LPA in terms of planning and pre application contact and also provides some information on marketing, occupiers and

ownership. It is said that the marketing of the site commenced in 2007 when the owners of the site sought advice from the LPA about potential re-development of the site, saying this was done due to the constraints including predominantly residential. A previous agent used for marketing was Mather Jamie and in 2013 there was interest from a developer which is said to have not progressed beyond the original interest. It goes on to say Lychgate Homes were offered the site in 2016 and wanted to complete a purchase subject to planning but that this also did not progress. It is said during that time, the tenants, who were Star Micronics GB, relocated their business to Riverlands Business Park, Derby on the basis that these premises were no longer suitable for their requirements. It goes on to say that since that time, the site has been vacant. Howkins and Harrison then marketed the site since around January 2019 but did not find a purchaser for the site. It is stated that the current owners purchased the site at the start of January 2020. Further into the assessment, it is argued that due to the limitations of the site (layout of buildings, tight boundaries, access issues, parking issues and lack of long term expansion) and due to the passage of time, the site and buildings have become increasingly unfit for modern industrial operations and as such, the site has been vacant for many years, thus why the previous owners sold the site to the current owners, concluding it has no future as an industrial/commercial site. They consider the loss of this employment site for residential is therefore justified as it has not been wanted for such purposes for a considerable period.

Following on from this, the applicant has supplied the Howkins and Harrison brochure which provides details of the site, buildings, facilities, arrangements for viewing and agent contact details alongside price, tenure, VAT and outgoings arrangements for purchase at £900,000 plus VAT. The Howkins and Harrison advertisement also provides these details albeit in a more succinct fashion alongside other properties the agency was at that time promoting. It is noted on both these documents that alongside the office/industrial units being advertised is also a note which reads 'suitable for redevelopment subject to planning' and also lack of marketing for the site for rent as opposed to outright purchase for office/industrial purposes. The Howkins and Harrison Marketing Letter dated November 2020 states that they received formal instruction to market the property for sale in May 2019 at a guide price of £900,000 plus VAT, advising the property's residential development marketing value was akin to its marketing value as a commercial premises (as was) with the headline strategy to advertise the site for sale to both commercial and residential markets. These marketing tools are described as A. Erection of V board on Chapel Street, B. Mail shot to people/businesses registered as having interest in actively looking for commercial premises to rent or buy, C. Personal contacts of the agency, D. Brochure emailed to the agents data base, E. Glossy brochure produced, F. Advertisement on Rightmove and the agents website and G. Advertisement in the Leicester Builder Magazine July 2019. This document also provides information as to the recorded interest received from people/businesses interested in the property.

The Marketing Report by FHP states that the site has been vacant for a number of years, previously occupied by Star Micronics GB until 2016, who they say spoke with them seeking more conventional industrial/warehouse space in a modern existing/new build cited as the reasons they moved from this site. FHP concur that Howkins and Harrison marketed the site until its sale between Spring 2019 and December 2019. FHP state that a typical period to market freehold properties and sites either commercial or residential would be up to six months. They go on to say the market was reasonably active in 2019 with an 'appetite' for freehold industrial properties and that six months of marketing for industrial uses is sufficient. In terms of the anticipated demand for the property as existing FHP consider that it would be unlikely that the office building due to its size, likelihood that an investor would need to conduct works to the building itself to upgrade its appearance or split it into a ground and first floor offer, combined with parking and access issues within the site and on Chapel Street, that uptake for this use would be unlikely. FHP go on to say that the main issue they see with the industrial units on site is the access, parking and loading arrangements, together with the proximity to housing. They consider that the layout would result in those loading within one unit to block the entrances or courtyard to others which could cause conflict between users. FHP consider for a business to take the site as a whole for industrial use would be unlikely due to its location in a village, poor layout, limited parking, concerns about neighbouring residential properties. The FHP assessment states that while there is demand in the region for small industrial units, that these need to be accessible, with adequate loading and parking and that other sites offer more modern and better connected facilities in the nearby region such as Castle Donington, Coalville, Ashby-de-la-Zouch, Swadlincote and Derby. FHP therefore

conclude that redevelopment as a high quality, residential scheme would be an improvement to the area, both physically and would be more compatible with the neighbourhood.

Whilst the marketing for the employment uses of the site for industrial/office uses has not been executed for the 12-month period expected as prescribed in policy E3 and its supporting explanatory text at 6.19, it must be taken in to account that the modern office building could be converted to dwellings under permitted development rights, and the remaining industrial/warehouse units are of some age, poorly insulated and with poor access and parking.

The buildings would require some investment to bring them up to modern standards, and combined with the restricted access/parking, they are not particularly attractive to potential purchasers, nor is it desirable to perpetuate the use within a residential area where there would always be the potential for noise/disturbance for neighbours.

Although there is not a record of noise or other complaints from nearby residents, the access and parking arrangements are far from ideal in what amounts to a constrained site, and this may be part of the reason for a lack of interest in a new B class operator locating to these premises. This lack of interest should also be seen in the context of high demand for suitable small and medium sized units in the Melbourne area.

Whilst an objection has been made by the Economic Development Officer who notes the particular constraints for future built development for industrial and office units in Melbourne settlement and that this and its relationship/ logistics with the Swarkestone Causeway actually result in the need for smaller industrial and office units within the self-contained settlement, indicating that there are none presently available on the market (those which are marketed noted as usually being taken quickly), of the limited amount of commercial/industrial premises that do exist. The Economic Development Officer notes that the indigenous businesses and their local workforces are reluctant for these reasons to consider sites outside the settlement, however appreciable investment would be needed to sub-divide the buildings into smaller units.

The Council's Planning Policy officer has reviewed the submission and applicants' comments, and considers that the applicant has justified the loss of these employment units.

#### Impact of the development on local character and designated heritage assets

The site is located within the Melbourne Conservation Area, with the nearest statutory listed building Melbourne Baptist Church which is Grade II listed. Due to the historical use of the site and immediate area for industry and warehousing and general historical buildings close by there is also archaeological potential. The area is largely residential and whilst there is no overarching architectural style, the majority of buildings are of domestic scale, two storey (very few 2.5 storey) and of a gable roof or gable valley typology. Materials in this area are what carry the architectural narrative being of red brick with stone features to windows or string/course and clay tile roofs. Where there are windows, these are aligned within the elevation, with facades typical asymmetrical, even on return side elevations. Whilst there are bay/box windows in this streetscene, the use of them is limited to more recent Victorian houses and this is not the norm. The building line to Chapel Street varies with terraces leading directly onto the pavements and semi-detached/detached dwellings being setback behind front gardens/driveways, though what can be said are that dwellings front the highway and are orientated towards it.

The most applicable policies and guidance to consider are S1, S2, BNE1 and BNE2 of the LP1 and BNE10 of the LP2 and the Design SPD. Between them these policies seek that all new development will be expected to be well designed, embrace the principles of sustainable development, encourage healthy lifestyles and enhance people's quality of life by adhering to the Design Principles. In addition as the site is within the Conservation Area and nearby listed buildings, it is important that new development that affects South Derbyshire's heritage assets will be expected to protect, conserve and enhance the assets and their settings in accordance with national guidance and supplementary planning documents which the authority may produce from time to time.

The original scheme proposed 7no. three bedroom and 2no. four bedroom dwellings, now revised to 9no. three bedroom dwellings. The following concerns were raised when considering the original submission package during the course of the application as to the layout of the site, design and placement of fenestration, parking amounts/layout/use of garages, use of ornamentation and materials, scale and proportions of the dwellings both as a development considered on its own and as part of the wider Chapel Street area. The applicants consider their revised scheme has addressed these by: staggered ridge line for plots 3-5; first floor rear projections removed from plots 2-5; plot 6 bay first floor window removed; first floor gable window added to plot 5; hipped dormers replacing flat roof dormers; removal of render from all plots; omission of second floor accommodation to plots 6 and 7; reduction in car parking for plots 6 and 7 and additional landscaping and relocation of first floor window on plot 8.

Notwithstanding the comments received during consultation the Melbourne Neighbourhood Plan has not been through its independent examination, and as such limited weight can be afforded to its policies with regards to the maximum number of bedrooms on infill/brownfield sites.

The amendments to the layout, elevations, materials (indicative) and ornamentation to the dwellings themselves are broadly as discussed during the course of the application, with flat roof dormers and suspended bay windows omitted and where bay windows are proposed they are done so successfully in limited form to the terraces fronting Chapel Street and internally to ground and first floor on the detached plots 8 and 9. The fact the dwellings are now all put forward as three bedroom, does assist in solving some of the previous parking and bulk of form issues previously raised and whilst only presenting a single bedroom type offer this is brought forward in terraced and detached options, as such no issue is raised to this regard. With this said it is concluded that the loss of the existing buildings within the site would not represent harm to the special architectural and historical character and appearance of the conservation area or local area character more generally.

The Conservation Officer has reviewed the proposals and assessed the impact of them on the designated heritage assets. They note that whilst there have historically been mills and industry on near the site the existing buildings are fundamentally different to the surviving historical industrial examples in Melbourne and are somewhat out of character with the traditional industrial/domestic examples nearby, though their presence does not necessarily have a positive or negative impact on the Conservation Areas overall character or that of the setting of the nearby listed Methodist Chapel, subject to a suitable re-use of the site being approved and that it takes place swiftly following approval. The Conservation Officer considers that the impacts on the Methodist Chapel are likely to be minimal and the extent to which setting would be affected the removal of the industrial buildings would likely represent a beneficial change. Having considered both the original and revised proposals, they have raised no objection to the development on the basis that the extent to which this site contributed to the special significance of the listed building via its setting that significance would be preserved as is described as a 'desirable' objective within section 66 of the Planning (Listed Building and Conservation Areas) Act 1990. In addition, when considering the impact on the Conservation Area similarly no issue is raised in respect of the overall design and layout of the dwellings subject to conditions seeking additional details or improvement of details in respect of suitable fenestration details, roof tiles, materials, bricks below DPC etc.

Notwithstanding the above and whilst there is a heavy presence of hard standing throughout the site, the current site comprises almost total coverage with unsightly industrial buildings, modern offices and hardstanding and the redevelopment would as a result enhance the immediate character and the setting of the Conservation Area. Whilst The use of masses of garaging is not a typical feature considering the character of the immediate area, only limited views would be apparent from public vantage points and the view from the right of ways would be more open and of improved appearance. The development therefore complies with policies BNE1 and BNE4 of the LP1 and the Design SPD.

#### Impact of the development on residential amenity

The existing neighbours to the development mostly comprise residential dwelling houses to the north, east and south with an existing office The One Off Ltd development (extension recently approved to this) to the west. The most applicable policies to consider are S1, S2, SD1 and BNE1 of the LP1 and the Design Guide SPD. Between them these policies and guidance seek that new development be

designed in a way that future occupants and existing neighbouring form are not detrimentally impacted by noise, fumes, odour, vibration, overlooking, overbearing impacts or loss of light etc without mitigation. Environmental Health were consulted on the proposals and raised no objections subject to conditions to seek installation of noise mitigation methods for windows/vents etc. so as to protect from surrounding noise emitters such as the road and nearby office units.

Some concerns have been expressed in relation to the electric sub-station. Whilst there are recommended separation distances between dwellings and high-voltage power-lines (due to electromagnetic fields – EMF), there is no evidence to suggest that proximity to sub-stations is harmful. The control of such matters is through regulations imposed on the operator (rather than a planning restriction), the only issue being noise (low frequency humming), however the Environmental Health Officer is satisfied that this would not be an issue.

The re-location would also be a matter for the operator who would no doubt use their own or other specialist contractors.

Whilst the development is at a reasonably high density with modest gardens, given the central location, and redevelopment of a brownfield site, the development is considered to be acceptable in amenity terms, offering a secure and private environment for the new residents without impact on the existing ones and complies with policy SD1 and BNE1 of the LP1 and the Design SPD.

#### Impact of the development on highway safety and parking

The site is proposed to be accessed from Chapel Street which is a dual flow, single lane highway with 30mph speed limit with pavements either side, there is a footpath running east from Chapel Street to the northern boundary of the site which connects to Derby Road to the west. Due to the mix of residential properties on Chapel Street (terraced, detached and semi-detached) the parking arrangements are also mixed being on street off plot parking and on plot parking on front or side driveways. The most applicable policies to consider are S1, S2, S6, SD1, BNE1 and INF2 of the LP1 and the Design Guide SPD. Between them these policies seek that all new development be appropriately designed so that detrimental impacts on the safety and capacity of the highways infrastructure are avoided or mitigated appropriately and the satisfactory parking for both vehicles and cycles is provided for again in the interests of the wider area. The minimum parking standards for SDDC are 2no. spaces for each dwelling with dwellings of four bedrooms or more requiring 3no. spaces unless there are material reasons justifying a provision of less than this. Surface parking spaces dimensions must be an absolute minimum of 2.4 (width) x 5.5m (length) with an additional 0.5m added to the width where the doors would open onto a wall or hedge etc. For garaging absolute minimum dimensions of 3 x 6m must be provided with a garage door width of 2.3m. 1no. secure cycle space within a garage or other facility would also be required.

The revised scheme now presents 9 no. dwellings comprising three-bedroom detached and semi-detached dwellings with surface, car port or garage parking arrangements in an off-plot, courtyard style arrangement. It is proposed that the internal road surface will be private. The layout also shows 2 no. bin collection areas located at the side boundaries of plots 2 and 3 close to the entrance of the site. It is proposed that the site access will be amended as required to achieve a 2.4m x 43m visibility splay onto highway Chapel Street, with a narrow pedestrian pavement connecting to the Chapel Street pavement also along the side boundaries of plots 2 and 3.

The number of parking spaces and their dimensions meets local requirements as previously cited. The revised layout has also been reviewed by the County Highways Authority. They note that whilst the residential development is not in line with current guidance to enable the highway authority to formally adopt the proposed street, they have no objection to the development from a highway safety viewpoint subject to the site and its internal street/parking arrangements remaining private at all times. This is subject to the use of planning conditions to ensure visibility is provided as indicated on the Proposed Site Plan rev C provided, parking and manoeuvring space laid out prior to first occupation, closure of existing site entrance and provision of footway, satisfactory driveway gradients and a construction management plan, plus other supporting informatives. Additional conditions will be attached to any approval to ensure the provision of 1no. electric vehicle charging point and 1no. secure cycle storage

facility on a 1 per dwelling basis, to encourage passive and sustainable transport method uptake. Taking these points into account subject to the use of planning conditions the development is considered in line with policies and guidance covering highways safety and parking (dimensions/number).

#### Impact of the development on landscape character and trees

While there are no on-site trees, there are mature off-site trees one of which has a TPO (Cedar no. 297) whilst the others protected due to the Conservation Area status and as such the protection, conservation and mitigation for these trees will be an important consideration for any new development at the site and that of social proximity to residential dwellings. New development is also expected to provide landscaping that protects and enhances the character, local distinctiveness and quality within the immediate area and South Derbyshire as a whole through careful design and sensitive implementation. The most applicable policies to consider are S1, S2, S3, BNE1, BNE2 and BNE4 of the LP1 and BNE7 and BNE10 of the LP2 and the Design Guide and Trees and Development SPD's.

The application is supported by an Arboricultural Impact Assessment and Method Statement which has a Tree Survey, Constraints and Protection Plan within the appendices. This revealed that the following trees, including the aforementioned TPO adjoin the site beyond the boundary/retaining wall to the north of the public footpath: Weeping Willow; Ornamental Cherry; group of Cedar, Pine and Yew and Sycamores of which due to the differing ground levels, tarmac footpath and wall are considered to have restricted root areas. There is also a group of Alder, Sycamore and a False Acacia within the neighbouring commercial site to the south west, again considered to have their root area constrained by the presence of difference in levels and walls. The proposed development would not result in the loss of any trees or hedgerows. It is considered from reviewing these documents that it is likely that the off-site trees would not be significantly impacted as a result of the development subject to tree protection/construction compound exclusion zones for the construction period covered via planning condition. Whilst some leaf litter may be caused to the most northern plots, this would be limited due to distance from trees and orientation of the development and also shading would not be an issue. The Tree Officer raised no objections to the development subject to condition seeking trees in gardens and only uppermost canopies of overhanging trees requiring protection during construction and only minor facilitating pruning is required and should be allowed during construction. Therefore subject to conditions the development is considered to be in compliance with BNE7 of the LP2.

An indication of the proposed scheme of soft landscaping is shown on the revised Proposed Site Plan, though at this time the amount of the particular species to be planted, their age and location has not been put forward. The hard landscaping is detailed as tarmac to the private driveway with Broadstone Woburn Rumbled Graphite block paving to the entrance, though what is presently missing from the plans are the details and specification of on plot hard surfacing treatments. The boundary treatments are also indicated on the Proposed Site Plan provided, though again the specific details, specification and elevational details of these are lacking at this time.

The Landscape Officer has reviewed the proposals and considers that at this time the landscaping put forward is lacking detail or specification expected for its location in a Conservation Area and on the boundary of the National Forest. Whilst not specifically raising an objection to the development they raised concern at the types of planting indicated particularly that of the trees proposed Betula Pendula and Prunus Avium as they would be too large for this development size. Whilst soft and hard landscaping schemes plus boundary treatment details for the development may be attached for submission of further detail for consideration via use of planning conditions.

Therefore, it is considered that the proposals can by conditions, result in compliance with policies BNE1 and BNE4 of the LP1 and the Design SPD.

#### Impact of the development on archaeology

The site is situated within a historical active industrial area of Melbourne, in the area of archaeological and subterranean potential known as Historic Environment Record MDR7318 – Kendrick Mills (site of) Chapel Street which was a 19th century silk mill. The most applicable policies to consider are BNE2 of the LP1 and BNE10 of the LP2. BNE10 states 'any proposed development which impacts on archaeological remains will be required to be accompanied by an archaeological evaluation of the site

and a statement demonstrating how it is intended to overcome the archaeological constraints of the site. Development will be resisted which would result in the loss of or substantial harm to Scheduled Ancient Monuments or other archaeological sites of equivalent significance. Development affecting non-designated archaeological sites will be assessed having regard to the scale of any harm and the significance of the site. In all cases measures will be undertaken to minimise impact and, where possible, to preserve the site in situ. The District Council will require public display and interpretation where appropriate.'

As per the comments from DCC Archaeology officer the original submission was not supported by a satisfactory evaluation of the potential at this site and whether development at the site would be suitable with regards to subterranean historical remains so as not to harm significance and minimise impacts where possible. During the course of the application an Archaeological Desk Based Assessment was submitted for consideration. This assessment states that given that the (existing) buildings use the same footprint as the earlier mill site there is some potential for remains of the mill to be present below the modern concrete floors as the mill buildings may have only been cleared to foundation level to provide a base for the warehouses. If planning permission is granted, further archaeological work will be required such as building recording to identify earlier features and intrusive work such as trial trenching or watching brief during demolition groundworks to record earlier remains. The Assessment also highlights the significance of the boundary wall around the northern edge of the site as a heritage asset as it contains some early brickwork in its construction that may also contain some fabric associated with the earlier mill, something which may also be true of the most rear warehouse (due to layout/constraints of existing buildings not yet assessed). Taking this into account and policy BNE10 of the LP2 as per the DCC Archaeology officers' commentary it is considered that following the production of this adequate para 189 NPPF Assessment that should the development be approved conditions should be attached that seek the site be subject of further archaeological evaluation and recording via a Written Scheme of Investigation. This work would have to be undertaken following demolition of the existing buildings prior to any further development in a likely two stage process: first stage – trial trenching to sample the nature, preservation and extent of below ground remains and second stage – detailed recording of any such surviving archaeological remains. It is crucial that the developer allow sufficient time in the programme of any development to allow these elements to occur.

When considering the retention of the northern boundary wall the most recently revised plans show its retention, however with a note reading 'existing wall/building to be reduced in height as required'. There is no reason that the wall should and could not be retained at its present height so as to retain historical fabric of the site and its historical boundary to a footpath that seemingly has existed since the 1840's, although some of the wall is constructed from modern common bricks. The retention of the wall and further investigation as to any perforation of it to introduce gates within it will form separate conditions attached to any approval of the development. The applicants confirm their acceptance of this approach for retention of the wall in the Planning Statement dated January 2021. Taking the above into account subject to conditions it is considered that the development would be in compliance with the policies covering archaeology and subterranean remains.

#### Impact of the development on biodiversity

Due to the age of nearby structures and mature off site trees/hedgerows this presents the potential for the site to be a commuting or habitat for protected species, though the likelihood for foraging due to the limited soft landscaping on site is considered to be low. The most important policies to consider are S2, BNE3 and BNE4 of the LP1 and BNE7 of the LP2 which between them seek that new development protect biodiversity and geodiversity on site and provide opportunities for enhancement by protecting on site features or introducing new ones to encourage wildlife/flora/fauna. The application is supported by a Protected Species (Bat) Survey and Ecological Assessment by B J Collins dated April 2020. There is no evidence of roosting bats at the site with negligible potential of the modern warehouse buildings supporting this either with a lack of foraging or commuting opportunity for bats. The Assessment mentions however that there is potential to boost potential for the foraging of bats due to residential gardens and other features like boxes/habitats and appropriate lighting being used. Derbyshire Wildlife Trust have reviewed the proposals and raise no objection subject to the use of planning conditions to seek nesting birds, swifts and bat box features form part of the development to encourage biodiversity

enhancement at the site to be integrated as features in the buildings themselves and also that no demolition occur on site during nesting bird season without an appropriate assessment undertaken first. Subject to conditions and informatives it is considered that the proposals are in compliance with the aforesaid policies and guidance for biodiversity.

#### Impact of the development on flood risk and water management

The site is located in Flood Zone 1, the lowest level of flood risk, however with a residential development on the site which may increase loading in comparison to an industrial/employment use it is important that water is managed effectively not to increase wider flood risk to the area. The most important policies to consider are S1, S2, S3, SD2 and SD3 of the LP1 which between them seek that new development be prioritised to areas with the lowest risk of flooding and where sustainable surface and foul water management can be achieved in line with the expected hierarchy of consideration of connections. It is proposed that the development will dispose of foul sewage to the mains sewer connecting into the existing system, the letters within the Drainage Strategy/Assessment indicate Severn Trent would be content with this. The application is supported by a Drainage Strategy which also proposes options for the surface water drainage at the site to include connection to the Severn Trent combined sewer via hydrobrakes and an underground attenuation facility as the site ground is impermeable and there are no nearby watercourses to discharge to. As the development has a lesser amount of hard surfacing compared to the industrial use, surface water run-off is likely to be less. As this strategy is indicative further detail prior to the commencement of the development will be required for both a strategy for the lifespan and construction period of the development to cover surface water and drainage which can be secured by planning condition, which in addition will require a verification style condition to ensure any approved drainage scheme is implemented in accordance with agreed details confirmed by a qualified drainage engineer. The LLFA raise no objections to the development subject to the use of these conditions. Severn Trent also responded to note that informatives in respect of s106 sewer connections and STW public sewer on site and diversion may be required under s185 of Water Industry Act 1991 would need to be attached to any approval due to the proposed connection to their sewers and that there are their assets within the site edged red that may need further permission from them to be built over or diverted. A limited water consumption condition will be added to any approval of the development in line with policy SD3 of the LP1. Subject to conditions and informatives it is considered that the proposals are in compliance with the aforesaid policies and guidance in regards to flood risk and water management.

#### Impact of the development on contaminated land

The site is located in an area where there have been historical warehouse and industrial premises in place where the potential for contaminants to be in situ can be greater and as a sensitive residential end use is proposed it is important to consider what impacts and possible mitigation there may be/is required. The most important policy to consider is SD4 of the LP1 which seeks to ensure that planning permission will only be granted on sites with known or potential for contamination where both appropriate investigations have been undertaken and where appropriate mitigation can be provided to ensure protection for human health and/or natural environment. The application is supported by a Phase I and II Geo-Environmental Assessment December 2019 by Ivy House Environmental. Environmental Health have reviewed this submission and consider that the contents of this report are satisfactory and that the key issues to be addressed during the demolition and construction will be the remediation covering: removal of made ground materials in vicinity of WS02 (Chromium, Nickel and Vanadium) and a cap of a minimum 600mm clean, verified topsoil applied to soft landscaped areas, installation of full radon protection to all properties and intrusive investigation due to access restraints posed by existing buildings to further understand historical uses and associated contamination. In addition a validation report would also be required. It is considered that these aforementioned elements can be secured by condition and to this end it is considered subject to this that the development would be in compliance with the listed policies.

#### Impact of the development on the operations of East Midlands Airport

The site is located within the East Midlands Airport safeguarding zone for birds and crane heights which form important considerations for both the appropriateness of certain uses or landscape features with regards to the safe ongoing operations of the aerodrome. The most important policy to consider is INF5 of the LP1 which seeks to protect and safeguard the public safety zone and operational area of

the East Midlands Airport with regards to permitting only appropriate development that would not be detrimental to their operations and the safe flying of aircraft overhead both during the construction and lifespan of the development. This is further explained in the TCPA legislation and DoT Circular 1/2010 and 11/2003. East Midlands Airport have considered the proposals and raise no objection to the development subject to a series of prior to commencement and other conditions with accompanying informatives to provide mitigation for dust, smoke, bird attractiveness and gas management during the construction of the development, details of external lighting and the removal of PD for solar/PV cells in the interests of aviation safety from visual impairments that may be associated to these if not properly considered/mitigated. To this end subject to the use of planning conditions it is considered the proposals would be in compliance with the listed policy seeking to protect the operations of the airport.

### Conclusions

It is considered that the loss of the existing employment land use comprising industrial buildings and offices has been justified with regards to policy E3, and the development of a previously developed site within the settlement is an appropriate and sustainable one. The proposal is therefore acceptable in Policy terms. The Local Plan review is underway and a range of employment sites of varying sizes attractive to the market will be allocated in suitable locations to compensate for the loss of sites such as this which have been vacant for several years.

Whilst it is a high density proposal, the proposal is an acceptable design (subject to amended landscaping and boundary treatment) that would enhance the character of the Conservation Area and with the required investigations, would not harm archaeology.

It would not harm the amenity of surrounding residents, and other technical issues (highways, noise, contamination and drainage) have been resolved.

The proposal would not impact on trees or biodiversity or the operation of East Midlands Airport. None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

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

### **Recommendation**

**Approve** subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the following plans/drawings as received by the Local Planning Authority on 4th February 2021 were as follows:

19.3750.24C Detailed Planning Proposals Location Plan and Proposed Block Plan  
19.3750.25C Proposed Site Plan

19.3750.26C Detailed Planning Proposals Proposed Streetscenes  
19.3750.27A Detailed Planning Proposals Plot 1  
19.3750.28B Detailed Planning Proposals Plot 2  
19.3750.29B Detailed Planning Proposals Plots 3, 4 and 5 Proposed Elevations  
19.3750.30B Detailed Planning Proposals Plots 3, 4 and 5 Proposed Ground Floor Plans  
19.3750.31B Detailed Planning Proposals Plots 3, 4 and 5 Proposed First and Second Floor Plans  
19.3750.32C Detailed Planning Proposals Plot 6  
19.3750.33C Detailed Planning Proposals Plot 7  
19.3750.34C Sketch Proposals Plot 8  
19.3750.35B Detailed Planning Proposals Plot 9  
19.3750.36A Detailed Planning Proposals – Garages Plots 3, 4 and 5  
19.3750.37A Detailed Planning Proposals – Garages/ Carports Plots 1, 2, 6, 7, 8 and 9 Proposed Elevations  
19.3750.38A Detailed Planning Proposals – Garages/ Carports Plots 1, 2, 6, 7, 8 and 9 Proposed Plans  
Substation Plans June 2020

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

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

3. a) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and
  - (i) The programme and methodology of site investigation and recording
  - (ii) The programme for post investigation assessment
  - (iii) Provision to be made for analysis of the site investigation and recording
  - (iv) Provision to be made for publication and dissemination of the analysis and records of the site investigation
  - (v) Provision to be made for archive deposition of the analysis and records of the site investigation
  - (vi) Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a).
- c) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: In order to comply with Policy BNE10 of the Local Plan Part 2, and the requirements of NPPF para 199 which requires developers to record and advance understanding of the significance of heritage assets to be lost (wholly or in part).

4. Notwithstanding approved plans, prior to commencement of the development, a scheme for the retention/alteration (including finished height, coping, materials, brick-type, coursing/bonding and mortar type/finish and details of any gates/openings in the wall) for the historic boundary wall - which surrounds the site to the north and defines the southern boundary of the walkway between Derby Road and Chapel Street - shall be submitted to and agreed in writing by the Local Planning Authority. The development hereby approved shall only be carried out in complete accordance

with the approved scheme and shall thereafter be retained in the agreed form for the lifetime of the development.

Reason: In order to comply with Policy BNE2 of the Part 1 and BNE10 of the Part 2 Local Plan, as the wall forms part of the Heritage assets of the locality and the requirements of NPPF para 199 which requires developers to record and advance understanding of the significance of heritage assets to be lost (wholly or in part).

5. Notwithstanding the submitted details, prior to their incorporation into the dwellings hereby approved details of the following, which may include samples, shall be submitted to and approved in writing by the Local Planning Authority:
  - a. Colour of fascia boards, guttering and downpipes;
  - b. Details of and around eaves, verges, string/dentil course and window/door reveal details;
  - c. Utility cupboard colours (both wall and ground mounted);
  - d. All external facing materials; and
  - e. Driveway materials

The buildings shall be constructed in accordance with the approved details and retained thereafter

Reason: In the visual interest of the buildings and local distinctiveness.

6. Prior to occupation a scheme for noise attenuation in relation to noise associated with the substation which should include weighted double glazing to the affected properties/rooms shall be submitted and approved by the Local Planning Authority. The rooms to which this condition applies shall be provided with sufficient ventilation with windows closed (other than for purge ventilation) to meet the requirements of Tables 5.2a to 5.2d of Building Control Approved Document F (Ventilation) or its successor depending on the design of the ventilation system. The scheme shall be implemented prior to occupation and shall be retained for the lifetime of the development. Trickle vents or other passive ventilation openings shall be designed to meet a specification  $D_{n,e,w}$  of 30 dBA as a minimum.

Reason: To protect those living in the dwellings from traffic or other external noise sources, in accordance with local planning policy SD1.

7. The development hereby permitted shall not begin until a scheme to deal with contamination has been submitted to and approved in writing by the local planning authority. The scheme shall include all of the following measures:
  - (i) A Phase I site investigation report carried out by a competent person to include a desk study, site walkover, the production of a site conceptual model and a human health and environmental risk assessment, undertaken in accordance with BS 10175: 2011 Investigation of Potentially Contaminated Sites – Code of Practice.
  - (ii) A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice. The report shall include a detailed quantitative human health and environmental risk assessment.
  - (iii) A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.
  - (iv) If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be submitted to and approved in writing by the local planning authority.
  - (v) A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to [first occupation of the development/the development being brought into use]. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To protect the health of future occupiers of the site from any possible effects of contaminated land, in accordance with local planning policy SD4.

8. Throughout the construction phase, space shall be provided within the curtilage of the site for the loading and unloading of goods vehicles, of plant and materials, site accommodation, parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with detailed designs to be submitted to and approved in writing by the Local Planning Authority in advance of the commencement of works on site and maintained throughout the construction period in accordance with the approved designs, free from any impediment to its designated use.

Reason: In the interests of highway safety.

9. Prior to occupation of any dwelling hereby approved, a new vehicular access shall be created to Chapel Street in accordance with application drawing no. 19.3750.25 C and provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access, for a distance of 43 metres in each direction measured to 1m out from the nearside carriageway edge. The land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: In the interests of highway safety.

10. Prior to occupation of any dwelling hereby approved, the existing vehicular access to Chapel Street shall be permanently closed with a physical barrier and the existing vehicle crossover reinstated as footway in a manner to be agreed in writing with the Local Planning Authority.

Reason: In the interests of highway safety.

11. The dwellings hereby approved shall not be occupied until space has been provided within the application site in accordance with application drawing No 19.3750.25 C for the parking and manoeuvring of vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

12. The proposed access drive to Chapel Street shall be no steeper than 1:14 for the first 10m from the nearside highway boundary and measures shall be implemented to prevent the flow of surface water onto the adjacent highway. Once provided any such facilities shall be maintained in perpetuity free from any impediment to their designated use.

Reason: In the interests of highway safety.

13. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
  - a. Surface Water Drainage Strategy, prepared by: Michael Evans & Associates Ltd Dated: 30th April 2020 (including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team), and
  - b. DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

Reason: To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority.

14. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-

080-20150323 of the planning practice guidance.

The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- I. into the ground (infiltration);
- II. to a surface water body;
- III. to a surface water sewer, highway drain, or another drainage system;
- IV. to a combined sewer.

Reason: To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options.

15. Prior to commencement of the development, details indicating how additional surface water runoff from the site will be avoided during the construction phase shall be submitted to and approved by the Local Planning Authority. The approved system shall be operating to the satisfaction of the LPA, before the commencement of any works, which would lead to increased surface water runoff from site during the construction phase.

Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development.

16. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

Reason: To ensure that the drainage system is constructed to the national Non-statutory technical standards for sustainable drainage and CIRIA standards C753.

17. Prior to any construction above foundations level, a scheme of biodiversity enhancement shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include, as a minimum, the incorporation of integrated (inbuilt) features within the new buildings for roosting bats and nesting swifts. The enhancement scheme shall be implemented in accordance with the agreed details as construction proceeds and completed prior to the first occupation of the development, and thereafter retained in the agreed form.

Reason: The vegetation and buildings on the site are considered to offer nesting habitat for breeding birds, and an appropriate replacement/enhancement bio-diversity scheme is required to ensure adequate facilities are maintained.

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

Reason: The vegetation and buildings on the site are considered to offer nesting habitat for breeding birds, and an appropriate replacement/enhancement biodiversity scheme is required to ensure adequate facilities are maintained.

19. Notwithstanding the plans hereby approved, prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwellings to

which they serve is/are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

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

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

21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the dwellings hereby permitted shall not be enlarged or extended, and no outbuildings shall be erected within any plot without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the proximity to existing features on or adjacent to the site, and the effect upon neighbouring properties and the character of the Conservation Area.

22. Recharge points for electric vehicles shall be provided within the development to comply with the following criteria:
- Residential, 1 charging point per dwelling with dedicated on plot parking, Residential charging points shall be provided with an IP65 rated domestic socket 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket shall be located where it can later be changed to a 32amp EVCP. Non-residential charging points shall be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2. Alternative provision to this specification must be first submitted to and approved in writing by the Local Planning Authority.

The electric vehicle charging points shall be provided in accordance with the stated criteria and approved details prior to the first occupation or use of the respective premises and shall thereafter be maintained in working order and remain available for use throughout the life of the development.

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

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

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

Informatives:

- a. The fieldwork required by condition 3 (above) should be conducted by a suitably qualified archaeological consultancy (ie a CIFA registered organisation), to a written scheme of investigation to be agreed with the Local Planning Authority/County Archaeologist.
  - b. Drainage - Advisory/Informative Notes (It should be noted that the information detailed below (where applicable), will be required as an absolute minimum in order to discharge any of the drainage conditions set by the LPA):
    - A. The County Council does not adopt any SuDS schemes at present (although may consider ones which are served by highway drainage only). As such, it should be confirmed prior to commencement of works who will be responsible for SuDS maintenance/management once the development is completed.
    - B. Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council. For further advice, or to make an application please contact Flood.Team@derbyshire.gov.uk.
    - C. No part of the proposed development shall be constructed within 3-8m of an ordinary watercourse and a minimum 3 m for a culverted watercourse (increases with size of culvert). It should be noted that DCC have an anti-culverting policy.
    - D. The applicant should be mindful to obtain all the relevant information pertaining to proposed discharge in land that is not within their control, which is fundamental to allow the drainage of the proposed development site.
    - E. The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water discharge, in line with Table 4.3 of the CIRIA SuDS Manual C753.
    - F. The County Council would prefer the applicant to utilise existing landform to manage surface water in mini/sub-catchments. The applicant is advised to contact the County Council's Flood Risk Management team should any guidance on the drainage strategy for the proposed development be required.
    - G. The applicant should provide a flood evacuation plan which outlines:
      - The flood warning procedure
      - A safe point of extraction
      - How users can safely evacuate the site upon receipt of a flood warning
      - The areas of responsibility for those participating in the plan
      - The procedures for implementing the plan
      - How users will be made aware of flood risk
      - How users will be made aware of flood resilience
      - Who will be responsible for the update of the flood evacuation plan
    - H. Flood resilience should be duly considered in the design of the new building(s) or renovation. Guidance may be found in BRE Digest 532 Parts 1 and 2, 2012 and BRE Good Building Guide 84.
    - I. Surface water drainage plans should include the following:
      - Rainwater pipes, gullies and drainage channels including cover levels.
      - Inspection chambers, manholes and silt traps including cover and invert levels.
      - Pipe sizes, pipe materials, gradients, flow directions and pipe numbers.
      - Soakaways, including size and material.
      - Typical inspection chamber / soakaway / silt trap and SW attenuation details.
      - Site ground levels and finished floor levels.
    - J. On Site Surface Water Management;
      - The site is required to accommodate rainfall volumes up to the 1% probability annual rainfall event (plus climate change) whilst ensuring no flooding to buildings or adjacent land.
      - The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas, etc, to demonstrate how the 100 year + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).
      - Production of a plan showing above ground flood pathways (where relevant) for events in excess of the 1% probability annual rainfall event, to ensure exceedance routes can be safely managed.
      - A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc).
- Peak Flow Control
- For greenfield developments, the peak run-off rate from the development to any highway drain, sewer or

surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event, should never exceed the peak greenfield run-off rate for the same event.

- For developments which were previously developed, the peak run-off rate from the development to any drain, sewer or surface water body for the 100% probability annual rainfall event and the 1% probability annual rainfall event must be as close as reasonably practicable to the greenfield run-off rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development, prior to redevelopment for that event.

#### Volume Control

- For greenfield developments, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must not exceed the greenfield runoff volume for the same event.

- For developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must be constrained to a value as close as is reasonably practicable to the greenfield runoff volume for the same event, but must not exceed the runoff volume for the development site prior to redevelopment for that event.

Note:- If the greenfield run-off for a site is calculated at less than 2 l/s, then a minimum of 2 l/s could be used (subject to approval from the LLFA).

- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.

- Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within the highway.

- Guidance on flood pathways can be found in BS EN 752.

- The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the drainage network, whatever the size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space, etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.

K. If infiltration systems are to be used for surface water disposal, the following information must be provided:

- Ground percolation tests to BRE 365.

- Ground water levels records. Minimum 1m clearance from maximum seasonal groundwater level to base of infiltration compound. This should include assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.

- Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689-1:2003.

- Volume design calculations to 1% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2.

- Location plans indicating position (soakaways serving more than one property must be located in an accessible position for maintenance). Soakaways should not be used within 5m of buildings or the highway or any other structure.

- Drawing details including sizes and material.

- Details of a sedimentation chamber (silt trap) upstream of the inlet should be included.

Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.

L. All Micro Drainage calculations and results must be submitted in .MDX format, to the LPA. (Other methods of drainage calculations are acceptable.)

M. The applicant should submit a comprehensive management plan detailing how surface water shall be managed on site during the construction phase of the development ensuring there is no increase in flood risk off site or to occupied buildings within the development.

c. Highway Advice - In addition please append the following notes to any consent for the applicant's information:-

A. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport & Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website

[http://www.derbyshire.gov.uk/transport\\_roads/roads\\_traffic/development\\_control/vehicular\\_access/default.asp](http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp), e-mail [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk) or telephone Call Derbyshire on 01629 533190.

B. Pursuant to Section 127 of the Highways Act 1980, no work may commence within the limits of the public

highway to close any redundant accesses and to reinstate the footway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in

Section 127 Agreements may be obtained by contacting this Authority via email – [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 127 Agreement.

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

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

**Item No.** 1.3

**Ref. No.** [DMPA/2021/1420](#)

**Valid date:** 14/10/2021

**Applicant:** Andy Townsend

**Proposal:** Various works including the demolition of an outbuilding permitted under a previous approval 9/2012/0703/L, the reduction in height of a boundary wall and the installation of a free standing electrical distribution box supplying 4 electrical vehicle charging points secured to the boundary at 1.2m above ground level and CCTV camera provision Leisure Centre, High Street, Melbourne, Derby, DE73 8GF

**Ward:** Melbourne

### **Reason for committee determination**

This item is presented to the Committee as the land is owned by South Derbyshire District Council.

### **Site Description**

The Melbourne Assembly Rooms are housed in a Grade II listed Victorian school on the south side of High Street. The building is centred on the site with the area around the building utilised mainly for parking.

### **The proposal**

This application seeks works including the demolition of an outbuilding permitted under a previous approval 9/2012/0703/L, the reduction in height of a boundary wall and the installation of a free standing electrical distribution box supplying four electrical vehicle charging points secured to the boundary at 1.2m above ground level and CCTV camera provision.

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

A Heritage Statement, plans and specifications have been submitted in support of the proposed works.

### **Relevant planning history**

9/2015/1001 – Internal alterations to the front part of the building including creation of improved entrance lobbies/foyers and conversion of the former school kitchen to provide a multi-functional space for events with a new bar and the capability to provide flexible kitchen facilities. Opening up of original internal doorways and provision of additional internal doorways to improve access for equipment and improve accessibility, movement and flow for people. Approved, Apr 2016.

9/2012/0703 – The erection of a storeroom extension and minor internal/external alterations including creation of improved entrance lobbies, foyer/bar and bar store, new kitchen and outdoor amenity space. Approved, Sep 2012.

9/2007/0224 – The construction of disabled access ramp to the rear. Approved, May 2007.

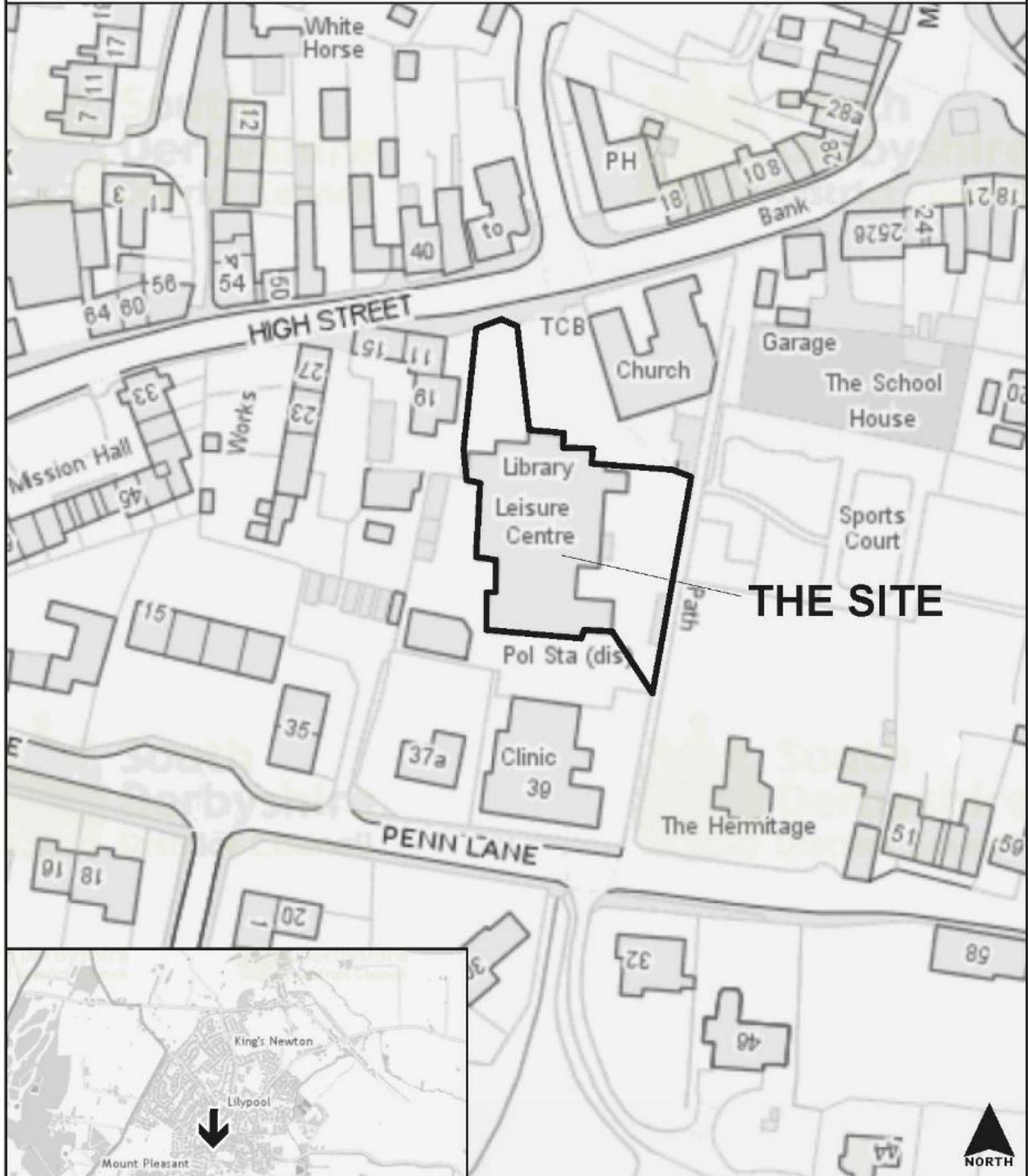
### **Responses to consultations and publicity**

Conservation Officer – The Conservation Officer was originally the Case Officer for this application. This Officer has since left the Council and did not submit an official response as the Conservation Officer. However, the following comments from this Officer about the proposals have been made available from various dated emails from the Council's Building Surveyor:

**3 Mar** – My suggestion as the content of a response would be:

- East Boundary building does not appear on 1902 or 1925 OS mapping suggesting it is not an original 1886/7 playshed, and potentially late enough that it does not benefit from protection under the listing.

DMPA/2021/1420 and 1469 - Leisure Centre, High Street, Melbourne, Derby DE73 8GF



South Derbyshire District Council

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South Derbyshire District Council. LA 100019461.2020

- 2015 scheme, granted in April 2016, included elements of internal works in the bar area and access to that area from the entrance lobby. This work was commenced in time and completed by the beginning of 2020 and as such the 2015 permission, although not fully implemented, is considered to be live.

- The western boundary outbuildings have had corrugated asbestos sheet roofing removed owing to safety concerns for local youth who are accessing the site. The material is reasonably safe when intact but there is concern that anyone climbing over the structure may cause damage and the release of asbestos fibres.

- Removal of the asbestos sheet roofing was undertaken as an urgent imperative on the grounds of public health and safety and the replacement roofing will be subject to an application for listed building consent. This will necessarily involve a change of material away from asbestos fibre cement.

**24 Mar** – The work to the boundary wall wasn't part of what was planned. It became apparent during works that the extra height of the wall at the rear of the outbuilding was unstable without the support which it offered. As such the wall was lowered so as to make it safe. I would agree that there should be an application made to regularise this element of the work, however I see no likelihood that permission would not have been forthcoming on that basis, and the retention of the copings for re-use on the lowered wall would likely have been something we would have requested.

I would have advised anyone else that if the work had become apparent as necessary for public safety (it's not just the car park of the assembly rooms, there is a public footpath on the other side of the wall) then it should be carried out but that an application should be made at the earliest opportunity to regularise the work.

**15 Apr** – Effectively works recently undertaken on site to demolish an outbuilding along the eastern site boundary formed part of a package of works for which listed building consent had been granted on 18th September 2012.

The wider package of works as approved in 2012 included some internal alterations. Implementation of any part of the works approved in 2012, within 3 years of the date of approval (18th September 2015), would make that permission 'live' and any remaining elements could still be implemented now without further consent.

A later application was submitted in October of 2015 which included 'as existing' plans, labelled as having been drawn in August 2015 (within the 3 year period), which shows doorways approved in 2012 as having been created and a number of walls removed. Given that this was an 'as existing plan' it has been interpreted as showing that elements of work as approved in September 2012 were completed (or at least underway) by August 2015 and as such that the permission was implemented in time and remains 'live'.

**20 Aug** – On the EV points I see these are wall mounted units, could we have a height above ground? Also 4 of the units on the plan are shown against the boundary wall, which makes sense, but the one to the north is shown away from the wall – how would this one be mounted? Or is this a meter and fusebox as I see a separate power feed is proposed for the EV points so I assume something like this would be required?

**24 Sep** – I usually take the view that paint colour, within reason, is only a matter which affects significance where it is known that a building has always had a particular paint colour which would be changed by the proposal.

As an institutional building I think it's safe to assume that the windows have always been painted white or off-white shades of cream. A pale grey might fit with this 'white or off-white' pattern but if you were looking at the dark greys which are popular at present then I would suggest that this would require listed building consent and would be an unnecessarily controversial addition to the proposals.

Melbourne Civic Society – Reduction in height is not enough. The potential public benefits of further lowering include:

- Linking the Lothian Gardens and the Assembly Rooms together visually as a united 'community zone' and thereby enhancing each other.

- Making the public footpath more open and inviting.

- The side elevation of the listed building would be better displayed, helping to reveal its significance.

- There could also be fringe benefits in making the car park less hidden from public view at nights, and thereby discouraging antisocial behaviour.

The coping detail of the pilasters needs more consideration. The Council's claim that it has not been

possible to establish whether it committed an offence by demolishing the Victorian play shed following the expiry of a previous, entirely unimplemented listed building consent, which expired several years before the unauthorised demolition of the play shed earlier this year, is an extraordinary claim in respect of a building that the Council owns itself.

Historic England – No objection.

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

The relevant Development Plan policies are:

Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE2 (Heritage Assets) and INF2 (Sustainable Transport)

Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development) and BNE10 (Heritage)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

### **Planning considerations**

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

- Principle of Development
- Heritage Impact
- Highway Safety and Parking
- Neighbouring Amenity

### **Planning assessment**

#### Principle of development

The application is for works on and adjacent to the Grade II listed Victorian school, the retrospective demolition of an outbuilding and the reduction of the boundary wall to the rear of the outbuilding. The principle of development is considered acceptable, subject to how the works impact on the criteria below.

#### Heritage Impact

Policy BNE2 states that development must protect, conserve and enhance the heritage assets and their settings. The Conservation Officer passed numerous and well detailed responses to the proposal, as set out above. These raised no issues with any aspect of the proposal.

The CCTV units will take up eleven positions on the outside of the listed building and one internally. These will be of the 'domed' camera type, which are small and therefore visually unintrusive.

The removal of the outbuilding had, in the Case Officer's opinion, been started prior to the expiration of the three years. This is mainly due to the existing plans of the 2015 application showing some of the alterations proposed in the 2012 application, therefore starting the works prior to the expiration of the three-year time limit. For this reason, the demolition of the outbuilding requires no assessment, as it has already been granted permission to be demolished. However, for the avoidance of doubt, the

Conservation Officer's comments, which stated that the outbuilding did not appear on 1902 or 1925 OS mapping, which suggests that it's not an original structure from 1886/7, and that there's the potential that it was built late enough so as to not benefit from protection under the listing, means that the structure added little to the historic value of the site. Therefore, it's loss is acceptable in terms of its impact on the Listed Building and the Melbourne Conservation Area.

While removing the outbuilding it was discovered that the boundary wall behind the outbuilding to a certain height was unstable. Therefore, the removal of this element of the wall is acceptable, as it is required for safety reasons and there's little visual impact, as a result of its removal, especially as the wall is tiered and it now matches the height of the lower tier to the south.

Painting of the windows was mentioned during the application process. However, it was stated by the Conservation Officer that it's safe to assume that the windows have always been painted white or off-white shades of cream, and that a pale grey might fit with this 'white or off-white' pattern. However, the previously proposed dark grey would require listed building consent and that they considered it to be an unnecessarily controversial addition to the proposals. It was decided that a pale grey would be chosen, therefore not requiring permission.

Finally, four wall mounted dual outlet electric vehicle charging units are proposed on the western wall to the front of the listed building, as well as a 1.28m high distribution cabinet. The wall mounted units will be installed 1.1m above ground floor level. The units themselves measure 0.4m x 0.64m and project 0.24m from the wall. No part of the wall is being removed and the ground below is not being occupied by the units. Therefore, there is minimal visual intrusion from the wall mounted units. The distribution cabinet will be sited closer to the front boundary of the site. This cabinet will occupy a footprint of 0.43sqm. The cabinet is considered to be of a small scale that will not adversely impact upon the historical value of the listed building.

Therefore, the proposals are deemed to meet the requirements of Policy BNE2, as they will not adversely impact upon the historical value of the listed building, the neighbouring listed thatched cottage or church, nor the surrounding Melbourne Conservation Area.

#### Highway Safety and Parking

It is proposed to install four wall mounted dual outlet electric vehicle charging units on the western wall to the front of the listed building, as well as a 1.28m high distribution cabinet. The wall mounted units will be installed 1.1m above ground floor level. The unit itself measures 0.4m x 0.64m and project 0.24m from the wall. Each unit will serve two electric vehicles, and therefore retain the existing number of spaces. As such, the proposal complies with the requirements of Policy INF2 and the NPPF.

#### Neighbouring Amenity

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

The 11 external CCTV units and electric vehicle charging points will have no impact on neighbour amenity, due to their size. The removal of the outbuilding has already been assessed and approved. Finally, the removal of the wall to the rear of the outbuilding will have a negligible impact on neighbour amenity. As such, it is considered that the proposals would not adversely impact upon the residential amenities of neighbouring properties and therefore the proposal is compliant with policies SD1 and BNE1.

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

## **Recommendation**

**Approve** subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the following plans:

- Site Location Plan;
  - CR6 - Proposed Elevations;
  - 001 - Proposed Wall Alterations, dated 7/5/21;
- unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

**Item No.** 1.4

**Ref. No.** [DMPA/2021/1469](#)

**Valid date:** 14/10/2021

**Applicant:** Andy Townsend

**Proposal:** **Listed Building Consent for various works including the demolition of an outbuilding permitted under a previous approval 9/2012/0703/L, the reduction in height of a boundary wall and the installation of a free standing electrical distribution box supplying 4 electrical vehicle charging points secured to the boundary at 1.2m above ground level and CCTV camera provision Leisure Centre, High Street, Melbourne, Derby, DE73 8GF**

**Ward:** Melbourne

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

This item is presented to the Committee as the land is owned by South Derbyshire District Council.

#### **Site Description**

The Melbourne Assembly Rooms are housed in a Grade II listed Victorian school on the south side of High Street. The building is centred on the site with the area around the building utilised mainly for parking.

#### **The proposal**

This application seeks works including the demolition of an outbuilding permitted under a previous approval 9/2012/0703/L, the reduction in height of a boundary wall and the installation of a free standing electrical distribution box supplying 4 electrical vehicle charging points secured to the boundary at 1.2m above ground level and CCTV camera provision.

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

A Heritage Statement, plans and specifications have been submitted in support of the proposed works.

#### **Relevant planning history**

9/2015/1001 – Internal alterations to the front part of the building including creation of improved entrance lobbies/foyers and conversion of the former school kitchen to provide a multi-functional space for events with a new bar and the capability to provide flexible kitchen facilities. Opening up of original internal doorways and provision of additional internal doorways to improve access for equipment and improve accessibility, movement and flow for people. Approved, Apr 2016.

9/2012/0703 – The erection of a storeroom extension and minor internal/external alterations including creation of improved entrance lobbies, foyer/bar and bar store, new kitchen and outdoor amenity space. Approved, Sep 2012.

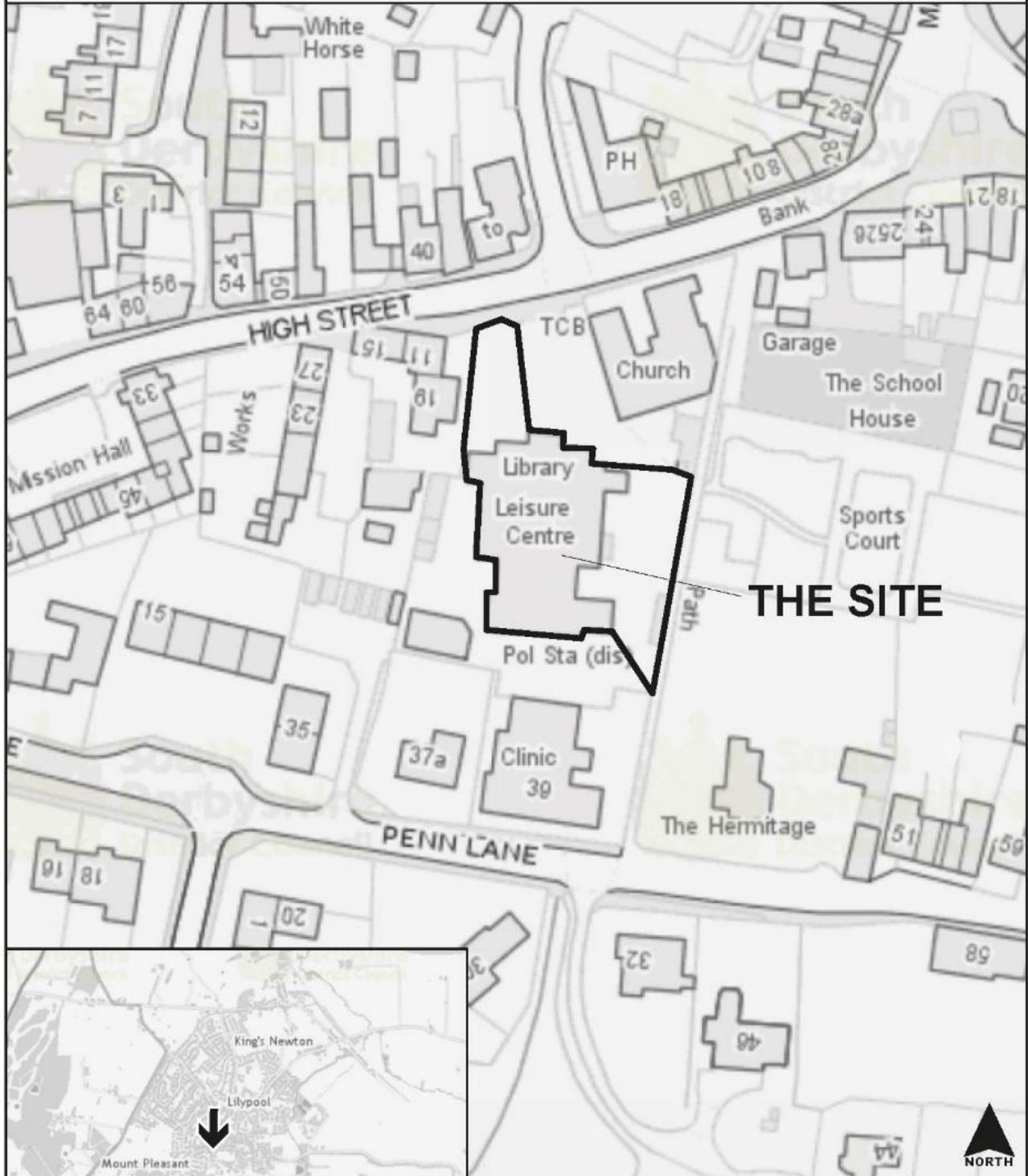
9/2007/0224 – The construction of disabled access ramp to the rear. Approved, May 2007.

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

Conservation Officer – The Conservation Officer was originally the Case Officer for this application. This Officer has since left the Council and did not submit an official response as the Conservation Officer. However, the following comments from this Officer about the proposals have been made available from various dated emails from the Council's Building Surveyor:

**3 Mar** – My suggestion as the content of a response would be:

DMPA/2021/1420 and 1469 - Leisure Centre, High Street, Melbourne, Derby DE73 8GF



South Derbyshire District Council

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South Derbyshire District Council. LA 100019461.2020

- East Boundary building does not appear on 1902 or 1925 OS mapping suggesting it is not an original 1886/7 playshed, and potentially late enough that it does not benefit from protection under the listing.

- 2015 scheme, granted in April 2016, included elements of internal works in the bar area and access to that area from the entrance lobby. This work was commenced in time and completed by the beginning of 2020 and as such the 2015 permission, although not fully implemented, is considered to be live.

- The western boundary outbuildings have had corrugated asbestos sheet roofing removed owing to safety concerns for local youth who are accessing the site. The material is reasonably safe when intact but there is concern that anyone climbing over the structure may cause damage and the release of asbestos fibres.

- Removal of the asbestos sheet roofing was undertaken as an urgent imperative on the grounds of public health and safety and the replacement roofing will be subject to an application for listed building consent. This will necessarily involve a change of material away from asbestos fibre cement.

**24 Mar** – The work to the boundary wall wasn't part of what was planned. It became apparent during works that the extra height of the wall at the rear of the outbuilding was unstable without the support which it offered. As such the wall was lowered so as to make it safe. I would agree that there should be an application made to regularise this element of the work, however I see no likelihood that permission would not have been forthcoming on that basis, and the retention of the copings for re-use on the lowered wall would likely have been something we would have requested.

I would have advised anyone else that if the work had become apparent as necessary for public safety (it's not just the car park of the assembly rooms, there is a public footpath on the other side of the wall) then it should be carried out but that an application should be made at the earliest opportunity to regularise the work.

**15 Apr** – Effectively works recently undertaken on site to demolish an outbuilding along the eastern site boundary formed part of a package of works for which listed building consent had been granted on 18th September 2012.

The wider package of works as approved in 2012 included some internal alterations. Implementation of any part of the works approved in 2012, within 3 years of the date of approval (18th September 2015), would make that permission 'live' and any remaining elements could still be implemented now without further consent.

A later application was submitted in October of 2015 which included 'as existing' plans, labelled as having been drawn in August 2015 (within the 3 year period), which shows doorways approved in 2012 as having been created and a number of walls removed. Given that this was an 'as existing plan' it has been interpreted as showing that elements of work as approved in September 2012 were completed (or at least underway) by August 2015 and as such that the permission was implemented in time and remains 'live'.

**20 Aug** – On the EV points I see these are wall mounted units, could we have a height above ground? Also 4 of the units on the plan are shown against the boundary wall, which makes sense, but the one to the north is shown away from the wall – how would this one be mounted? Or is this a meter and fusebox as I see a separate power feed is proposed for the EV points so I assume something like this would be required?

**24 Sep** – I usually take the view that paint colour, within reason, is only a matter which affects significance where it is known that a building has always had a particular paint colour which would be changed by the proposal.

As an institutional building I think it's safe to assume that the windows have always been painted white or off-white shades of cream. A pale grey might fit with this 'white or off-white' pattern but if you were looking at the dark greys which are popular at present then I would suggest that this would require listed building consent and would be an unnecessarily controversial addition to the proposals.

Melbourne Civic Society – Reduction in height is not enough. The potential public benefits of further lowering include:

- Linking the Lothian Gardens and the Assembly Rooms together visually as a united 'community zone' and thereby enhancing each other.

- Making the public footpath more open and inviting.

- The side elevation of the listed building would be better displayed, helping to reveal its significance.

· There could also be fringe benefits in making the car park less hidden from public view at nights, and thereby discouraging antisocial behaviour. The coping detail of the pilasters needs more consideration. The Council's claim that it has not been possible to establish whether it committed an offence by demolishing the Victorian play shed following the expiry of a previous, entirely unimplemented listed building consent, which expired several years before the unauthorised demolition of the play shed earlier this year, is an extraordinary claim in respect of a building that the Council owns itself.

Historic England – No objection.

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

The relevant Development Plan policies are:

Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE2 (Heritage Assets) and INF2 (Sustainable Transport)

Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development) and BNE10 (Heritage)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

### **Planning considerations**

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

- Principle of Development
- Heritage Impact
- Highway Safety and Parking
- Neighbouring Amenity

### **Planning assessment**

#### Principle of development

The application is for works on and adjacent to the Grade II listed Victorian school, the retrospective demolition of an outbuilding and the reduction of the boundary wall to the rear of the outbuilding. The principle of development is considered acceptable, subject to how the works impact on the criteria below.

#### Heritage Impact

Policy BNE2 states that development must protect, conserve and enhance the heritage assets and their settings. The Conservation Officer passed numerous and well detailed responses to the proposal, as set out above. These raised no issues with any aspect of the proposal.

The CCTV units will take up eleven positions on the outside of the listed building and one internally. These will be of the 'domed' camera type, which are small and therefore visually unintrusive.

The removal of the outbuilding had, in the Case Officer's opinion, been started prior to the expiration of the three years. This is mainly due to the existing plans of the 2015 application showing some of the alterations proposed in the 2012 application, therefore starting the works prior to the expiration of the three-year time limit. For this reason, the demolition of the outbuilding requires no assessment, as it has already been granted permission to be demolished. However, for the avoidance of doubt, the

Conservation Officer's comments, which stated that the outbuilding did not appear on 1902 or 1925 OS mapping, which suggests that it's not an original structure from 1886/7, and that there's the potential that it was built late enough so as to not benefit from protection under the listing, means that the structure added little to the historic value of the site. Therefore, it's loss is acceptable in terms of its impact on the Listed Building and the Melbourne Conservation Area.

While removing the outbuilding it was discovered that the boundary wall behind the outbuilding to a certain height was unstable. Therefore, the removal of this element of the wall is acceptable, as it is required for safety reasons and there's little visual impact, as a result of its removal, especially as the wall is tiered and it now matches the height of the lower tier to the south.

Painting of the windows was mentioned during the application process. However, it was stated by the Conservation Officer that it's safe to assume that the windows have always been painted white or off-white shades of cream, and that a pale grey might fit with this 'white or off-white' pattern. However, the previously proposed dark grey would require listed building consent and that they considered it to be an unnecessarily controversial addition to the proposals. It was decided that a pale grey would be chosen, therefore not requiring permission.

Finally, four wall mounted dual outlet electric vehicle charging units are proposed on the western wall to the front of the listed building, as well as a 1.28m high distribution cabinet. The wall mounted units will be installed 1.1m above ground floor level. The units themselves measure 0.4m x 0.64m and project 0.24m from the wall. No part of the wall is being removed and the ground below is not being occupied by the units. Therefore, there is minimal visual intrusion from the wall mounted units. The distribution cabinet will be sited closer to the front boundary of the site. This cabinet will occupy a footprint of 0.43sqm. The cabinet is considered to be of a small scale that will not adversely impact upon the historical value of the listed building.

Therefore, the proposals are deemed to meet the requirements of Policy BNE2, as they will not adversely impact upon the historical value of the listed building, the neighbouring listed thatched cottage or church, nor the surrounding Melbourne Conservation Area.

#### Highway Safety and Parking

It is proposed to install four wall mounted dual outlet electric vehicle charging units on the western wall to the front of the listed building, as well as a 1.28m high distribution cabinet. The wall mounted units will be installed 1.1m above ground floor level. The unit itself measures 0.4m x 0.64m and project 0.24m from the wall. Each unit will serve two electric vehicles, and therefore retain the existing number of spaces. As such, the proposal complies with the requirements of Policy INF2 and the NPPF.

#### Neighbouring Amenity

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

The eleven external CCTV units and electric vehicle charging points will have no impact on neighbour amenity, due to their size. The removal of the outbuilding has already been assessed and approved. Finally, the removal of the wall to the rear of the outbuilding will have a negligible impact on neighbour amenity. As such, it is considered that the proposals would not adversely impact upon the residential amenities of neighbouring properties and therefore the proposal is compliant with policies SD1 and BNE1.

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

## **Recommendation**

**Grant** subject to the following conditions:

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

Reason: To conform with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The works hereby permitted shall be carried out in accordance with the following plans:

- Site Location Plan;
- CR6 - Proposed Elevations;
- 001 - Proposed Wall Alterations, dated 7/5/21.

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

**Item No.** 1.5

**Ref. No.** [DMPA/2021/1686](#)

**Valid date:** 17/11/2021

**Applicant:** Gurdeep Gill

**Agent:** Pegasus Group

**Proposal:** **Demolition of existing buildings and clearance of site (except for existing offices and substation), erection of a pallet distribution centre (Use Class B8), with associated offices and welfare areas, forklift wash and storage areas, gatehouses, parking, landscaping and other associated works. Tetron Park, Former Bison Precast site, William Nadin Way, Swadlincote, DE11 0BB**

**Ward:** **Newhall and Stanton & Swadlincote**

### **Reason for committee determination**

The development is a major application, and at the present time, there are unresolved objections from key statutory consultees. The development would be a major employer (circa 775 jobs).

### **Site Description**

The site is the former Bison Pre-cast Concrete works situated at the western end of the Tetron Park Industrial estate/business park at William Nadin Way, Swadlincote. It is bounded to the west by the A444 Burton Road and to the north is a Country Park and golf-course. William Nadin Way is the main estate road (the A514) to the south and east with a series of roundabouts serving the various business parks, beyond which are further industrial estates and new residential development.

The A444 has a shallow downward gradient to the north whereas the industrial development is on the level, and as a result, there is a steep bank on the northern boundary between the site and the golf course.

The site is roughly rectangular in shape, is some 14.4ha in size and has its access at the eastern end on to Optimum Way and the A514.

The site currently contains a long building located centrally, various smaller buildings, extensive hard standings and a loop road as a result of the former concrete works.

A public right-of-way (Swadlincote FP44) crosses the north west corner of the site.

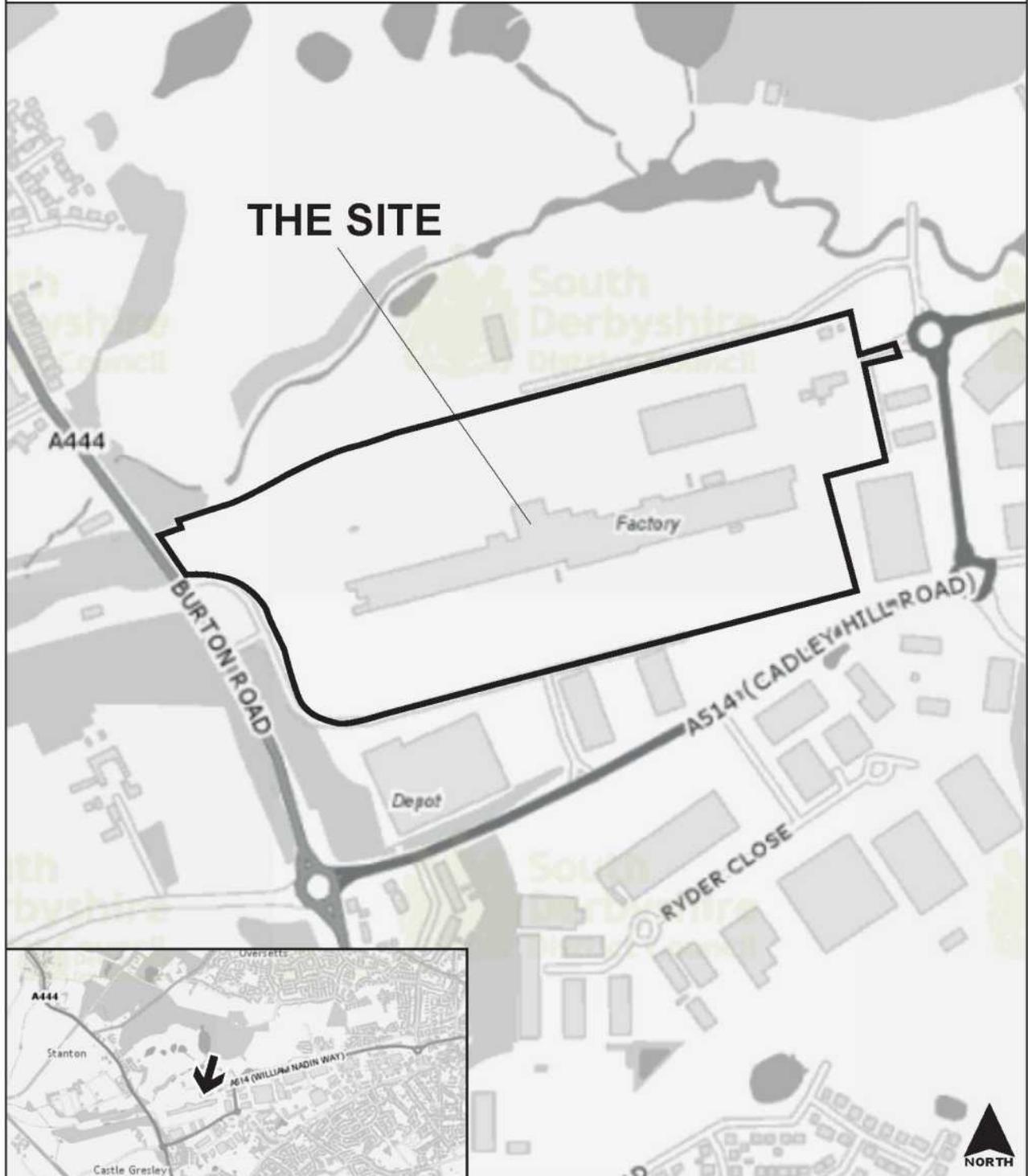
### **The proposal**

The site proposal is a new logistics building for use by a leading national pallet distributor. The scheme would involve the demolition of the existing industrial buildings (apart from a modest office building and sub-station), and the erection of a new, purpose built distribution building orientated along the central axis of the site, so as to permit HGV access via a main internal roadway with internal unloading and loading facilities.

New office accommodation for the administration and management of the logistics operations would be provided within a two-storey element to the northern end of the building, with associated HGV parking and circulation routes created around the perimeter of the site. The building would be approximately 13m in height and be of a predominantly open canopy design to facilitate vehicle loading/unloading under cover.

There would be loading bays around the outside of the building as well as internal loading facilities, and some 244 HGV parking around the perimeter and in addition, 299 car-parking spaces (12 disabled

**DMPA/2021/1686 - Tetron Park, Former Bison Precast Site, William Nadin Way, Swadlincote DE11 0BB**



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spaces) are to be created close to the entrance gates, along with 17 electric vehicle charging points (7 disabled spaces) and numerous secure cycle stores.

The building would be of typical steel-framed construction, with a shallow roof with multiple valleys, and a two-tone dark and light finish to break up the mass as the building is a substantial size – 416m x 137m (around 57,000sqm) and 13m high.

It incorporates a mezzanine floor over a small element of the building in its north east corner to provide offices.

Over-night working is envisaged.

The public footpath is proposed to be diverted under the separate legal procedure under the Planning Act, although its diversion is already underway as part of the country park development to the north.

National Forestry planting would be provided on the extensive banking at the northern edge of the site.

In addition to the plans/elevations of the buildings and layout, the application is accompanied by the following technical documents:

- Air-Quality Report
- Design and Access Statement
- Ecology Assessment and Primary Ecological Assessment Reports
- Flood-Risk Assessment
- Geo-environmental Report (Contamination and Coal Mining)
- Lighting Report
- Noise Assessment
- Statement of Community Involvement
- Topographic Survey
- Transport Assessment
- Travel Plan
- Tree Survey.

#### **Applicant's supporting information - Economic Benefits of proposed Warehousing Scheme:**

This report has been produced on behalf of Mulberry Logistics Park Doncaster Limited and presents the economic benefits of developing circa 56,700 sq. m. of warehousing floorspace at Tetron Park, Swadlincote, South Derbyshire.

#### **Main Findings**

##### **Construction Impacts**

- Direct and indirect construction-related employment: The Proposed Development will support an estimated 377 temporary roles on-site and in the wider economy over the 10-month build programme.
- Contribution of construction phase to economic output: An estimated £20million of gross value added (GVA) will be generated during the 10-month construction period in current prices.

##### **Operational Impacts**

- Gross jobs supported on-site: The Proposed Development will support up to 663-775 gross permanent full-time equivalent (FTE) jobs once it is built and occupied.
- Contribution to economic output: The additional GVA attributable to the site once operational and fully occupied is estimated at up to £25.5million - £29.8million per annum.
- Employee wages: The proposed scheme will generate an estimated £19million - £22million per annum in wages for on-site employees.
- Business rates: It is estimated that annual business rates generated by the scheme could be in the region of £1million per annum.
- Retail Spend Impact: Total construction employee expenditure retained in South Derbyshire over the 10-month build timeframe will be around £0.06million (current prices). During the operational phase of the Proposed Development total annual expenditure retained in South Derbyshire will be around £0.21million (current prices)

### **Relevant planning history**

The site is a former concrete works, although as the site is to be demolished and re-developed (apart from a modest office building), there is no relevant planning history, and the development will be a new chapter in the site's history.

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

#### County Highway Authority (Highway Safety)

Awaited

#### County Highway Authority (Travel Plan)

Generally acceptable - Amendments requested

#### Local Highway Authority (Rights of Way)

Awaited

#### Policy Officer

No objection subject to conditions and obligations.

Local Plan Policy E2 Part A states: "The development of land for uses defined by classes B1(b), B1(c), B2 and B8 of the Use Classes Order will be permitted where: i) the site lies within or on the edge of the Swadlincote urban area, Derby or Burton upon Trent, or a Key or Local Service Village; or ii) the proposal is for the expansion of an existing business; or iii) the proposal is for the redevelopment of established industrial or business land or premises".

Part B states: "All proposals under part A should be in scale with existing built development and should not give rise to undue impacts on the local landscape, natural environment or cultural heritage assets."

The established use of the site is as a concrete manufacturing plant, which falls within Use Class B2 and the proposal is for redevelopment as a distribution centre, falling within Use Class B8. Therefore, under the terms of Policy E2, the proposal appears to be acceptable in principle, subject to all other relevant Local Plan policy requirements being satisfactorily addressed.

Local Plan Policy INF2 Part A states: "i) Planning permission will be granted for development where: .....b) appropriate provision is made for safe and convenient access to and within the development for pedestrians, cyclists, public transport users and the private car;...."

Part B (ii) states: "Where a need is identified in Part 1 of this policy, the Council will seek to negotiate the provision by developers of contributions toward new, or the enhancement of existing, walking and cycling routes and supporting infrastructure."

There is a proposal to establish a cycle link from the A514 at William Nadin Way to the Castleton Park housing development to the south of Ryder Close to improve access by cycle and on foot between the residential and employment areas. A strip of land to the south of Ryder Close is owned and protected by Derbyshire County Council for the purpose of providing part of this link and its continuation to the south has been sought by the local planning authority through negotiation with developers and landowners in relation to planning applications in this location.

A remaining part of the link would connect Ryder Close to Optimum Road by establishing a shared pedestrian and cycle path to replace the existing footway along the A514 Cadley Hill Road/William Nadin Way. To assist in meeting the sustainable accessibility requirements of Policy INF2 it is proposed that the applicant be asked to fund this section of the proposed route. County Council colleagues have also suggested that a financial contribution toward ongoing maintenance should also be sought.

Policy INF2 Part C (iii) states: "Where a need is identified under Part 1 of this policy, the Council will seek to negotiate the provision by developers of measures to encourage the use of public transport.

These may include: a) bus shelters and laybys b) railway stations and public transport interchanges c) initial financial contributions toward the cost of running public transport services.”

The site is currently served by the Midland Classic Route 22 service which runs at two hourly intervals between Swadlincote and Burton from Monday to Saturday with no Sunday or evening services. This is far too infrequent to serve a development of this scale and it is proposed that the developer be requested to enter into negotiations for the provision of financial contributions toward a more frequent bus service along this route with evening services where necessary to meet the sustainable transport needs of staff.

It is noted that the Transport Assessment also refers to a half hourly service between Swadlincote and Burton on the A444 (service 21), however the bus stops are almost 1km from the application site entrance. On this basis the service cannot be considered to represent a reasonable option for gaining access to the site.

Policy INF2 Part D (ii) states: “In order to ensure that nearby occupiers are not unduly adversely affected by the transfer of goods generated by development, the Council will give consideration to the need for the control of hours of delivery and collection.”

In consultation with Environmental Health colleagues, consideration will need to be given to the need for controls on hours of operation to protect local amenity, particularly in terms of potential noise generation.

Local Plan Policy E2 Part A states: “The development of land for uses defined by classes B1(b), B1(c), B2 and B8 of the Use Classes Order will be permitted where: i) the site lies within or on the edge of the Swadlincote urban area, Derby or Burton upon Trent, or a Key or Local Service Village; or ii) the proposal is for the expansion of an existing business; or iii) the proposal is for the redevelopment of established industrial or business land or premises”.

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The established use of the site is as a concrete manufacturing plant, which falls within Use Class B2 and the proposal is for redevelopment as a distribution centre, falling within Use Class B8. Therefore, under the terms of Policy E2, the proposal appears to be acceptable in principle, subject to all other relevant Local Plan policy requirements being satisfactorily addressed.

Local Plan Policy INF2 Part A states: “i) Planning permission will be granted for development where: .....b) appropriate provision is made for safe and convenient access to and within the development for pedestrians, cyclists, public transport users and the private car;.....”

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Policy INF2 Part D (ii) states: "In order to ensure that nearby occupiers are not unduly adversely affected by the transfer of goods generated by development, the Council will give consideration to the need for the control of hours of delivery and collection."

In consultation with Environmental Health colleagues, consideration will need to be given to the need for controls on hours of operation to protect local amenity, particularly in terms of potential noise generation.

#### Lead Local Flood Authority (Derbyshire County Council)

Object to the development - The LLFA are unable to provide an informed comment and recommend a holding objection until the applicant/ LPA has provided further information:

- (i) The site will be required to discharge at the calculated greenfield run off rate not the brownfield runoff rate. The LLFA will need to see the updated drainage strategy and FRA to accommodate the new discharge and storage requirements.
- (ii) A quick storage estimate to show the required storage volume of surface water on site and an indication of the likely location.

#### National Forest Company

The site area specified on the application form is 14.4 hectares and in accordance with Policy INF8 (The National Forest) of the South Derbyshire Local Plan, 30% of the site area (or 4.32 hectares) should be dedicated National Forest planting. In exceptional circumstances where this cannot be provided within or close to the development site, the applicant can provide a commuted sum. This is £151,200 (4.32ha x £35,000). The requirements of Policy INF8 do not appear to have been considered by the applicant.

We look forward to being reconsulted when the applicant has had the opportunity to consider the above.

Comments on Revised Layout awaited.

#### Coal Authority

The application site falls within the defined Development High Risk Area.

The Coal Authority records indicate that within the application site and surrounding area there are coal mining features and hazards, which need to be considered in relation to the determination of this planning application, specifically probable coal workings at shallow depth and probable coal workings at shallow depth associated with thick coal seam outcrops. Our records also indicate that the site has been subject to past surface mining operations and that there are nine recorded mine entries (shafts

and adits) within the planning boundary

The supporting Geo-environmental and Geotechnical Desk Study Report (October 2021, prepared by Fairhurst), which accompanies the planning application correctly identifies that the application site has been subject to past coal mining activity and has been informed by an appropriate range of sources of information.

Based on this review of existing sources of geological and mining information the Report confirms that the mine entries either have been removed in their entirety or are plugged/capped at the base of the former extraction. As such, and within the context of the development where no significant built development is proposed, the Report concludes that such risks posed by coal mining legacy are very low. Consequently, the Report confirms no further assessment or intervention is necessary.

The Coal Authority considers that the content and conclusions of the supporting Geo-environmental and Geotechnical Desk Study Report (October 2021, prepared by Fairhurst) are sufficient for the purposes of the planning system in demonstrating that the application site is safe and stable for the proposed development. The Coal Authority therefore has no objection to the proposed development.

#### County Archaeologist

Having considered the available information, I am satisfied the proposals do not impact upon the known or potential archaeological interest.

On this basis I have no objection to the application and recommend that no archaeological requirement is placed upon the applicant.

#### Environment Agency

We have the following comments to make on this application which relate solely to the protection of 'Controlled Waters', matters relating to Human Health should be directed to the relevant department of the Local Authority.

Reference to the 1:50,000 scale geological map indicates that the site is located on the bedrock of the Pennine Middle Coal Measures which are designated a Secondary A Aquifer by the Environment Agency. Superficial deposits appear to be absent. The site is located within 70 metres of a surface water body, with ponds/lakes located in proximity.

We have reviewed the following document submitted in support of this application: 'Tetron Point, Swadlincote – Geo-environmental and Geotechnical Desk Study Report' Fairhurst (October 2021).

The above referenced report identifies potential contamination sources relating to the historical uses of this site as a colliery and associated railway land. Reference to Environment Agency databases indicated that two historic landfills encroach on to the north of the site. The landfills are known as 'Stanton Refuse Tip' and no further information is available as to what was tipped at the site. As the landfill was operated prior to 1974, it is possible that a range of wastes could have been accepted. The second is known as 'U.K Coal Mining Ltd - Nadins Opencast Coal Site' which accepted coal mining waste/spoil. The site also recently operated as a pre-cast concrete manufacturing plant.

Any contamination present at the site has the potential to be mobilised during re-development to pollute controlled waters receptors. Further investigation works are proposed in order to assess the contamination status of the site. We agree with the conclusions of the above referenced report are therefore recommend that the following condition be included on a planning permission granted, in order to ensure that controlled waters receptors are appropriately protected.

We recommend that any intrusive investigation of the site should focus on the risk posed to controlled waters receptors.

Universal condition for development on land affected by contamination.

The historical uses of this site as a colliery, associated railway land and recently as a concrete manufacturing plant represent a contamination risk that could be mobilised during construction to pollute controlled waters. Controlled waters are sensitive due to the presence of a Secondary A Aquifers and linked surface water receptors.

In light of the above, the proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy. This should be carried out by a competent person in line with paragraph 184 of the National Planning Policy Framework.

Without these conditions, we would object to the proposal in line with paragraph 177 of the National Planning Policy Framework because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

#### Natural England

Refer to standing advice.

#### Derbyshire Wildlife Trust

Awaited

#### Environmental Health Officer (Air Quality)

I have considered this application in relation to the potential air quality, noise, odour, land contamination, environmental lighting and waste water disposal impact. I have also read the relevant technical reports submitted in support of the application.

In my opinion, the key potential environmental impacts of the development are;

1. The impact of the proposed development on local air quality:

I have read and understood the content of the air quality assessment submitted to support the application.

Recommendations:

Air Quality

I accept the conclusions of the report.

However, given recent changes in legislation I would raise some issues which I believe are material to the application and which need to be addressed at planning application stage in order for the implications of the law changes to be considered within the context of the progression of the development.

Firstly, with reference to the air quality assessment I would recommend that the mitigation measures described in the report are conditioned within the planning approval.

In November 2021 the Environment Act was finally enacted. Part 1 Chapter 1 of the Act has introduced a duty on the government to bring forward at least two air quality targets that will be set in secondary legislation, one of which must be a target to reduce the annual average level of fine particulate matter (PM2.5) in the atmosphere.

To date the government have not set out exactly what these targets will be or on what basis they will be set. The September 2021 the World Health Organisation (WHO) published Global Air Quality Guidelines which included setting a new guideline of an annual mean concentration of PM2.5 not exceeding 5 µg/m<sup>3</sup>.

There is no current statutory standard for PM2.5 in the UK and therefore the secondary legislation will introduce targets (and by inference require actions) which are not currently required.

Based on existing predictions by DEFRA, the current (2022) background concentration of PM2.5 at the location of the proposed development site is 7.88 µg/m<sup>3</sup> (i.e. 58% above the WHO guideline). The air quality assessment indicates that at the most significantly affected local receptor location the development proposals will add an additional 1.13 µg/m<sup>3</sup> of respirable particulate (expressed as PM10). Therefore, if the UK government chooses to adopt the WHO Air Quality Guideline as the target for PM2.5, the proposed development will contribute to a significant additional exceedance of the target. I would therefore propose a condition relating to fleet transport emissions.

I would only consider light nuisance to residential receptors. Given the location, I would not have any significant concerns and therefore would not require the imposition of a specific condition.

#### Environmental Health Officer (Noise)

Prior to finalising my comments, I would appreciate the following information in regards noise:

4.1 HGV Highways impacts seems to have been ignored – I would request this is included in the noise report.

4.6 Use of chosen background level – please provide the raw data for my further consideration.

I will also be requesting a contaminated land investigation to support the application, this could however be required by condition.

One letter of representation has been received from neighbours as a result of notification/publicity, which raises the following observations:-

- a) can the lighting be taken into consideration as the current lighting caused a bright glare at Sunnyside that caused a nuisance inside the houses. It also caused excessive light pollution in the sky.
- b) Although current industrial buildings have been in grey colour surely the planners would think green would be less obtrusive, such as the JCB buildings on the A50.

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

The relevant Development Plan policies are:

Local Plan Part 1 (LP1): S1 Sustainable Growth Strategy, S2 Presumption in Favour of Sustainable Development, S3 Environmental Performance, S5 Employment Land Need, S6 Sustainable Access, H1 Settlement Hierarchy, E2 Other industrial and business development, E3 Existing Employment Areas, SD1 Amenity and Environmental Quality, SD2 Flood Risk, SD3, Sustainable Water Supply, Drainage and Sewerage Infrastructure, SD4 Contaminated Land and Mining Legacy, BNE1 Design Excellence, BNE2 Heritage, BNE3 Biodiversity, BNE4 Landscape Character and Local Distinctiveness, INF1 Infrastructure and Developer Contributions, INF2 Sustainable Transport, INF8 The National Forest

Local Plan Part 2 (LP2): SDT1 Settlement Boundaries and Development, BNE7 Trees, Woodland and Hedgerows.

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)  
Trees and Development SPD

The relevant national policy and guidance is:

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

The relevant legislation is:

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

The Town and County Planning (Use Classes) Order 1987.

#### **Planning considerations**

The key considerations are as follows:-

- Policy Matters
- Highway Safety
- Public Right-of-Way
- Sustainable Transport
- Design and Appearance
- National Forest Planting
- Ecology and Bio-diversity
- Drainage/flooding
- Noise/air quality/lighting
- Contamination/stability
- Archaeology

The above issues are discussed in detail below:

## **Planning assessment**

### Policy Matters

The site is situated on a well-established industrial estate within the settlement development limits and had a former use as a pre-cast concrete works that has complete site coverage. The principle of development on this site is therefore well established as noted in the Policy section consultation response. Local Plan policies seek to retain such sites in employment use and the proposal therefore reinforces that Policy. The NPPF advocates support for economic developments and employment creation and the proposal – as stated in the applicant’s supporting information – would provide a significant number of new jobs and an appreciable boost to the rural economy. Being a site already in industrial use, subject to the normal development management parameters, the proposal does not raise any policy-related concerns.

### Highway Safety

The development would be served from the existing industrial standard access on to the industrial estate roads, and whilst there is likely to be a greater volume of traffic, the roads will have been designed to meet the expected industrial traffic.

The applicant has provided a travel-plan and transport assessment, and whilst the new development is likely to have significant traffic movements, it is not anticipated that any objection on highway grounds would be forthcoming.

The proposal provides for appropriate levels for manoeuvring/loading and parking of HGV’s as well as car-parking, electric-vehicle charging-points and cycle-storage.

The formal comments of the Highway Authority will be reported to the Planning Committee.

### Public Right of Way

There is some confusion regarding the status of the public right-of-way (FP44), which clips the north west corner of the site, and is shown as needing to be diverted. Whilst the path is still shown on the County Council’s Definitive Map, it is believed that the path is already the subject of a Diversion Order related to the country park/golf course development to the north. It is understood that the County Council accept this point.

Given the levels difference between the industrial site and the countryside to the north, the diversion around the edge of the site (rather than passing through it) as shown on the applicant’s plan is a logical and more desirable/attractive route for pedestrians likely to be using the path. Should a diversion remain necessary, it should be supported. A definitive response on this matter is expected from the ROW Officer and will be reported verbally at the Planning Committee.

### Sustainable Transport

The development represents a very significant increase in persons employed at the site (which is obviously welcomed), however given the Council commitment to reducing greenhouse gases and climate change, the encouragement of the use of sustainable transport modes is required.

The applicant has sought to address this with the Travel Plan and provision of on-site cycle storage and electric vehicle charging points. The travel-plan is referred to elsewhere in this report, and the Council's Policy Officers and Highway Authority have also suggested that other mechanisms are necessary, which would include:

- (a) A contribution to the provision of a footway/cycleway link from nearby residential areas to industrial estate
- (b) Upgrading of local bus-stops, and
- (c) Liaising with the bus companies to improve services past the site

The above are all aimed at encouraging increased use of walking/cycling and public transport by making their use more attractive.

The Highway Authority response in relation to the level of contributions is awaited, and whilst initially questioning whether such contributions are proportionate in relation to CIL Regulations, they have now indicated that this could be addressed via a Section 106 agreement. The progress on this matter will be reported verbally to Planning Committee.

### Design and Appearance

The existing site contains a large central building, and the current proposal also proposes a large central building, albeit somewhat larger. Whilst the building is a large footprint, it is not high in comparison to the area, and it would be of typical construction, similar to other industrial buildings in the surrounding area. The appearance is considered to be appropriate for the re-development of an industrial site on an established industrial estate. The retention of planting on the western side and the proposed planting to the northern boundary will assist in assimilating the development into the local environment. The existing office building is to be retained and refurbished. Overall, the proposal is considered to be visually acceptable.

### National Forest Planting

The site falls within the National Forest area as defined in Policy INF8 of the Adopted Local Plan, and initially, the National Forest Company requested a contribution based on a full off-site contribution.

The applicant has subsequently submitted amended plans showing the banking on the north-side of the development, being made available for woodland planting, that would result in a reduced off-site contribution requirement. The comments of the National Forest Company are awaited in relation to the plans, but no objection is expected.

The proposed planting belt would have the additional benefit of screening the development from the country park to the north as well as offering a significant increase in biodiversity when compared to the concrete works, as well as providing enhanced ecology habitat and (with a contribution) would meet the terms of Policy INF8.

The reduced contribution as required by the National Forest Company will be reported to Planning Committee and would normally be delivered by means of a S106 agreement/obligation.

### Ecology and Biodiversity

The applicant's ecology report concludes that the site has little merit in terms of ecological habitat, apart from the modest areas of planting and a soakaway, however the proximity to ponds supporting great crested newts could result in an impact during construction, although the current site itself would not provide appropriate habitat for amphibians or reptiles but the new landscaping could provide hibernacula for reptiles and amphibians and thus represents a significant ecological enhancement. Whilst the formal comments of Derbyshire Wildlife Trust are awaited, it is anticipated that with appropriate conditions, the development would not cause any harm to protected species.

### Drainage/flooding

As the built development proposed has a significant roof area, and therefore appreciable rainwater run-off, and much of the remainder of the site would be hardstanding, there is potential for substantial surface water and therefore potential for flooding of the site and/or other land.

Whilst the applicant has submitted a drainage strategy, the Lead Local Flood Authority has made a 'holding objection' until further information has been provided.

It is understood that the agent has been liaising with the officers at the LLFA, and the matter should be resolved by the time the application is considered by the Planning Committee.

Subject to a satisfactory resolution of the technical matters involved, it is anticipated that the LLFA objection would be withdrawn and conditions advised.

An update to Planning Committee on this issue would be provided verbally.

#### Noise/Air quality and lighting

Whilst an acoustic report has been submitted, the Environmental Health officer has requested additional information regarding night-time noise as 24 hour working is proposed, and whilst there are no immediate residential properties adjacent to the site, there is potential for noise being transmitted to residential property in the locality. It is understood that the agent has been liaising with the Environmental Health officers, and the matter should be resolved by the time the application is considered by the Planning Committee. Subject to a satisfactory resolution of the technical matters involved, it is anticipated that the Environmental Health objection would be withdrawn and conditions advised. A full report to Planning Committee on this issue would be provided verbally.

The change from pre-cast concrete products to the distribution of pallets is likely to be a far less 'dusty' operation, although the significant use of HGVs has the potential to reduce air quality. The applicant has submitted a technical report indicating mitigation measures which has been accepted by the Environmental Health Officer, and a condition on this matter is suggested.

One letter of representation has been received expressing concern at potential nuisance from lighting. The applicant has submitted a lighting assessment and the Environmental Health Officer advises that the development is sufficient distance away from neighbours to have no adverse effect.

#### Contamination/stability

The Environmental Health officer's response in relation to contamination is awaited, although this is a re-development of an existing industrial estate, that would have been de-contaminated when it was originally constructed.

The Environment Agency have commented solely in relation to the risk to the aquifer from any contamination mobilised during demolition/construction, but consider this can be made acceptable subject to remediation, and have recommended a condition.

The applicant has submitted a Mining Report addressing land stability from historic mining activities. This has been reviewed by The Coal Authority who indicate that mining legacy would not pose a threat to the stability of the development.

#### Archaeology

The County Archaeologist has confirmed that the site has no archaeological significance, and archaeology places no restriction on the development.

Being an established industrial estate, any artefacts would have been disturbed during the initial construction of the estate.

### Conclusion

The site is a re-development of a previously developed site as advocated by the NPPF, and the development will have significant economic and employment benefits.

Being an established industrial estate within the settlement boundary, the proposal raises no policy or locational issues.

The proposal is an appropriate design and will be screened by the proposed forestry planting. All outstanding matters relate to technical issues – drainage, noise, highways/access, lighting, and the status of the footpath – and the level of sustainable transport and contributions.

The proposal would offer opportunities to improve ecological habitat and would have a net-gain in biodiversity.

Given the lack of policy conflict and the very tangible benefits arising from development, it should be supported, subject to resolution of the above listed matters.

A Section 106 agreement would be necessary to deliver some of the contributions.

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

### **Recommendation**

**That authority to grant permission be delegated to the Head of Planning and Strategic Housing following satisfactory resolution of outstanding issues, subject to completion of a Section 106 Legal Agreement/Unilateral Undertaking (if required) to cover contributions as outlined in the above report, and subject to the conditions/reasons deemed necessary by the Head of Planning and Strategic Housing in consultation with the Chair of Planning Committee.**

A list of suggested conditions will be circulated at the Planning Committee following further comments from consultees.